

# **The Role of Ideology in the Application of Chile's Anti-Terror Legislation**

**Introduction**

The Chilean Law of Terrorist Conduct, No. 18.314, has been the subject of much controversy in the discourse of human rights and state security since its inception in 1984 at the height of the Pinochet military dictatorship. Scholar Gabriela Barría Cocino describes the law as “the greatest public spectacle used by the military regime,”<sup>1</sup> in order to enforce mass compliance of authoritarian rule through the judicial system. Enacted in an effort to counter growing popular dissidence to authoritarian rule, the legislation was implemented on a variety of Marxist insurrectionary groups during the military regime and early democratic period,<sup>2</sup> later shifting to Mapuche indigenous organizations (with few exceptions) in 2001.<sup>3</sup>

The maintenance and expansion of anti-terror legislation from authoritarianism to democracy is peculiar to the study of regime transition in that one would expect the reversal of repressive state laws in light of a more open and democratic society. Nonetheless, the continuous application of the law was consistent with the implementation of military regime era laws that passed onto the democratic era, including the Constitution, which called for the privatization of pensions, education . These structure presupposed the maintenance

Known as one of the most punitive laws in existence under the Chilean Criminal Code,<sup>4</sup> its consistent use and expansion from authoritarianism to democracy is peculiar

throughout political regimes makes this legislation stand out in the study of regime transition from authoritarianism to democracy is peculiar

The maintenance of anti-terror legislation

many of the structural and legislative components remained consistent in within regime transition

has shifted its focus towards current day indigenous organizations (Coordinadora Arauco Malleco- CAM) and social conflict. Throughout distinct regimes, the categorization of illicit terrorist activity as defined by

including its use against it is known to be one of the most punitive laws in existence under the Chilean Criminal Code.<sup>5</sup>

Contention has only been further propelled through the implementation and maintenance of neoliberal economic policy, which has remained as the economic cornerstone of both military and contemporary democratic regimes in Chile.<sup>6</sup> However, legitimacy in the form of social

---

<sup>1</sup> (67)

<sup>2</sup> These armed groups consisted of the MIR (Movimiento de Izquierda Revolucionaria), FPMR (Frente Patriótico Manuel Rodríguez), and MJL (Movimiento Juvenil Lautaro) (Alarcón and Carter).

<sup>3</sup> The application of the legislation had been almost exclusively applied to indigenous Mapuche organizations after 2001 with very few exception, specifically to the CAM (Coordinadora de Comunidades en Conflicto Arauco Malleco), which has engaged in land claims conflict in southern Chile since 1998. The exception to this trend most notably came in 2010 with the Chilean Anarchist Bombs Case, focusing on Santiago’s squatter collectives.

<sup>4</sup> (Brett 5)

<sup>5</sup> (Brett 5)

<sup>6</sup> (“Neoliberal Policies”154)

consensus to the political order is still needed in order to consolidate the democratic character of Chilean state institutions. Since social consensus to this Capitalist ideological hegemony could not be fully achieved in Chilean society, the stability of political and economic institutions<sup>7</sup> is maintained by imposing compliance through coercive and symbolic mechanisms to quell social unrest.

The development and application of the Anti-Terrorist Law is, therefore, a representation of the ideological interests of the Chilean State, which securitizes dissident groups to maintain state power within a neoliberal framework. In this case, securitization is defined as a socially constructed phenomenon, wherein the portrayal of existential threat to authority requiring emergency action must be identified, and a significant part of the population must accept that designation<sup>8</sup>. This securitization is accomplished by categorizing the identities of dissident groups and their actions as illicit under anti-terror legislation. By criminalizing those who refuse to adhere to the dominant narrative of Capitalist ideological hegemony, the use of spectacle as punishment through the legal State Apparatus legitimizes the use of force to normalize Capitalist order within broader society.

Thus, the first section of this paper will explore theoretical concepts of state power in relation to the application of Chilean Anti-terror legislation. Specifically, the ideological components within the Chilean State, its use of exceptionalism<sup>9</sup>, and its role in the creation of spectacle and punishment will be explored through Althusser's concept of Ideological and Repressive State Apparatuses (SAs), and the Chilean Law of Terrorist Conduct. Part two will consist of a historical account on the maintenance of capitalist order through the legal ISA from 1970 to 1980, analysing the Allende period and institutionalization of the early military regime. Part three will elaborate on two distinct periods in the application of Chilean Anti-terror legislation, which include cases during the Pinochet dictatorship (1984 to 1989), the transition to democracy (1990 -1995).

## **Part 1: The Chilean Legal Ideological State Apparatus, Property and The Chilean Anti-Terrorist Law**

### *i. Althusser's Ideological State Apparatus*

Ideological inclinations can be found in any state and/or institution by virtue of its existence as a political construction of power. While the longstanding Western ideal of constitutional government may have clearly defined state institutions (Wolin 396), which limit the exertion of power over specific jurisdictions, each of these in practice serves a specific function in the maintenance of authority and order within a given territory. It is in this way that political theorist, Louis Althusser, had distinguished between the exertion of State power – or its specific will to impose authority - from State apparatuses (or SAs), which exert state capacity through various coercive and symbolic mechanisms (79).

---

<sup>7</sup> (“Neoliberal Policies”154)

<sup>8</sup> (Vultee 34)

<sup>9</sup> “Sovereign is he who decides on the exception” described by Carl Schmitt in *Political Theology* as the personal privilege of the ruler to decide on the state of exception, or state of emergency, which suspends the normal course of law (Guilli 23).

These mechanisms produce ideological representations (Weeden 12), which according to Althusser, are reflected in the practices of state institutions coined as Repressive and Ideological State Apparatuses (79). The Repressive State Apparatus (or RSA), which includes the government, administration, army, police, courts, prisons, etc., is comprised of institutions that function predominantly through violence – or the legitimate use of force<sup>10</sup> - to exert authority (Althusser 79). Thus, since the exertion of authority within these institutions mainly involve the use of force (although other mechanisms may be used), they are thought of as a singular apparatus. On the other hand, according to Althusser there is a plurality of Ideological State Apparatuses (or ISAs)<sup>11</sup>, whose functions are predominantly ideological and serve to enable the reproduction of economic “production relations,” sustaining capitalist order and state authority (Estop 73).

This Marxist materialist approach in understanding state power relations is particularly relevant to the study of law as the legal State Apparatus, wherein normative considerations of jurisprudence are contested by indicating an essential dependence of law on social and economic factors related to capitalist order (Estop 75). In the eyes of Althusser, law becomes a necessary condition of capitalist economy, since there could be no market transaction – be it of usual commodities or the very particular commodities represented by labour – without legal institutions like property (Estop 74). Without property as protected by the juridical ISA, no trade transaction, no contract would be conceivable and, as a consequence, no market economy could exist (Estop 74). Capitalism as such in its core level (the relations of production) could therefore not exist without law (Estop 74). But, conversely, no law could be established without the need to determine social norms, and dictate the punishment of those who break them.

It is in this way that the development of law, according to Althusser, becomes a social construction reflecting the ideological practices of the state, while simultaneously reinforcing its authority. The State – comprised of the governing elites – can thus socially construct the notion of public versus private affairs to serve the interests of those in power (Althusser 80), and therefore construct permissible social, cultural and legal norms within society. While normative theories of pure law would disagree with the idea of the state being subjectively “above the law” (Althusser 80), these claims only further legitimize state authority and capitalist relations by creating a dominant narrative of “eternal legal truth” as a self sustaining reality (Estop 75).

*i. The Chilean Law of Terrorist Conduct (Law No. 18.314)*

The Chilean *Ley Sobre Conductas Terroristas* (or “Law of Terrorist Conduct”) was first enacted by the military junta in 1984, during a time of ever increasing dissidence to the Pinochet regime (Barría Cocino 67). Modified several times since its initial promulgation, five different types of crimes are identified article 2, which relate to terrorist acts as described in article 1 under the following circumstances:

---

<sup>10</sup> Legitimate relative to what Althusser notes as “bourgeois law,” valid in the (subordinate) domains in which bourgeois law exercises its “authority” (80).

<sup>11</sup> The religious ISA, the educational ISA, the family ISA, the legal ISA, the political ISA (including political parties), trade union ISA, communications ISA (press, radio, TV, etc.), and cultural ISA (arts, sports, etc.) (Althusser 80)

*“Constituirán delitos terroristas los enumerados en el artículo 2º, cuando el hecho se cometa con la finalidad de producir en la población o en una parte de ella el temor justificado de ser víctima de delitos de la misma especie, sea por la naturaleza y efectos de los medios empleados, sea por la evidencia de que obedece a un plan premeditado de atacar contra una categoría o grupo determinado de personas, sea porque se cometa para arrancar o inhibir resoluciones de la autoridad o imponerle exigencias.”*

*[“Crimes included in article No. 2 will be constituted as terrorist crimes, when the act is committed with the purpose of producing justified fear in the population or in part of it, whom are victims of these crimes; **be it for the nature and effects of the means employed**; be it for premeditated evidence to attempt against a category of people; be it for the purpose of forceful removal or the inhibition of authoritative resolution, or the imposing of demands [to authority].”]* (Chilean Law 18.314, art. 1)

It is important to note that certain means in the conduction of a crime are considered an act of terrorism per se from the above description of legislation (this is referred to as “legal presumption”) (Barría Cocino 67). The specific circumstances under which crimes can be considered terrorist are stipulated in article 2 as follows:

*1. Homicidio, lesiones, secuestro y retención de personas como rehenes, sustracción de menores; envío de efectos explosivos, incendio y estragos, infracciones contra la salud pública, y descarrilamiento.*

*2. Apoderarse o atentar en contra de una nave, aeronave, ferrocarril, bus u otro medio de transporte público en servicio, o realizar actos que pongan en peligro la vida, la integridad corporal o la salud de sus pasajeros o tripulantes”.*

*3. El atentado en contra de la vida o la integridad corporal del Jefe del Estado o de otra autoridad política, judicial, militar, policial o religiosa, o de personas internacionalmente protegidas, en razón de sus cargos”.*

*4. Colocar, lanzar o disparar bombas o artefactos explosivos o incendiarios de cualquier tipo, que afecten o puedan afectar la integridad física de personas o causar daño*

*5. La asociación ilícita cuando busque cometer delitos que deban calificarse de terroristas conforme a los números anteriores y al artículo 1º.”*

*[“1. Homicide, injury, kidnapping and withholding of persons as hostages, child abduction; sending explosive artifacts, **arson and ravages**, infractions against public health, and derailment.*

*2. Seizing or attempting against a vessel, airplane, train, bus or other mode of public transportation, or carrying out acts that endanger the life and physical integrity or health of passengers or crew member.*

3. *Attempting against the life or physical integrity of a Chief of State or **other public, judicial, military, police or religious authority**, or internationally protected person for their position.*

4. *Placing, throwing or shooting bombs or explosive artifacts, **or incendiary devices of any kind** that affect or could affect the physical integrity of people, or cause damages.”*

5. ***Illicit association** when seeking to commit crimes that qualify as terrorist according to the previous segments and article 1.] (Chilean Law 18.314, art. 1)*

Of the list seen above, there are several legal qualms, or due process issues, which highlight the ideological, as well as repressive character of the legislation. Firstly, the emphasis on property destruction as an act of terrorism, through charges such as arson and related crimes stress the significance of material wealth as equal to, or of more importance, than the well being of a population. According to Human Rights Watch, arson is included in the ordinary criminal code in a chapter that refers to crimes against property, rather than in one referring to crimes against the person (Brett 25). It is the only crime of violence in the anti-terrorism law that does not involve a direct or deliberate threat to life, liberty, or physical integrity. Inclusion of arson of this less serious sort among a list of terrorist offenses is highly questionable given the much more serious crimes contemplated by international conventions dealing with terrorism (Brett 25). As such, the prevalence of arson within Chilean Anti-terror legislation most explicitly highlights the maintenance of capitalist order through the legal ISA.

Secondly, it is important to note that the jurisdiction of peacetime military tribunals was gradually expanded to encompass all actions taken by security forces (Brett 47). The 1984 Anti-Terrorist Law added to the jurisdiction of peace-time military courts to common crimes committed to or by military personnel in “military or police premises,” which it defined as “any duly delimited space, vehicle, etc. in which a military or police authority performs his function” (Snyder 267). Consequently, any crime committed against military or police personnel is immediately placed under the jurisdiction of military courts. In other words, defendants that are accused of violence against the police as well as those who have themselves been victims of police violence or abuse, must appear, whether as defendants or victims, before military courts (Brett 54).

This raises question on the right not to be tried more than once for a single crime - under the anti-terrorist law (in Civil Penal Code) and under military courts - also known as *non bis en idem*, or double jeopardy (Brett 41). Further, these military trials are led by prosecutors and judges who are members of the armed forces on active service, subject to the military chain of command, where trials are held in largely secretly written inquisitorial proceedings (Brett 47). Thus, the human rights violations committed by security forces in army barracks, training camps and other detention centres, where the most egregious violations occurred during the military dictatorship were effectively removed from the purview of civilian justice (Snyder 267)

Thirdly, it is important to note that illicit association is defined in a separate clause, article 292 within the Chilean Penal Code, stipulating the following:

*“Toda asociación formada con el objeto de atentar contra el orden social, contra las buenas costumbres, contra las personas o las propiedades, importa un delito que existe por **el solo hecho de organizarse**” (Codigo Penal de Chile, Art. 292).*

*“Any association formed with the objective of attempting against social order, against good custom, against people or property, **is considered a crime for the sole fact it has been organized**” (Chilean Penal Code, Art. 292).*

This provision has been left untouched throughout Chile’s democratic era. In other words, according to the article, the sole act of organizing individuals around a specific cause could be deemed a terrorist act, if it does not reflect established norms within society. Moreover, the article, once again, reflects on the importance of property relations in regard to the maintenance of rule of law. Leaving wide room for interpretation, this clause raises the question on political agendas of discipline wherein acts of civil disobedience – or at least their organization - could be interpreted as a terrorist act under the rule of law. The fact that the notion of threat is amplified to include such a wide array of organization is cause for concern, specifically in the securitization of dissidents and their ideological identities.

When first enacted, the Anti-Terrorist Law was under the provision of Article 8 of the 1980 Constitution, which banned parties, groups, and movements advocating for subversive ideologies and thus serving as a pretext to target groups on the left (Ensalco 263). This article would then be deleted amidst the elite pact transition to democracy, under President Alwyn, wherein Article 9 would stipulate “[t]errorism in any of its forms is by its essence contrary to human rights” (Brett 27). However, while Article 8 of the constitution was deleted under the transition to democracy, Article 9 was amplified so that the sanctions specified in the now deleted Article 8 could be imposed on persons convicted of terrorist acts (Ensalco 263). Further, Article 9 does prohibit political parties, movements, or groups if they do not respect “the basic principles of a democratic constitutional regime” or “seek to establish a totalitarian system” (Ensalco 263). These groups will be judged based on their “objectives, acts or conduct” and especially if they resort to, promote, or incite violence as “a method of political action” (Ensalco 264). In considering the previous list of terrorist acts, the way in which violence – or specifically political violence - is perceived, categorized and sanctioned under Anti-Terror legislation is dubious at best, and despotic at worst.

Statutes and regulations continued to be added to the Anti-Terrorist Law within the democratic era, beginning with Law 19.241, which amended the legislation by specifying any form of kidnapping would be considered an act of terrorism, if committed by an illicit terrorist association (Barría Cocino 68). In 2003, article 8 was added to the law under President Ricardo Lagos, sanctioning terrorist financing “through any means, direct or indirect, solicited, collected or provided funds with the end to be used in commission of terrorist crimes, outlined in article 2” (Barría Cocino 68).

Terrorist crimes that are prosecuted under the Anti-Terrorist Law are sanctioned with convictions that are considerably higher than “common crimes,” but also have modified procedures giving greater power to the Prosecution. While in the regular criminal procedure in Chile allows for the accused to be held for up to three days without charges, the Anti-Terrorist Law pushes that deadline for up to 10 days in detention without charges (Barría Cocino 68). This

is a week longer than the time permitted in the case of ordinary criminal defendants, although during this extra period the detainee is allowed to receive visits from a lawyer (Brett 30). Once formally charged with a terrorist offense, the detainee's right to receive visits from family members may be restricted; prosecutors may apply to the judge for powers to tap telephones, intercept correspondence, emails, and other communications with any person, except for the lawyer, for an indefinite period; and, if the prosecutor considers that the physical security of witnesses is at risk, evidence may be kept secret for up to six months (Brett 30)

The use of witnesses in terrorism trials accounts for one of the most questionable aspects of the legislation. "Protected witnesses," whose identity is only known by the plaintiff, are "protected by the secrecy of the witness's surroundings" due to possible future reprisals (Barría Concino 68). These witnesses are presented in court behind screens that prevent them being seen by the defendants, their lawyers, or the public (Brett 33). While the Defense is able to cross-examine the witness, any detail to personal identity is inadmissible under the law, to which conflict of interest or issues with the credibility of the witness are hidden from the proceedings (Brett 34). These measure were added to the Anti-Terrorist Law in 2002, under the Presidency of Ricardo Lagos, and can be applied within a trial is the Public Ministry considers the witness to be in physical danger (Brett 34).

It is in this way that the Anti-terrorist law acts as spectacle, wherein a state of exception is enacted against the accused for the purposes of publicly punishing those who the Chilean State considers to be a threat to its rule of law unto public and international opinion. This state of exception is characterized through the application of these extremely harsh legal measures, wherein the powers of the state are extended to an almost "unlimited" capacity to preserve itself against internal disorder (Wolin 400). By creating these "emergency powers" through the legal ISA, those accused under the law become disciplinary figures to be publically punished (Weeden 18), so as to create a spectacle of social compliance within the "social order" and "good custom" of society. These spectacles are therefore, not only representations of power, but are instances of state power in of itself (Weeden 14). These norms, which highlight the maintenance of property relations, are reflected in the legislation, creating the means necessary to discipline and punish dissents to capitalist order.

## **Part Two: Chilean Jurisprudence 1970 – 1984 – Rule of Law and the Maintenance of Capitalist Order**

The application of the 1984 Anti-Terrorist Law as a tool for the maintenance of free market capitalism cannot be understood without a thorough understanding of Chilean jurisprudence. Historically, any attempt to change the course of legal statutes beyond a strict maintenance of capitalist order was inevitably halted by the Legal Ideological State Apparatus (ISA). This would late result in the development of Pinochet's military regime, the enactment of the Anti-Terrorist Law and the legacy of the regime's ideological persecution of dissidents, which continues to the current day.

### *i. Conflicting Interests within the SAs and Property Relations: The Allende Years*



Prior to the junta, the arrival of the left wing *Unidad Popular* (or Popular Unity) coalition government led by Salvador Allende in 1970, and the inauguration of the “Chilean route to Socialism,” enabled what Chilean scholar Igor Goicovic Donoso denotes as a contradictory reality (“Transición y violencia política” 61). On the one hand laid a political system, which over the span of 50 years facilitated the entry of the most radicalized sectors of society into government. On the other hand, the growth of a political process ripe with social and political tensions, demanding radical solutions to the structural issues the country faced (“Transición y violencia política” 61).

During his time in government, Allende would take advantage of loopholes in the legal system through a series of decree-laws from the 1930s which authorized the temporary requisition of products or basic goods "when abnormalities in the production process made it necessary for the public interest" (Snyder 257). The same legislation also allowed government "intervention" into the management of a company or agricultural estate when a labor conflict paralyzed it and disrupted the national economy (Snyder 257). Through this system, Allende's government was able to expropriate hundreds of Chilean firms and estates, many foreign-owned companies, and nationalized the banking system and copper industry (Snyder 257).

However, the legal ISA through representatives of the Supreme Court were less than willing to oblige with Allende's socialization and nationalization policies. While Allende used various legal measures to facilitate the transfer of private wealth to public hands, judges were reportedly offended by Allende who, they claimed, openly flouted legal procedures and abused executive authority in his drive to build socialism (Snyder 258). When peasants and workers seized estates and factories under the protection of government policies, the courts sided with their owners and denounced Allende's circumvention of property laws (Snyder 258). Judges drafted orders admonishing the workers and peasants to return the expropriated land and factories to property owners, only to be overruled by Allende's Interior Ministry, which refused to authorize police forces to carry out the orders through the Repressive State Apparatus (Snyder 258).

Tensions mounted when a war of words broke out between the judiciary and the executive branch in an exchange of letters months before Allende was ousted, whereby the Supreme Court accused the government of orchestrating a complete "breakdown of the legal order in the country" (Snyder 258). By having the protection of private property as a fundamental principle upholding the legal ISA, the judiciary's support for the military coup became immanent, and arguably inevitable. In retaliation for having its constitutional authority questioned by Allende's government, the Chilean judiciary handed itself over willingly to the dictatorship that followed (Snyder 258).

## ii. *Spectacle as Domination: The Military Junta*

The ultimate solution to the ideological incongruence of state apparatuses came in the form of the September 11<sup>th</sup>, 1973 coup d'état that brought the military to power, revolutionizing

Chile's economic, social and political structure within capitalist logic ("Transición y violencia política"<sup>61</sup>).

As part of the Repressive State Apparatus, the Chilean military high command had endorsed a national security doctrine that viewed economic development as integral to national security<sup>12</sup>. With the intervention of the CIA in the 1973 coup and subsequent international assistance and support of other ideologically likeminded US agencies and administrations – especially that of Ronald Reagan's administration in the US, Margaret Thatcher in Great Britain and other military regimes throughout Latin America ("La Refundación" 10) - the Chilean military junta would develop specific institutional mechanisms to ensure the implementation of free market capitalism.

Therefore, the eventual implementation of Milton Friedman's vision of *laissez-faire* capitalism during the military regime would not only ensure all of Allende's previous policies would become obsolete, but would also ensure a rapid-fire transformation of Chile's economy at gun point. The notorious American economist and professor who became an advisor to Pinochet's military regime (Klein 7), stipulated that "only a crisis – actual or perceived – produces real change" to assure the swift development of free-market economic policies that make "the politically impossible become politically inevitable" (Friedman xi). Policies, such as tax cuts, free trade, privatized cuts to social spending and deregulation, swiftly implemented under military rule would bring about the "most extreme capitalist makeover ever attempted anywhere" (Klein 7). While Friedman and his many disciples of the Chicago School<sup>13</sup> would conceive the state as a mere arbiter for the free market economy, these policies would still depend on state institutions for their execution.

It is in this way that Friedman's concept of crisis serves as a spectacle – a disciplinary device to institutionalize and eventually normalize free market policies, regimenting the masses into an order that both symbolizes and prepares for political obedience (Weeden 19). Friedman's depiction of crisis as spectacle is akin to Carl Schmitt's concept of a state of exception, whereby in emergency situations, the powers of the sovereign must be "unlimited" to preserve itself against internal disorder (i.e., class struggle) as well as other external threats (Wolin 396). The depiction of these threats, however, remain solely in the discretion of the sovereign (Wolin 396), which can be constructed to fulfill political agendas of obedience, reflecting idealized representations of state dominance and national community<sup>14</sup> (Weeden 14). This ability to invoke security against a perceived threat thus involves a shared understanding of the need of extraordinary measures, and more importantly, a shared sense of peril to the "nation" (Vultee 34).

For their part, Latin American militaries regarded labour activism as subversive, whose politicization came to be regarded by economic elites as inconvenient because it prompted

---

<sup>12</sup> Ensalco argues the construction of the subsequent bureaucratic authoritarian state is a consequence of dependant capitalism, wherein military elites conspire to replace what they perceive to be an ineffective and possibly disloyal government with an authoritarian regime capable of accelerating a particular mode of development (256).

<sup>13</sup> Many of Pinochet's economists had studied under Friedman at the University of Chicago, and became known as the "Chicago Boys" or "Chicago School" (Klein 7).

<sup>14</sup> National community refers to people's shared, socially constructed sense of "groupness," their sense of belonging to a community and of deriving their identity, at least in part, from membership in the group (Weeden 14).

organized workers to make excessive demands that stymied capital accumulation (Ensalco 256). Since the construction of threat in Friedman's vision would constitute as that which impedes free market capitalist order, upholding an idealized national community would result in the discipline and punishment of the "other" that embodies a threat to the nation. Facilitated by the prerogative of the military regime to resort to repression (Ensalco 256), this threat would be embodied by Marxist and general anti-capitalist sympathizers, securitizing dissidents and their respective movements.

Perhaps the most blatant demonstration of securitization of dissidents through spectacle can be seen in the words of Chilean General Gustavo Leigh, who alongside General Augusto Pinochet, led the coup against the elected government of Salvador Allende. Leigh argued that Chile was suffering from a severe illness that required radical surgery, on Chilean national television the night of the coup d'état.

*"Después de tres años de soportar el cáncer marxista, que nos llevó a un descalabro económico, moral y social que no se podía seguir tolerando, por los sagrados intereses de la patria, nos hemos visto obligados a asumir la triste y dolorosa misión que hemos acometido."*

*["After three years of enduring the Marxist cancer, which led to a state of economic, moral and social decay that we could not keep tolerating, we have been obliged to fulfill this painful mission, in the name of the sacred interests of the fatherland"]*

(Martín-Cabrera 87).

The aim of this biopolitical<sup>15</sup> discourse was the creation of *homo sacer*, in other words, a human being whose life was "unworthy to be lived" (Martín-Cabrera 87). The term given to those identified as threats to the state within the context of Iberian and Latin American authoritarian regimes varied in each country. In Spain they were most often referred to as *rojos* (reds), in Argentina and Chile they were most commonly referred to as *subversivos* (subversives) (Martín-Cabrera 87). The aim of these terms – according to Hispanic Iberian scholar Martín-Cabrera, was to definitely eliminate the action of militant groups, as well as "to create a blind allegiance to a legal system without [other] content than the sovereign authority of the state" (87).

This discourse would then allow for the swift eradication of the "Marxist" threat, enabling the use of the Repressive State Apparatus to use its powers under the guise of unrelenting states of emergency, wherein the military and other counter-subversive agencies weeded out suspected leftists and sympathizers through a campaign of abductions, torture, and executions (Snyder 259). This ongoing state of exception to combat the crisis of "Marxist cancer" would last for nearly two decades, wherein the institutionalization of securitizing policies ensuring neoliberal order would outlast the strict lifetime of the military regime itself, through its implementation in the legal ISA.

---

<sup>15</sup> Foucault defines biopower as the right to take life or let live, wherein an exercise of power – such as state sovereignty – determines "a right of seizure: of things, time, bodies and life itself" (780).

*iii. Authoritarian Institutionalization and the 1980 Chilean Constitution*

The institutionalization of securitizing dissidents came with the implementation of legal statutes in the Chilean Constitution of 1980 and subsequent laws, such as the Chilean Law of Terrorist Conduct of 1984, which prolonged the legacy of the military regime beyond its lifespan. Unlike other Latin American dictatorships, which pretended to instate patrimonial forms of power, the 1973 military junta sought the institutional intervention (the conjunction of armed forces and public order), in order to reconstruct Chilean society over economic, social, and political bases (“Transición y violencia política” 62).

Some regime transition scholars, such as Benjamin Smith, argue that this institutionalization due to deep fiscal and political challenges at the inception of authoritarian regimes, creating incentive for government officials to build the institutions required to survive (430), thus ensuring their longevity. While state terror would become the most efficient tool to detain any aspects of resistance or dissidence (“La Refundación” 9), institutional legal mechanisms became necessary to contain growing popular dissent, represented in the form of street demonstrations and the growth of Chilean insurrectionary movements towards the late 1970’s, escalating in the 1980’s (“Transición y violencia política” 62). This would prompt the development of government legislation through legal mechanisms, which became essential in the maintenance of not just political order, but more fundamentally, economic order. Despite the fact that the Chilean military junta did not last the average 30-year lifespan set for authoritarian regimes (Smith 423), the implementation of these pieces of legislation ensured the legacy of military regime to continue into the democratic era, through the elite pact of 1990.

Institutional reform of the Repressive State Apparatus through legal mechanisms would begin with an immediate state of siege following the coup, defining it as a “state or time of war” in order to allow military tribunals to assert jurisdiction over civilians under the Code of Military Justice (Snyder 259). The same decrees expanded the use of the death penalty, wherein a week later, this state of constitutional exception was reinforced by a state of emergency, which was to last until 1988 (Snyder 259).

Further, the development of the autonomous intelligence and counter-insurgency agency, such as the Directorate of National Intelligence (known by its Spanish acronym as DINA), was established in June 1974 under Decree No. 521 (Snyder 260) Its primary role from its inception was liquidation “enemies of the state” considered “dangerous to national security” (Snyder 261). “Disappearances” became the trade mark of the DINA, wherein victims were seized without arrest warrants, often in broad daylight and in front of witnesses, tortured and held incommunicado for long periods of time (Snyder 261), if they were ever found. By 1977, under increased international scrutiny<sup>16</sup>, the DINA was dissolved and replaced by a “cleaner” agency – the National Centre of Information (CNI) (Snyder 261). While the CNI was subordinate to the Ministry of Interior instead of being directly linked to the junta (as with the DINA), its powers were identical to that of the DINA, simply adopting a “subtler method” of repression and terror

---

<sup>16</sup> Pressure by the United States, under then newly-elected president Jimmy Carter, was regarded as partially responsible for the elimination of the DINA (Snyder 261).

(Snyder 261). Instead of abducting people in broad daylight, the CNI chose to stage elaborate “shoot-outs” with alleged leftist insurgents (Snyder 261).

In March 1978, the state of siege in existence since September 11<sup>th</sup>, 1973 was lifted, but the state of emergency remained in force (Snyder 261). Decree No.1877 still allowed the detention of citizens for up to five days, and systematic torture continued (Synder 261). It was during this period that military rule was consolidated and institutionalized. The Amnesty Law, which sought the immunity of those accused of forced disappearance of dissidents, was issued in 1978 and the new constitution promulgated in 1981 (Snyder 261).

The Constitution outlined a political system based on authoritarian institutions, a strong presidential power, a weakened parliament with designated local governments, and a military force that would be, at least officially, autonomous from respective political power, playing with the roles of institutional power (“La Refundación 11). Despite the claims towards the promotion of “democracy,” the prerogative to repress was conferred by incorporating into text of the new constitution two sets of provisions (Ensalco 258). One set established the legal basis for targeting supposedly subversive organizations for repression by the ideologies that guide them (Ensalco 258). The other set specified the repressive measures the military and the police were permitted to undertake in declared states of emergency (Ensalco 258).

With respect to these provisions, the constitution in its initial draft banned certain types of political parties, organizations, and movements, essentially on ideological grounds (article 8). Parties could be targeted for such action if they advocated class struggle, totalitarianism, or violence, or even if their philosophy seemed to “do harm to the family” (Ensalco 258). A Constitutional Tribunal established under the constitution would be empowered to pass judgement on groups advocating illicit ideas, and then to apply harsh sanctions (Ensalco 258). This article was intended to ban ideas rather than actions, and as such was meant to purify political expression and to prevent the spread of the Marxist contagion (Ensalco 258). The nature violent act is identified in article 9, which specifically instructs the national congress to pass appropriate legislation, defining exactly what constitutes a terrorist act, and concludes by stipulating that crimes considered to be terrorist should be characterized as common crimes rather than political acts (Ensalco 258). Thus, corresponding authorities would implement further legislative and operative mechanisms that would allow for the identification of enemies of the state in order to proceed with their eradication (“La Refundación 11).

According to Chilean scholar, Igor Goicovic Donoso, among the most common legal mechanisms used to apply said public policy involved the development of the Anti-Terrorist Law (1984), the strengthening of the Interior State Security Law (1933), as well as the reinforcement of the Arms Control and Explosives Law (1972) (“La Refundación 11). This in conjunction with the widening jurisdictional scope of military courts (especially involving civilian criminal cases), and the militarization of security forces such as the CNI, and National Police Force (*Carabineros*) (“La Refundación 11), would enforce obedience necessary to ensure compliance to the regime and its economic policies. Thus, the objective of enacting this legislation, according to Donoso, was “to create a society of obedient subjects under the guise of government authority and the fatherland, whose definition and meaning derives from its historic defenders: the armed forces” (“La Refundación 11).

### **Part Three: Application of the Anti-Terrorist Law**

#### **A. The Final Years of Pinochet's Military Regime (1984 – 1989)**

##### *i. The Legitimation of Repression: The Anti-Terrorist Law and the CNI*

The development of Pinochet's Anti-Terror legislation under the legal ISA would only further institutionalize the military regime's Repressive State Apparatus, merging the mutual interests of elites to isolate, as well as annihilate growing resistance throughout the country. During the course of the military regime, the Anti-Terrorist Law would empower the National Information Agency (CNI) to carry out all aspects of the investigation when the case fell within the jurisdiction of the military tribunals (art. 12) (Besier 58). By virtue of decree-law no. 1.878, of 1977, the CNI was responsible for dealing with all information necessary to the government, particularly in national security matters after succeeding the DINA (Besier 58). The CNI's involvement was reinforced by the introduction of the law on June 14<sup>th</sup>, 1984, which includes statutes that enabled the agency to conduct arrests and to keep those arrested in detention as stipulated by the law (Besier 58). Since most acts carried out by Chilean insurrectionary groups aimed to topple military and police authorities, the CNI became the default investigative agency that would deal with dissidents, as the anti-terrorist charges would be under the jurisdiction of military courts.

In other words, the 1984 Anti-Terrorist law would give the CNI the legal justification necessary to hunt for alleged dissident rebels, creating a spectacle of institutionalized rule or law, while simultaneously liquidating opponents. By recognizing Chile's traditional respect for and observance of the rule of law, General Pinochet utilized the letter of the law carry out its ideological cleansing, and created the perfect fascist legal system to process "enemies of the state" (Snyder 254). As mentioned previously, dissident massacres staged as shoot-outs between militants and military/police authorities would become common place during the military regime. In 1981, MIR guerrilla militants situated near the remote southern Chilean town of Neltume, were ambushed by authorities "while unarmed and under a hail of bullets" (Fernandez 4). Of the fifteen in the encampment only 3 people survived the ambush, while the dead were thrown into the nearby mountain range from military helicopters, one was later assassinated in Santiago by CNI agents in 1985 (Fernandez 4).

While the CNI carried out its operations prior to the enactment of the Anti-Terrorist law, the junta would utilize the legislation to construct an elaborate spectacle of legitimacy around dictatorial rule (Snyder 254). This trend intensified after the FPMR assassination attempt on General Pinochet in 1986, wherein a state of siege was once again implemented, and remained in effect for four months while both government authorities and right-wing death squad violence erupted anew (Snyder 263). The leaders of the FPMR, Raul Pellegrin and Cecilia Magni - who carried out the attack against Pinochet - were later also ambushed, captured, and subsequently assassinated having their bodies thrown down Tinguiririca river, between October 21<sup>st</sup> and 22<sup>nd</sup>, 1988 ("Violencia y transición 78). Thus, camouflaged by states of exception that revoked constitutional rights, the security forces were able to operate offensively without restrictions, utilizing their own military justice system to prosecute and then imprison or execute civilians suspected of subversion (Snyder 264). Those that were lucky enough to survive the shoot-outs,

would be imprisoned, tortured and charged under the Anti-Terrorist law as a spectacle of punishment, facilitating the elite pact transition to democracy by isolating militants.

ii. *Insurrectionary Youth, and the National Accord*

Initially, the traditional left of the 1980's had sought to be rid of the military regime through any means necessary under the banner of the Democratic Popular Movement (Movimiento Democrático Popular, or MDP) ("Transición y violencia" 62). The left wing coalition, comprised of the Communist Party, Socialist Party, and later the Revolutionary Movement of the Left (Movimiento de Izquierda Revolucionaria, MIR), would advocate for a comprehensive socio-economic program similar to that of the Popular Unity coalition of 1970 ("Transición y violencia" 62). Amidst the global economic recession of 1981 and 1982, the growth and development of open dissent and resistance – in the form of demonstrations, strikes, and armed resistance ("Transición y violencia" 62) - began to complicate the overall survival of the junta. The repercussions of 1986 assassination attempt against Augusto Pinochet by Manuel Rodríguez Patriotic Front (FPMR), not only unleashed violent repression against opposition forces, but also elucidated the outbreak of insurgency throughout country, calling the attention of the United States ("La Refundación" 12).

This scenario of Low Intensity War, similar to that of Central America, Peru and Columbia at the time, prompted the US State Department to prompt for democratic transition in 1986 ("La Refundación" 12). Together with Chilean military junta, intermediated by heads of the Chilean Catholic Church, parties of the political opposition were called on to sit at the negotiation table ("La Refundación" 12). What was referred to as political opposition, however, would be represented by the institutional Democratic Alliance (Alianza Democrática, or AD), which encompassed Christian Democratic Party, liberal segments of the Socialist Party, and the Radical Party ("Transición y violencia política" 62).

With all parties agreeing to a National Accord (Acuerdo Nacional), the purpose of the elite pact was to impede the outbreak of civil war, politically isolating extremist groups, and eventually restoring a diffuse democratic system ("La Refundación" 12). While Pinochet sought to remain in power until 1998 ("La Refundación" 12), the junta accepted the negative results of the plebiscite, held on October 5<sup>th</sup>, 1988, wherein people responded with a resounding "No" with 54.7 % of the vote (Snyder 279). Followed by the Presidential elections in December 1989, the new democratic regime would be led by Christian Democrat, Patricio Aylwin,<sup>17</sup> to whom the government was handed to in March 1990 ("La Refundación" 12). Despite the official transition to democracy, the elite pact would not only guarantee the continuation of the neoliberal economic model denounced by the opposition movement, but would also retain the Repressive state apparatus that maintained it.

iii. *The Chicago Boys, Capitalist Order and Exclusionary Transition*

Due to the strict regulations stipulated in the negotiation process of the National Accord, the Chilean military regime was able to keep ideological consistency throughout the transition to

---

<sup>17</sup> Aylwin led the centre left coalition, Concertación de Partidos por la Democracia (Concertación in short), which would be the continuation of the Democratic Alliance initially called upon to form part of the elite pact ("La Refundación" 12).

democracy, by sustaining institutions that upheld capitalist order and the laws that sustained them. Between 1987 and 1988, negotiations carried out between government and opposition officials had unilaterally agreed to accept the political calendar and institutional frame defined by military authorities to restore the democratic system (“La Refundacion” 12).

Before handing over power to President Aylwin after 17 years of military rule, there were a series of changes made to the 1980 Constitution, which made it extremely difficult to reverse or remove laws related to the free market sector (Klein 204). These would include laws predominantly related to education, health care, and social security, whereby Chile was considered to be a pioneer in privatization (Klien 84). In the words of José Piñera, a Chilean economist bred under the Chicago School and Minister of Labour and Social Security, described the process as ensuring "insulation from politics" (Klein 204). Alvaro Bardón, Pinochet's undersecretary of the economy, would continue this classic Chicago School reasoning: "If we acknowledge economics as a science, this immediately implies less power for government or the political structure, since both lose responsibility for making such decisions" (Klein 204).

Thus, the National Accord - and subsequent plebiscite and transition - was a clever maneuver on the part of the military regime and other elites to ensure any regime change would be on their ideological terms, creating the spectacle necessary to demobilize the social and political demands of popular movements. Spectacle in this way would serve two functions: on the one hand, the legitimization of the democratic regime and state institutions through popular euphoria. On the other, the continued maintenance and implementation of dictatorship-era institutions - and tactics under legalized means - in order to isolate and annihilate dissident groups through the use of Antiterrorist Law and Repressive State Apparatus.

Popular euphoria as spectacle would be used in the 1988 plebiscite, as the results were delayed and public uncertainty mounted as to whether the “No” vote would be recognized by military government officials. In the words of General Fernando Matthei, a member of the Chilean military junta:

*“No podía entender por qué no se estaba dando la información cuando todo el mundo la sabía ya y pensé que esto podía traer consecuencias muy serias de pensar que nosotros no íbamos a cumplir con nuestro compromiso de reconocer una victoria, o una derrota también.”*

*“I couldn’t understand why [officials] were not communicating the results [of the plebiscite] when everyone already knew [the result], and I thought this could carry very serious consequences to think we weren’t going to keep our promise of recognizing a victory, or a defeat” (Chamy).*

At a time when the escalation of Marxist insurgency was a concern for the national (and international) elite, withholding the results of the plebiscite and the process of democratic transition would surely result in the direct confrontation of a civil war. Moreover, while Pinochet



himself and other military Generals of the junta were resentful to the idea of liberal democracy<sup>18</sup>, the National Accord would ensure continued power to the military in case the country would ever revert to its Socialist or anti-authoritarian tendencies. Under these conditions, it would be unlikely for the military regime to even dare to lose hold of the political situation, when the Pinochet's rule had always remained cold and calculated. Thus, the enacting of the plebiscite as spectacle killed two birds with one stone: it created the popular euphoria necessary for the population to believe or have hope in state institutions (which had been lost in years previous). It also robbed Marxist insurgencies of their collective mobilizing power, by portraying that Pinochet could be defeated by "using the enemy's weapons."<sup>19</sup>

*iv. The Case of Marco Ariel Antonioletti and the MJL*

The story of Marco Ariel Antonioletti and the MJL is profoundly linked with the history of the high school student movement of the 1980's and its connection to the mobilization of poor youth within the slums of Santiago (Arriaza 76). Exiled in Venezuela together with his mother, he decided to return to Chile when he was 14 years old in 1984, involving himself in student mobilizations, and left-wing party affiliations (Arriaza 76). Among them, he became a member of the Christian Left and participated in the Committee for Self-Defense of the student led Coordinator of High School Organizations (known as its Spanish acronym as COEM), participating in marches and school occupations (Arriaza 76). Due to the radicalization of his position, Ariel decided to abandon the Christian Left and join the Lautaro Youth Movement (MJL) at the end of 1986 (Arriaza 76).

The Mapu-Lautaro (ML) was only a year old, when Antonioletti arrived in Chile (Arriaza 78).

While the MAPU had existed prior to the coup as a major influence in Socialist thought,<sup>20</sup> it had stagnated due to a series of internal debates regarding strategy and tactics in confronting the military regime ("Transición y violencia" 70). Thus, in a shift toward localized radical resistance, the MAPU-Lautaro broke off from its traditional base in 1983, and formed its own movement that would lay the foundation for the creation of the MJL (Arriaza 78).

Within this framework, the MJL would introduce various unorthodox tactics seen in the Marxist left, including the armed seizure of goods and vehicles to redistribute within the slums of urban centres, which included goods such as hosiery, groceries, construction material, condoms and birth control (etc.) ("Transición y violencia" 70). The growth of popular resistance and escalating violence between 1986 and 1987 stimulated the MJL to create its own military apparatus. As such, in 1987, while the rest of the insurrectionary left was dealing with internal

---

<sup>18</sup> Pinochet was distrustful of liberal democracy, since he considered these to be notoriously susceptible to communist infiltration (Ensalco 258).

<sup>19</sup> Quote by Eugenio Tironi, Director of Communications for the "No" Campaign during the 1988 Plebiscite.

<sup>20</sup> The MAPU party was known organizing poor, Christian youth under an anti-capitalist framework in the southern and western outskirts of Santiago during the Allende period, differing vastly from platform of the traditional Christian Democrat party ("Transición y violencia" 70).

crisis, the MJL possessed a growing organic structure within the most radicalized segment of popular youth (“Transición y violencia” 70).

The same year he graduated from high school in 1988, Antonioletti would participate in the III Congress of the MAPU-Lautaro as a delegate of the local high school committee, where the “Insurreccional War of the Masses” was defined (Arriaza 77). Setting the prospect of armed struggle that would continue beyond 1990 in motion, Antonioletti would join the armed wing of the party and join the Lautaro Popular Rebel Forces (known in Spanish as the Fuerzas Rebeldes y Populares Lautaro, or FRPL) (Barría Cocino 96). While participating in a range of actions by the FRPL, an operation went awry on May 23<sup>rd</sup>, 1989, when security forces responded in an exchange of fire (Arriaza 77). After the incident, Antonioletti began receiving anonymous phone calls and death threats, fleeing Santiago north to the IV Region (Arriaza 77).

Antonioletti was later arrested in October 1989 by CNI agents, processed Anti-Terror legislation under the military courts for the alleged murder of a police officer and assaulting several police stations <sup>21</sup>(Celis Ramírez 164) During his detention, Antonioletti was brutally tortured, for which he was later diagnosed with a retina detachment in his left eye (Barría Cocino 96). Transferred to the former Santiago Penitentiary, where he became the spokesperson for MAPU-Lautaro prisoners (Barría Cocino 96), he continued to suffer physical ailments as a consequence of torture. As a result of public pressure over prison authorities, Antonioletti was able to secure an ophthalmologist in Sótero del Río Hospital, where he would be transferred once a week (Barrío Cocino 97). This last detail would bring about the plan for his rescue and escape from prison in 1990 (Barrío Cocino 97).

## **B. Transition to Democracy: Continuity of Repression through the State Apparatus (1990 – 1995)**

### *i. The Legitimacy of Impunity under the Chilean Legal ISA in Democracy*

While popular euphoria would capture segments of the population, the expectations of the new democratic regime would be short lived for broader left, as dictatorship-era institutions would impede the further development of pending human rights issues left over and carried on by the military junta. When the Rettig Commission's Report on Truth and Reconciliation finished its Report in 1991, it had catalogued over 2,100 Chilean citizens that had been executed or had "disappeared" during the military regime (Snyder 263). Half of these victims had been sentenced to death by military courts (War Councils) in the months following the coup, shot while trying to escape, or killed during the increasingly violent protests that were frequent after 1983 (Snyder 263). The other half, less about 200 military personnel killed during the regime, simply "disappeared" (Snyder 263). The National Commission for Truth and Reconciliation was established in 1990 by the new Aylwin government, and would represent one of his most important initiatives, even though he was explicitly the establishment of special courts to try those responsible for criminal acts (Snyder 279).

---

<sup>21</sup> Cases in relation to acts of terrorism during the Pinochet regime fell within the jurisdiction of the military tribunals (art. 12), when related to police or military affairs (Bessier 58). As such, details of Antonioletti's specific case proceedings were kept in the secrecy of the Chilean military inquisitorial judicial system.

In particular, the harsh words of the Rettig report directed toward military government and the judiciary, would enrage several Supreme Court judges, who refused to acknowledge that they had neglected their duty during the dictatorship. The Court released a public statement accusing government authorities of creating a climate of animosity and denigrating the judiciary (Snyder 280) Pinochet blasted the Report and warned that "[t]he Army of Chile solemnly declares that it will not accept being placed as if on trial before the citizenry for having saved the freedom and sovereignty of the homeland at the insistence of the civilian population" and accused the Commission of being "principally responsible for the tragedy experienced [by the nation] in their capacity as senior leaders of the Popular Unity." (Snyder 280)

Further institutionalization of military impunity came with Aylwin's maintenance of the 1978 Amnesty Law<sup>22</sup>. Although the new government also attempted to repeal the 1978 Amnesty Law, in order to ensure that it did not constitute an impediment to the investigation and punishment of human rights abuses, the Supreme Court upheld the constitutionality of the law in 1991 (Snyder 281). The government later decided not to risk a politically costly parliamentary confrontation on the issue and instead took the position that the reform of Article 5 of the Constitution provided sufficient basis for the investigation of grave human rights crimes (Snyder 281). This would demonstrate the way in which the legal ISA, through representatives of the Supreme Court, continued to hold common interest with the military regime, despite the recent transition.

ii. *The CNI, "La Oficina" and the Continuation of Repression*

This sense of immunity and ownership within military would be once again transferred to the Repressive State Apparatus, whose objective was the annihilation of remaining vestiges of resistance. Despite the fact that the CNI was dissolved by Law 18.943 on February 22, 1990 - just days before the transfer of power from the military regime to the democratic government - a large portion of its personnel was incorporated into the army, of which many are still in active service (Barría Cocino 78). After the assassination of right wing Senator Jaime Guzman by the FPMR, days after President Aylwin took office (Barría Cocino 77), the Chilean government would instate a new police intelligence agency. On April 26<sup>th</sup> 1991, through Decree-law 123, the Coordinating Council of Public Security, known colloquially as "La Oficina," was established within the context of maintaining government interests and sustaining its "independence" from the armed forces in matters of security and intelligence (Barría Cocino 79).

While the agency would profess its autonomy from the armed forces, the mechanisms used to gather such information did not differ substantially from that the military regime. As part of Anti-Terror legislation, the Aylwin government established Law of Efficient Repentance, also known as the "Compensatory Denunciation Law" in 1992, would facilitate militants in denouncing their former comrades, in exchange for legal amnesty and financial aid ("Trancision y violencia" 85). Moreover, this did not include the undercover agents that would be sent by "La

---

<sup>22</sup> The United Nations Special Rapporteur on Chile pointed out that the Chilean Amnesty Law served as a model for the "Pacification Law" promulgated by the Argentine military junta in 1984, which would allow military personnel to be immune from the prosecution of crimes against dissidents (Snyder 281).

Oficina” to infiltrate various insurgent groups. The infiltrators recruited were not simply undercover agents, but well known militants that had organized in movements for decades, such as the case of Juan Carvajal (Barría Cocino 80). Further still, many of the chief investigators within “La Oficina” were ex-militants that placed themselves at the service of the Repressive State Apparatus to denounce their former comrades, such as the case of Alejandro Carpenter (Barría Cocino 85).

However legalistic these mechanisms may seem, the outcome of these tasks reflect a situation that is less than transparent. Between the years 1990 to 1994, there were 400 political prisoners of which were processed regarding their party affiliation, their social environment, and political discourse (Arravena 20). Further questions arise when examining the specific motives, circumstances, agencies, and tortures that surrounded their initial detention (Arravena 20). Within this context local human rights organizations verified that of the 170 arrests for political causes, 140 cases resulted in torture, and 90 cases resulted in the death of the accused during police procedures (Arravena 20).

This sense of immunity on the disposal and annihilation of dissidents even within the democratic era would only fuel further frustration and anger, perpetuating violence a circle of violence in conjunction with political sectors that were completely excluded from the democratic process.

*iii. The Rescue of Marco Antonioletti, and the case of Marcela Rodriguez*

On November 14<sup>th</sup>, 1990 – just 8 months after Aylwin would assume the Presidency - Ariel Antonioletti, is rescued by members of the organization from Sotero del Rio Hospital in Santiago (Barría Concino 96). The situation worsens during the action in an exchange of bullets, resulting in the shooting of Marcela Rodriguez (one of the assailants) in her spine, as well as four prison guards and a police officer dead (Celis Ramirez 165). After the operation was carried out, Antonioletti sought refuge in the home of Juan Carvajal, then a reporter of the left wing newspaper “Fortin Mapocho “(Barría Cocino 96). Carvajal then pursued to inform the undersecretary of the Interior Ministry, Belisario Velasco, of Antonioletti’s whereabouts (Celis Ramirez 165).

Special police operatives were ordered to surround the house and carry out the raid on the mourning of November 16<sup>th</sup>, at which point the inhabitants of the household are taken out, unharmed, while Antonioletti slept (Celis Ramirez 165). While the police assert a confrontation ensued, what is certain is that Antonioletti dies of a close-range shot between his eyebrows, according his mother’s statement to the media (Celis Ramirez 165). To the members of the MAPU-Lautaro, family, and numerous other testimonies, Antonioletti was assassinated and there was no police confrontation (Celis Ramirez 166). On April 27<sup>th</sup>, 1999, Spanish Judge Baltazar Garzon presented Antonioletti’s case as evidence presented against General Augusto Pinochet in relation to the execution of torture (“Derechos.org”)

Meanwhile, Marcela Rodriguez, remained hospitalized in the same medical facility where the incident took place until November 19<sup>th</sup>, 1990, where she was transferred to the Santiago (Celis Ramirez 165). Penitentiary hospital. Said hospital did not have the necessary equipment to deal with the bullet lodged in her lower spine, leaving her paraplegic (Barría Cocino 96) While still in a state of semi-consciousness at the time of the action, Marcela was interrogated by a number intelligence police officers, and threatened with the arrest of family members (Celis Ramirez 165). At least two hours after the incident, her home, was raided and family, including her mother, father and 16-year-old sister were illegally detained. After being left incommunicado for 13 days under the order of Military Prosecutor, Cesar Ocaranza, (illegal under the law), she was able to see her family and speak to a lawyer (Celis Ramirez 166).

On November 20<sup>th</sup>, 1990, she was charged under terrorism related charges within the military court system, and granted bail under strict regulations on January 20, 1992 (Celis Ramirez 166). It was not until September 29<sup>th</sup>, 1995 that Marcela was formally convicted to 10 years and a day in prison times two (20 years and two days), for two counts of attempting against a police officer (Celis Ramirez 166). Due to her serious state of health, the conviction was carried out in Lucio Cordova hospital under 6 prison guards (Celis Ramirez 166). Since Marcela was convicted under the Anti-Terrorist Law, she would request her sentence be carried out through banishment, as was the case with at least 200 other political prisoners charged with similar crimes in the same era (“Transicion y violencia” 72). This would also facilitate Marcela’s access to much needed health care, unavailable in Chile. Marcela would be later banished to Italy at the end of 2000, sponsored by the Catholic Church to live out her sentence (“Transicion y violencia” 72)..

## **Conclusion**

The ideological identities of dissidents throughout the recent history of Chilean jurisprudence, have been severely punished, if these do not adhere to the dominant narrative of capitalist order. Using the legal ISA in conjunction with brutal mechanisms of repression, the Chilean state has not only been able to silence dissidents, but also annihilate them for their ideological positions. From the securitization of “Marxist cancer,” to the spectacle of legitimacy held by the state, ideology has been used as the main precursor in determining the structural policies, as well as the fate of individuals and their respective movements.

Theoretically, ideology is reflected in the representation of state institutions, or as Althusser coins as the Ideological (ISA) and Repressive State Apparatuses (RSA), which enable the reproduction and exertion of power over its subjects (80). The RSA comprises of institutions that function predominantly through violence within the public realm including the government, administration, army, police, prisons, etc. (Althusser 79). The ISAs (including the legal ISA), on the other hand are an interconnected network of institutions, both private and public, whose function is predominantly ideological to uphold the reproduction of production relations – in other words the reproduction of Capitalist order.

These state institutions, therefore embody their ideological position through the practice of their policies. While Chile’s authoritarian regime may have formally transitioned to

democracy, many of the institutions created during the military regime (including the Constitution and Anti-Terrorist Law), as well as its economic ideology remained consistent. Capitalist ideological hegemony in the form of neo-liberal policy, was implemented thoroughly during the military regime, and was also the economic cornerstone of the various democratic governments to follow (Haugney 154). Since social consensus to neoliberal order could not be fully achieved - due to a variety of socio-political, economic and cultural grievances - the continuous implementation of anti-terror legislation to dissident groups would ensure and impose compliance amidst social unrest.

This self-sustaining reality is why the legacy of the dictatorship outlasted its regime. Bureaucratic authoritarianism created by the military junta would develop and provide the institutional mechanisms necessary for the continued use of coercion through the Repressive State Apparatus, ensuring its policies would be practiced beyond the regime itself. Political repression was, therefore, was an essential condition to guarantee the success of this redevelopment process and a fundamental in destroying the vast relationship between the political left and popular movements.

## Bibliography

- Arriaza, Nicolas Acevedo. "Continuidades en el Chile Post-Dictatorial: El Accionar del MAPU Lautaro y la Respuesta de la Policía de Investigaciones en el Gobierno de Patricio Aylwin (1990)." *Revista Divergencia*. 2.4 (2013): 73 – 101. Web. 24 April 2016
- Aravena, Pedro Rosas. *Rebeldía, Subversión y Prisión Política: Crimen y Castigo En La Transición Chilena 1990-2004*. Lom Ediciones, 2004. Print.
- Alarcón, Muriel and Constanza Carter. "La vida en Europa de los presos condenados a extrañamiento por delitos terroristas." CIPER. Centro de Investigación Periodística. 7 Oct 2010. Web. 23 Feb 2016.
- "Auto por el que se remite a las autoridades inglesas resolución por la que se amplía querrela contra A. Pinochet Ugarte." *Derechos*. 27 April 1999. Web. 24 April 2016.
- Althusser, Louis. "Ideology and Ideology State Apparatuses." *Media and Cultural Studies: Keywords*. Ed. Durham, Meenakshi G, and Douglas Kellner. Malden, MA: Blackwell, 2006. Print
- Barría Cancino, Gabriela. "El Chaca, La Chica y El Jonny: Represión y Muertes En El Chile Democrático: Santiago, 1988-2008." Diss. Universidad de Chile. (2012) Print.
- Bersier, Roland. "Legal Instruments of Political Repression in Chile." *International Commission of Jurists Review* (1985): 54-60. Print.
- Brett, Sebastian, and Human Rights Watch. *Undue Process: Terrorism Trials, Military Courts and the Mapuche in Southern Chile*. Human Rights Watch, 2004. Print. Human Rights Watch, October.
- Chamy, Constanza H. "Tres hitos que marcaron la caída de Pinochet." *BBC Mundo*. BBC, 4 Oct 13. Web. 15 April 2016
- Celis Ramirez, Suzanna. "REBELDÍA Y UTOPIÍA, CASTIGO Y REPRESIÓN. Políticas Represivas en el Primer Gobierno de la Concertación." Diss. (2010). Universidad de Santiago. Print.
- Donoso, Igor Goicovic. "La Refundación Del Capitalismo y La Transición Democrática En Chile." *La Sociología en sus escenarios*.19 (2010) Print.

- "Transición y Violencia Política, En Chile (1988-1994)." *Ayer*.79 (2010): 59-86. Print.
- Ensalco, Mark. "Military Prerogatives and the Stalemate of Chilean Civil-Military Relations." *Armed Forces & Society* 21.2 (1995): 255-70. Print.
- Estop, Juan Domingo S. "Althusser's paradoxical legal exceptionalism as materialist critique of Schmitt's decisionism." *Althusser and Law*. Ed. De, Sutter L. New York: Routledge. 2013. pp. 67-80. Print.
- Fernandez, Pedro. "Guerrilla en Neltume: Los que retornaron para luchar." *Archivo Chile*. 2005. Web. *Centro de Estudios Miguel Enriquez*. 24 April 2016.
- Flores Cartes, Ignacio, and Carmen González Quiroz. "¿Hijos De La Dictadura o Hijos De La Subversión?: Lecturas Sobre La Continuidad Represiva y La Resistencia Apartidista Durante La Transición Democrática. Santiago, 1985-2010. Análisis Para Un Balance Histórico y Una Proyección De La Identidad y La Praxis Juvenil Rebelde-Popular." (2015) Print.
- Friedman, Milton, 1912-2006. *Capitalism and Freedom*. Ed. Rose D. Friedman. 40th anniversary ed. Chicago: University of Chicago Press, 2002. Print.
- Gulli, Bruno. "The Sovereign Exception: Notes on Schmitt's Word that Sovereign is He Who Decides on the Exception." *Glossator: Practice and Theory of the Commentary* 1 (2009): 23-30. Print.
- Haughney, Diane. "Neoliberal Policies, Logging Companies, and Mapuche Struggle for Autonomy in Chile." *Latin American and Caribbean ethnic studies* 2.2 (2007): 141-60. Print.
- Klein, Naomi, 1970-. *The Shock Doctrine: The Rise of Disaster Capitalism*. 1st ed.. ed. Toronto: Toronto: A.A. Knopf Canada, c2007, 2007. Print.
- Ley de Conductas Terroristas. Pub. L. 18314. 29731 Stat. 1-7. 16 May 1984. Web. 15 Mar 2016.
- Martín-Cabrera, Luis. "Radical Justice: Spain and the Southern Cone Beyond Market and State." (2011) Print.
- Smith, Benjamin. "Life of the Party: The Origins of Regime Breakdown and Persistence under Single-Party Rule," *World Politics*, Vol. 57, No. 3, 2005. pp. 421-51.
- Snyder, Edward C. "Dirty Legal War: Human Rights and the Rule of Law in Chile 1973-1995, the." *Tulsa J. Comp.& Int'l L.* 2 (1994): 253. Print.
- United States. State Department. Bureau of Counterterrorism. *Chapter 2. Country Reports: Western Hemisphere Overview. Country Reports on Terrorism 2014*. State Department. Web. 25 April. 2016



Vultee, Fred. "Securitization." *Journalism Practice*. 4.1 (2010): 33-47. Print.

Wedeen, Lisa. "Believing in Spectacles," *Ambiguities of Domination: Politics, Rhetoric, and Symbols in Contemporary Syria* (Chicago: Chicago University Press), 1999. pp. 1-31. Print.

Wolin, Richard. "Carl Schmitt, Political Existentialism, and the Total State". *Theory and Society* 19.4 (1990): 389–416. Web