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Resolving a Participatory Dilemma in Chile

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“I was wrong... I thought that there was a greater civic spirit but the evidence is that they voted because it was obligatory”

-Chilean President Michele Bachelet, December 2017<sup>2</sup>

Introduction

During her first term in office, Chilean president Michele Bachelet approved of a law that solved a long-time dilemma: that since the end of the Pinochet regime, voting had remained compulsory, while voter registration was voluntary. While this situation had been universally condemned, a resolution took over twenty years to achieve. Modeling the problem, albeit loosely, as a Prisoner’s Dilemma helps illustrate the difficulty as well as how the stalemate was broken. In brief, changing the system necessitated two steps: changing voter registration and changing compulsory voting. The two major party coalitions each feared the worst possible

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<sup>2</sup> CNN Chile, “Michelle Bachelet por voto voluntario: ‘Yo me equivoqué’” December 17, 2017 [Http://www.cnnchile.com](http://www.cnnchile.com) <accessed Dec. 30, 2017> This and other translations done by the autor. The quote in its original Spanish: “Yo me equivoqué... Pensé que existía un mayor espíritu cívico pero quedó en evidencia que votaban porque era obligatorio.”

outcome if the other side defected in the resolution. Increasing levels of voter abstention fueled efforts to change the system. A package deal finally avoided the prospect of defection by making voting voluntary in a 2009 constitutional change contingent on implementation of an automatic voter registration, which was implemented in 2012. Despite hopes that the change would bolster citizen participation, voter turnout rates have continued to decrease.

### Background: The Transition from the Pinochet Regime

The system of voluntary registration/compulsory voting dated from the end of the Pinochet regime (1973-1990). The authoritarian regime left power in a negotiated transition triggered by a plebiscite held in 1988.<sup>3</sup> Regime machinations during the transition resulted in numerous institutional arrangements designed to protect the outgoing regime. The combination of voluntary registration and compulsory voting stemmed from all citizens having to register to vote before the 1988 plebiscite, since Pinochet had “completely purged” the previous records (Villanueva 1994, 83). The regime made the process voluntary in hopes that its opponents would be less likely to register (Navia 2004). Voting itself remained compulsory, as it had been since 1925 (Torres Dujisin 1989).

Chileans registered and turned out in 1988 to vote in extraordinary numbers on whether Pinochet should remain president for another eight years. The historic nature of the election, and the strong opposition movement, resulted in 92% of eligible Chileans registering (“Participación cívica” 2001; Navia 2004). Losing the plebiscite when a majority voted “no,” the regime began to extricate itself from direct control while insisting on safeguards to its personnel and policies.<sup>4</sup>

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<sup>3</sup> The constitution of 1980 included provision for the plebiscite in 1988.

<sup>4</sup> Presidential and legislative elections in 1989 followed the 1988 plebiscite, with the new civilian government taking office in 1990.

The opposition successfully sought some reforms, but feared pushing too hard for changes that would risk an overt military intervention in the transition (Uggla 2005). Remaining provisions included leaving Pinochet as head of the military until 1998, making former presidents senators-for-life (affording Pinochet immunity after stepping down from his military post), creating a new electoral system (the binominal system), packing the courts with its appointees, and appointing unelected senators (so-called “institutional” senators) to cushion against expected opposition electoral success. (Uggla 2005).<sup>5</sup> The appointed institutional senators, who were initially chosen by the regime and its supporters, were meant to deter constitutional changes (constitutional amendments required 3/5 vote). The binominal system also was to help parties on the right to win sufficient representation in both the Senate and Chamber of Deputies: two representatives were elected from each district, with a party winning both seats only if it received twice as many votes as the party that came in second (Nohlen 1993, 132). Therefore, a party receiving a third of the vote could win half the seats; the right had traditionally won about 1/3 of the vote and was the intended beneficiary of the system.

The voluntary registration/compulsory voting situation was one of these holdovers which shaped post-transition politics. The institutions proved as resistant to change as the authoritarian regime had hoped. In 2005, a major reform package included the elimination of the “institutional” senators and senators-for-life. The voluntary registration/compulsory voting system remained in place until 2012. The binominal system lasted until 2015, with the 2017 elections the first since the Pinochet regime to use proportional representation. As will be seen

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<sup>5</sup>Augusto Pinochet became senator-for-life upon stepping down as commander-in-chief in 1998. He subsequently lost his position. The only other president who became senator-for-life was Eduardo Frei Ruiz-Tagle. The 2005 reform package abolished senators-for-life and the institutional senators.

below, these elements not only indicate the difficulty of institutional change, but also the undemocratic features of the Pinochet-era institutions that were blamed in part for low voter motivation and interest in elections.

### The Quandary of Voluntary Registration and Compulsory Voting

Like other holdovers from the Pinochet regime, voluntary voter registration and compulsory voting persisted long after one would have expected. Opponents blamed it for the progressively deteriorating levels of voter registration. In anticipation of the 1988 plebiscite, over ninety percent of eligible Chileans registered to vote despite the Pinochet regime's hope that voluntary registration would discourage participation. Once registered, citizens had to vote in perpetuity (or face paying a fine without an approved reason for abstention).<sup>6</sup> Citizens who did not register did not have to vote –they *could not* vote if they did not register. Citizens reaching the voting age of 18 years old after 1988 became less likely to register; therefore the bulk of the unregistered were young. By 2004, 23% of *eligible* Chilean citizens did not register to vote, and of the estimated 2.4 million *unregistered* citizens, 2 million were younger than 29, according to the Chilean Servicio Electoral (Electoral Service). By 2008, Chilean legislators were presented with evidence that 4.5 million eligible Chilean citizens were not voting (Biblioteca Nacional del Congreso de Chile, Primer Informe, p. 29).

Though not the only culprit blamed for decreasing voter participation, the voluntary registration/compulsory voting situation was the most obvious. Nearly everyone disparaged it:

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<sup>6</sup> According to Article 139 of Law 18.700, the punishment for failing to vote was a fine of three standard “units.” This translated to between 15,000 and 90,000 pesos in November 2004, or \$25-\$150 according to a published interview with the director of the Servicio Electoral (Electoral Service), Juan Ignacio García. Allowable excuses for not voting: “illness, absense from the country, finding oneself more than 200 kilometers away from the voting place where one is registered on the day of the election or plebiscite, or for another grave impediment necessarily proven in front of a competent judge” (Law 18.700, Article 139).

politicians from across the political spectrum, academics, the Catholic Church, and young activists. Prominent Chilean academics such as Carlos Huneeus (2004) and Samuel Valenzuela (2004) critiqued the situation (and offered support for compulsory voting). The Catholic Church also weighed in (“Voto obligatorio, una responsabilidad cívica” 2004). Numerous articles in newspapers such as *El Mercurio* discussed the increasing apathy of young people and the decline in registration.<sup>7</sup> Abstainers plus those who cast blank and spoiled ballots in the 1997 parliamentary elections added up to 40% of the eligible population (Riquelme 1999). It was front-page news that forty-four percent of those between the ages of 25 and 29 had not registered to vote in time for the December 2001 municipal elections (“Por qué la mitad” 2001), and *El Mercurio* anticipated that participation in the election might only reach 50% of eligible voters once nonvoters, blank and spoiled ballots were taken into account (“Temen un alto” 2001). Testimony in the Senate included a report that just 13% of 19-29-year-olds were registered in 2001, with a steady decline from a high of 36% in 1988. Overall, 21.4% of all eligible citizens were not registered (Biblioteca nacional del Congreso, Primer Informe 2008, p. 8).

Reports indicated that lower registration rates stemmed from a reluctance to become subject to compulsory voting. A Chilean poll (one of several) found that nearly one in five (19%) respondents who had not registered had not done so because they would be required to vote thereafter (“Encuesta” 2005). In all, politicians faced public criticism for not acting to reform the system. Chilean Senators and Deputies were clearly aware of the voluntary registration/ compulsory voting problem. Judging by public statements in newspaper articles and sessions of

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<sup>7</sup> For example, from *El Mercurio*: “Jóvenes del 2000” (1 July 1998, A2); “Nueva baja en padrón electoral” (1 December 2001, A1); “Temen un alto incremento de la abstención electoral” (2001), and “Los diputados perciben escaso interés y una alta abstención” (3 December 2001, C6); “La generación que no vota” and “Por qué la mitad de los adultos jóvenes no votará” (16 December 2001, A1 and A10).

congress, Chilean politicians and their parties viewed the status quo as untenable. As Deputy Pía Guzmán (RN) stated during congressional debate, it was “the worst of both worlds” (Biblioteca del Congreso Nacional, 1998). Senator Sergio Romero (RN) noted “what is clear is that there is an evident contradiction between obligatory suffrage and voluntary registration” (Biblioteca del Congreso Nacional 2003). A 1998 proposal to eliminate compulsory voting sought to “eliminate this true disincentive or perverse effect that the current system presents,” noting that “around one million people did not register” (Boletín #2196-06).

Changing the system presented three options: A) compulsory registration and voluntary voting; B) voluntary registration and voting; C) compulsory registration and voting (see Figure 2). As explained in more detail below (and as depicted in Figure 2), the two major Chilean political coalitions had different preferences with regards to these options. The coalition of conservative parties (*Alianza*) preferred voluntary registration and voting (solution B) while the center-left coalition (*Concertación*) preferred that both be compulsory (solution C). Solution A arose as an acceptable compromise – that registration be compulsory (automatic) and voting voluntary. However, both sides feared that the other would defect in the implementation of the compromise, and both preferred the ugly status quo to the opposing coalition’s best case scenario.

Therefore, the situation resembled a Prisoner’s Dilemma. Two sides faced off with different interests, both sides fearing becoming a “sucker” in the end if they cooperated since both had an incentive to defect (Figure 1). The dilemma lay in the dual nature of the change: a separate action was needed to change voter registration and the obligation to vote. Voter

registration was regulated in a law, while compulsory voting was stipulated in the Constitution.<sup>8</sup> If an agreement were reached to change from voluntary registration to compulsory registration without a concomitant change to voluntary voting, then all eligible citizens would be obligated to vote. A change to voluntary voting without a subsequent change in registration would result in voluntary registration and voting. As Deputy Ávila said, “registration and voting are two parts of the same process. If one is altered, the same necessarily has to happen with the other.” (Biblioteca del Congreso Nacional 1998).

A compromise consisting of compulsory registration and voluntary voting would be the best overall solution, but fear of the worst outcome for each side led to the stability of the status quo. Conservatives opposed compulsory registration, fearing a “trap” – that the *Concertación* would renege on the promised voluntary voting and a fully compulsory system will be put in place (Guerra 2004). Senator Larraín (UDI) opined in the Senate in 2008, “If there were... an agreement in which automatic [compulsory] registration were to exist, we would not be certain that there would be voluntary voting, because...Senators, as much the Christian Democratic as the Socialist Parties, have made it clear they are ready to approve automatic registration with the idea that suffrage will be obligatory. And that being so, we find ourselves in other discussion” (Larraín, *Historia del Artículo único numeral 1) de Ley 20.337* p. 41 Primer Trámite, 30 enero 2008). Thus, as illustrated in Figure 1, the status quo remained despite identification of a reasonable resolution.

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<sup>8</sup> Article 15 of the Constitution of 1980 stated that “suffrage will be personal, equal, and secret. For citizens it will be, furthermore, obligatory (article 15).” Specifics about enforcement, including penalties, appeared in Law 18.700.

### The Actors: the *Concertación* and *Alianza* Coalitions

Two coalitions of parties dominated Chilean politics after the transition and comprise the two “actors” in the Prisoners’ Dilemma model. Although not strictly unitary actors, the members of the two coalitions of parties cooperated significantly within their groupings in pursuing shared goals. The coalitions coalesced during the transition to democracy and remained cohesive for years afterward. The major conservative parties, the RN (*Renovación Nacional*, **National Renovation**) and the UDI (*Partido Unión Demócrata Independiente*, **Independent Democratic Union**), joined together in the *Alianza por Chile* (Alliance for Chile). The more liberal parties joined in the *Concertación por la democracia* (Coalition for Democracy): the PS (*Partido Socialista de Chile*, **Socialist Party of Chile**); PDC (*Partido Demócrata Cristiano*, **Christian Democratic Party**); the PPD (*Partido por la Democracia*, **Party for Democracy**); and the PRSD (*Partido Radical Socialdemócrata*, **Radical Social Democrat Party**).<sup>9</sup> Most Chilean political parties fell into these two groups.

Despite not being single, highly disciplined parties, both coalitions acted sufficiently in concert for the purposes of this model. Transitional politics and the subsequent binominal system reinforced coalitional tendencies – at least through the time period covered here.<sup>10</sup> Carey and Siavelis wrote of “the stability of the governing *Concertación* coalition” (2005, 1). The parties of the *Concertación* fielded a single consensus (and successful) presidential candidate in the

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<sup>9</sup> For simplicity, these coalition names will be used throughout, although changes in names and membership occurred. The *Concertación* began as a union of 16 entities in the *Concertación de partidos por el NO* that campaigned against Pinochet in the 1988 plebiscite, and joined with the Communist Party and the *Justos Podemos Más* coalition to campaign as the *Concertación y Juntos Podemos por más Democracia* (Biblioteca Nacional 2018, “*Concertación*.”) Membership changes occurred: for example, the PRSD formed in 1994 with the union of the Radical Party and the Social Democratic Party; both had participated in the *Concertación* since 1988 (“Partidos, Coaliciones y Movimientos: Partido Radical Socialdemócrata,” Biblioteca Nacional de Chile <accessed March 14, 2018>

<sup>10</sup> Michele Bachelet created the *Nueva Mayoría* coalition for the 2013 elections; the PDC fielded its own presidential candidate in 2017.



elections of 1989, 1994, 2000, and 2005. In legislative elections, the parties coordinated running candidates in the two-seat binominal districts to maximize the coalition's outcomes. This included allotting districts to different parties within the coalition, determining which candidates had the best chance of winning both district seats (Carey and Siavelis 2005).<sup>11</sup> The parties of the *Alianza por Chile* also cooperated in legislative and presidential elections, though more fissures showed between the RN and UDI.<sup>12</sup>

Although politicians also blamed other factors for the lack of participation besides the registration dilemma (discussed below), all else being equal most expected that a fully compulsory system would increase turnout, and a fully voluntary system would reduce turnout. Surveys suggested that the threat of punishment motivated people to vote. A poll in 2001 found that 50.2% of those questioned would not have voted if they had not risked a fine (“Participación cívica” 2001).<sup>13</sup> Academics Valenzuela (2004) and Huneus (2004), prominently argued that voluntary voting would lead to a decrease in voter participation (they were also cited in congressional reports and Huneus gave testimony).<sup>14</sup> Conservative politician Francisco de la Maza (UDI), predicted even “If the two million who are not registered today were to do so, most probably one half of those people are not going to vote” if voting were voluntary (“Inscripción automática suscita” 2004).<sup>15</sup>

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<sup>11</sup> Thus, individual candidates' own political success depended significantly on the overall coalition, particularly when the issue hinged on whether voter turnout increased or decreased.

<sup>12</sup> For example, Sebastián Piñera of the RN entered the 2005 presidential race in competition with the UDI's Joaquín Lavín. Piñera ran as the candidate for Coalition for Change in 2009. Both parties joined in the *Chile Vamos* coalition in 2015, and Piñera won the 2017 election as its candidate.

<sup>13</sup> It is unclear that anyone was fined. The Minister of the Interior, José Miguel Insulza, said “no one had ever been punished for not voting” and dared deputies, “Show me one” (Yáñez 2004). Congress also passed amnesty laws for nonvoters.

<sup>14</sup> Both Huneus and Valenzuela strongly supported a compulsory voting system; the likelihood of declining turnout was a reason for opposing voluntary voting (2004).

<sup>15</sup> Francisco de la Maza has served in municipal government, but not the national legislature.

The two coalitions' views on this issue fell in line with expectations for the most part, judging by public statements, congressional debate, and reported in news. The conventional wisdom in Chile was that *higher turnout* would benefit the center-left (the *Concertación*), and *lower turnout* would benefit conservative parties (the *Alianza*). Therefore, given the expected effects of voluntary v. compulsory voting, it followed that a *voluntary voting* system would help the *Alianza* parties win elections, while a *compulsory voting* system would be beneficial for the *Concertación*.

Members of the *Alianza* opposed compulsory voting. UDI deputies argued that “No one should be obligated to participate in elections” (“Diputados UDI manifestaron” 2004). Members of the *Concertación* preferred changing to a fully compulsory system, while the *Alianza* preferred that both be voluntary. The *Concertación* members feared that citizens more likely to support them would be less likely to vote. Polls did indicate that most of the (primarily young) unregistered citizens would likely support *Concertación* candidates: a poll by the Universidad Andrés Bello and Opina predicted that if only the then-registered citizens voted, the result of the upcoming 2005 presidential election would be close. However, if the unregistered citizens were to register and vote in the upcoming presidential race, either of the likely *Concertación* candidates would win by a large margin in the upcoming presidential race (“Inscripción automática beneficiaria” 2004).<sup>16</sup> Among the reasons included predictions that the cost of mobilizing voters in a voluntary system would “rise and rise,” giving the conservative parties an advantage (Huneus).

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<sup>16</sup> The two likely candidates considered by the poll were Michelle Bachelet (PS) and Soledad Alvear (PDC). Bachelet became the *Concertación* candidate after Alvear dropped, and won the 2005 election.

Thus, the *Concertación* had more reason than its counterpart, the *Alianza*, to find a way to get abstainers to register. It was in this context that President Lagos of the *Concertación* proposed automatic registration and voluntary suffrage. Having eligible citizens automatically placed in the voter roll by the Servicio Electoral when they came of age would go further than merely compulsory registration and ensure that all eligible citizens were able to vote on election day without having to worry about any process. It also pragmatically conceded to voluntary voting in order to get the *Alianza* members to acquiesce. However, Lagos was unable to allay their fears of defection.

#### Lagos' proposal: Automatic Registration and Voluntary Voting

By May 2004, then-President Ricardo Lagos Escobar (PS)<sup>17</sup> endorsed the solution of compulsory registration and voluntary voting by calling for automatic registration and voluntary voting in his annual presidential message to the congress in May. Lagos tried to tie voluntary voting and automatic registration together, but ultimately sent congress separate proposals (“Gobierno divide propuesta” 2004) on registration and compulsory voting. With regard to changing compulsory voting, Lagos’ strategy was to first change the law that specified the punishment for not voting,<sup>18</sup> and later try to change to voluntary voting in the constitution (“La ley del voto inicia” 2004).<sup>19</sup>

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<sup>17</sup> Ricardo Lagos Escobar served as president of Chile from 2000-2006. His son, Ricardo Lagos Weber (PPD), is a Chilean senator who has served as president of the Senate.

<sup>18</sup> The penalties for not voting are detailed in Law 18700. Specifically, the legislation called for revising articles 60, 140, 144, and 153, and eliminating article 139 of Law 18.700.

<sup>19</sup> Unlike other attempts to change the law, however, the proposal sought only to remove article 139 from law 18.700. This would leave in place inconsistencies, since article 60 of the same law states that “every citizen is obligated to vote.” Andrés Tagle Domínguez criticized the proposal on this and other grounds (*El Mercurio* 4 January 2005, A2).

For simplicity, the model used here equates compulsory and automatic registration even though two are not exactly the same. In particular, politicians in the UDI opposed automatic registration in principle. Automatic voter registration ensures universal registration, while compulsory registration mandated in law leaves the onus on citizens who may face a penalty for not complying. It achieves compulsory registration with the insurance that citizens will be registered rather than leaving it up to citizens themselves. The appropriate government entity manages the voter rolls, and citizens merely need to have their identification card.<sup>20</sup>

There was widespread support for this solution. The director of the Servicio Electoral, Juan Ignacio García, publicly supported automatic registration and voluntary voting, noting it was feasible and a desirable way to increase voter participation (e.g. “Estudian registro” 1998; “Por qué la mitad” 2001; Correa 2004). He also gave testimony in congress (e.g., Biblioteca Nacional del Congreso 1998). Polls indicated voluntary voting to be the preference of the general public. Polls done in December 2001-January 2002 and March-April 2008 had essentially the same result: 76-78% of those surveyed supported voluntary voting (Centro de Estudios Públicos 2008).

The youth wings of parties in both coalitions also made their support for voluntary voting clear. The Socialist Youth strongly supported Lagos’ 2004 proposal. Among their effects to gain publicity and pressure legislators into supporting the proposal, young leaders in the PS and PPD drove a decorated microbus around downtown Santiago, labeled opponents of the proposal “cavemen and dinosaurs” and took a large fake dinosaur to the presidential palace (“El padrón electoral no crece” 2004). The Central Committee supported Lagos’ proposal at the urging of

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<sup>20</sup> Payne, et al (2003) note that Brazil, Costa Rica, Ecuador, and Peru all use automatic registration.

the Socialist Youth, against the wishes of various members including leaders Gonzalo Martner and Carlos Ominami (“Poco apoyo” 2004; PS se alineó” 2004).

President Lagos’ 2004 was eventually abandoned without coming to a vote in congress. It faced opposition from members in his own coalition who supported compulsory voting as well as conservatives despite concessions (“Gobierno cede” 2004; “Por ‘malo’” 2004).

Politicians on the right of the political spectrum were suspicious of *Concertación* machinations. Conservatives complained that President Lagos’ 2004 proposal for automatic registration and voluntary voting was designed to “‘change the rules of the game’ with eyes on the presidential [election] of 2005” (“El voto voluntario divide” and “A la ‘caza’” 2004), even though they supported voluntary voting and thought it would aid conservatives’ election prospects. They also feared that the governing parties would renege on the deal. UDI deputies Julio Dittborn, Mario Varela, and Andrés Egaña said that a bill proposing automatic registration “is no more than ‘a system of forced registration’” which may compel all Chileans to register and vote if in fact voting were not made voluntary (“Diputados UDI manifestaron” 2004).

Most *Alianza* members continued to prefer that registration should be voluntary, albeit made easier (“Por ‘malo’ retiran” 2005). Although the *Alianza* opposed Lagos’ proposal, the RN and UDI differed in their views of automatic registration. Members of the RN tended to look favorably on automatic registration (provided that it was accompanied by voluntary voting), while those in the UDI opposed it (“Registro automático divide a la derecha” 2004). One of the UDI concerns was ostensibly about fraud, and they claimed that automatic registration was unworkable (“Poco apoyo” 2004; “Inscripción automática suscita” 2004; Tagle 2004). However, UDI politicians also opposed in principle what they had termed “forced registration.”

Although RN politicians supported automatic registration, they joined with the UDI in opposing Lagos' plan to make voting voluntary by simply removing the legal penalties for nonvoters instead of changing the constitution. Voluntary voting could be achieved either by changing the constitution or by removing the punishment for not voting. Constitutional reforms to eliminate compulsory voting proposed revising Article 15 of the Constitution, which states that "suffrage will be personal, equal, and secret. For citizens it will be, furthermore, obligatory." However, the penalties for not voting were stipulated in law (Law 18.700). Thus, some bills like Lagos' proposed changing the law to eliminate the penalties, while leaving the constitution unchanged.<sup>21</sup>

In principle, even legislators who supported voluntary voting nevertheless opposed achieving this through simply removing penalties for not voting. PPD deputy Patricio Hales thought it to an example "of the excess of 'hypocrisy' in Chile...we have said, 'Divorce is prohibited, but you can annul and marry again.' And now we present something similar when we signal that 'you are obligated to vote, but if you don't feel like it, it's not important, you are not going to have any sanction'" ("Duro debate por ley" 2004).<sup>22</sup> On the other hand, since changing the law would require a lower vote threshold than changing the constitution, it offered a solution that was both more easily obtained and more easily reneged on in the future.

Whether the motive was normative or strategic, votes on an earlier pair of bills illustrate the difference in support. In September 1998, the Chamber of Deputies rejected two bills making voting voluntary on the same day (September 15). Both bills unsuccessfully sought to end

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<sup>21</sup> Other countries in Latin America officially have compulsory voting, but have simply stopped enforcing it.

<sup>22</sup> Divorce became legal in Chile in 2004.

compulsory voting, but one (bill #2196) sought only to change the law by removing penalties for not voting, while the other (#2049) sought to change the constitution to eliminate the sentence in Article 15 that required citizens to vote. Eight more deputies in the RN and UDI voted in favor of the constitutional change, but against the change in law.

For their part, members of the *Concertación* tended to oppose proposals to make voting voluntary. They wanted to hold out for their preferred option of compulsory voting, but also feared the opposite trap than the *Alianza*: that without changes in registration the system would become fully voluntary.<sup>23</sup> However, this position became increasingly unsustainable strategically because of popular support for voluntary voting, youth activists' calls for voluntary voting, and especially increasing levels of abstention. The status quo threatened to become worse than the worst case scenario of voluntary registration and voting.

Although Lagos' 2005 proposal (and others) faltered, other actions were taken to counter abstention. The government pushed a major campaign to increase voter registration by young people ("Alianza y Concertación" 2004; "PPD seduce" 2004). In addition, a new law passed in 2005 (Law 20.010) that made voter registration easier.

### The Solution

Although Lagos' proposal failed, the successful solution had its beginning in a bill proposed in 2004. Initially RN senators opposing Lagos' project proposed their own constitutional change to voluntary voting in June 2004 (Cisternas 2004). However, in the process this bill was amended so that implementation of this voluntary voting became contingent on implementation of a law that made voter registration automatic. Thus, the resolution to the

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<sup>23</sup> Legislators proposed bills to reinstate compulsory voting after the approval of voluntary voting.

problem was solved through a two-step process successfully binding the two parts of the change. First, the constitution was changed in 2009 from compulsory to voluntary voting (Ley No 20.337, April 4, 2009).<sup>24</sup> A special section was written into Law N° 20.337 mandating that voluntary voting provision would not go into effect until a law establishing automatic registration had been passed. That law -- Law N° 20.568 -- passed the legislature in late 2011 and went into effect in January 2012.<sup>25</sup> Thus, the solution avoided the “sucker” outcome of voluntary voting/voluntary registration by linking the two together.

#### Voter Turnout in Chile: Trends and Possible Causes

Voter turnout in Chile decreased further with the removal of compulsory voting. As indicated at the beginning of this paper, President Michele Bachelet has on more than one occasion lamented her support for the deal making voting voluntary. The municipal elections in 2012 were the first to take place with automatic registration and voluntary voting, followed by the 2013 presidential and legislative elections. Based on the turnout for 2013, the Pew Research Center ranked Chile’s participation rate of 50.6% among the lowest in comparable countries – below the United States (Dasilva 2017). Voter turnout in the first round of the 2017 presidential and legislative elections fell below 50% (Sanders and Quiroga 2017). Local elections have fared worse: turnout was 35% in the 2016 municipal elections.

Guarded hopes that voter turnout could stabilize or even increase may have been unrealistic. First, surveys suggested that previously unregistered voters were not likely to vote simply because they would be registered automatically. As an example, a 2005 survey found that 40% of those who had not registered simply "did not care about the elections" ("Encuesta"

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<sup>24</sup> Another part of this bill was to allow regulation of election spending.

<sup>25</sup> UDI legislators abstained in the final vote on the automatic registration bill.



2005). Other factors had affected registration and participation in Chile besides the dilemma examined here. Carlin found that three main explanations contributed to the lack of voter participation: “lack of political support”; “depoliticization”; and “a generational shift in political culture” (Carlin 2006, 632). In debates, politicians offered opinions that touched on these themes. Deputies from very different places on the ideological spectrum like Pía Guzmán (RN) and Aníbal Pérez (PS) noted the importance of education and the media in promoting civic awareness. In Pérez’s words, “it is fundamental that our young understand and appreciate democracy and its institutions” (Biblioteca del Congreso Nacional 1998). Some (particularly more liberal politicians) pointed to dissatisfaction with undemocratic legacies that insulated the government from popular accountability like the presence of unelected senators until 2005 and the binominal system. President Ricardo Lagos claimed “the binominal electoral system will be the death of our democratic system” and “[This is why] 2 million young people do not exercise their right to vote.” (“Chile: Highlights” 2004). Deputies proposing the re-establishment of compulsory voting in 2011 stated that “The problem lies in the binominal system and not obligatory voting” (Cámara de Diputados 2011, 67).<sup>26</sup>

The persistence of the same candidates in presidential elections could also be a disincentive to voters. Two politicians have traded office in the last four presidential elections: Michele Bachelet 2005; Sebastián Piñera, 2009; Bachelet 2013 Piñera, 2017. The two remaining former presidents also ran for office, with Eduardo Frei Ruiz-Tagle losing in the 2009 runoff

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<sup>26</sup> “El problema está en el binominal y no en el voto obligatorio.” The deputies noted that although the law changing the constitution had been passed, the second part of the deal had not yet been achieved and thus voluntary voting had not yet been finalized.

against Piñera, and Ricardo Lagos Escobar dropping out of the 2017 race when the Socialist Party chose a different candidate.

Other aspects complicate further examination of turnout in Chile. The trend has been consistently downward, but the elections have been held with a variety of changes (see Table). Legislative and presidential elections have been simultaneous and not, presidential terms have changed in length, and the election system has changed. Major institutional legacies of the Pinochet regime blamed for causing apathy and disillusionment in Chile have slowly been changed, and some of them quite recently. If the binominal system presented a reason for abstention, future elections might see increased interest in elections.

Another interesting aspect of registration in Chile was not only was it voluntary after the transition, but it also was comparatively difficult.<sup>27</sup> The barriers were not insurmountable, but particularly before May 2005, as Deputy Juan Pablo Letelier (PS) stated, “the prevailing system is archaic, discriminatory, and useless” (Biblioteca del Congreso Nacional 1998). Citizens had to register in person at registration boards (*Juntas Inscriptoras*), with limited hours. They opened “from 9:00-12:00, during the first seven weekdays of the month, from Monday to Saturday ... and during all the workdays of the month within ninety days of the close of the [Electoral] Register before an election” (Servicio Electoral 2005). The register closed 120 days before an election; citizens had to register at least 4 months before an election.<sup>28</sup> Thus, then-Minister of the Interior, José Miguel Insulza, noted “inconvenient places and times” as one obstacle for young people registering to vote (“Gobierno confía en que” 2004). Law 20.010 (2 May 2005), increased

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<sup>27</sup> Carlin (2006) also notes the difficulties in registration in footnote 6.

<sup>28</sup> According to the Servicio Electoral’s calendar for 2005 (the presidential election was held December 14, 2005), the boards were going to be open 88 days between April 1 and August 12, from 9am to 12 pm (Servicio Electoral 2005).

the availability of registration offices, increasing the hours that the offices would be open. The registration boards were to open in the afternoons as well as the mornings, and would close ninety days before the election instead of the previous 120. The law also empowered the director of the Servicio Electoral to create more registration boards where needed. Automatic registration should have overcome any registration barriers.

Also, poll workers were chosen from the list of registered voters, as specified in Article 38 of Law 18.7000. Therefore, not only did registering to vote mean that citizens would have to *vote* in all subsequent elections, but also registering made them subject to serving as a poll worker from time to time. Not fulfilling one's duty as a poll worker could result in a fine larger than that for nonvoting: from 2-5 UTM or 57,048 to 228,192 pesos ("Las excusas por no sufragar" 2001). Of the respondents who identified themselves as unregistered voters for a survey in 2008, 14% gave "Because I do not want to be a poll worker (*vocal de mesa*)" as a reason (Centro de Estudios Públicos, Marzo-Abril 2008, 26). Some officials expressed concern that some of the possible solutions to ending compulsory voting could make it more difficult to get enough people to run the polls ("Estudian registro" 1998).<sup>29</sup> However, the solution of automatic registration and voluntary voting requires citizens serve as poll workers if chosen, although it increased the compensation that they receive.<sup>30</sup>

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<sup>29</sup> The question also came up in congress, where an estimated 45,000 more *vocales* would be needed if registration became automatic: "The question is if we can obligate people who do not want to vote (voluntary vote) to be *vocales*." ("La pregunta es si podemos obligar a personas que no quieran votar (voto voluntario) a ser vocales") (Biblioteca del Congreso Nacional, 1.2 Primer Informe 2008, p. 12)

<sup>30</sup> Law 20.568 left Article 38 of Law 18.700 continued to stipulate 5 *vocales* being chosen from those registered in the voter roll for that voting location ("Artículo 38.- Cada Mesa Receptora de Sufragios se compondrá de cinco vocales elegidos de entre los inscritos en el Padrón de Mesa respectivo.."). There were plans to offer more compensation.

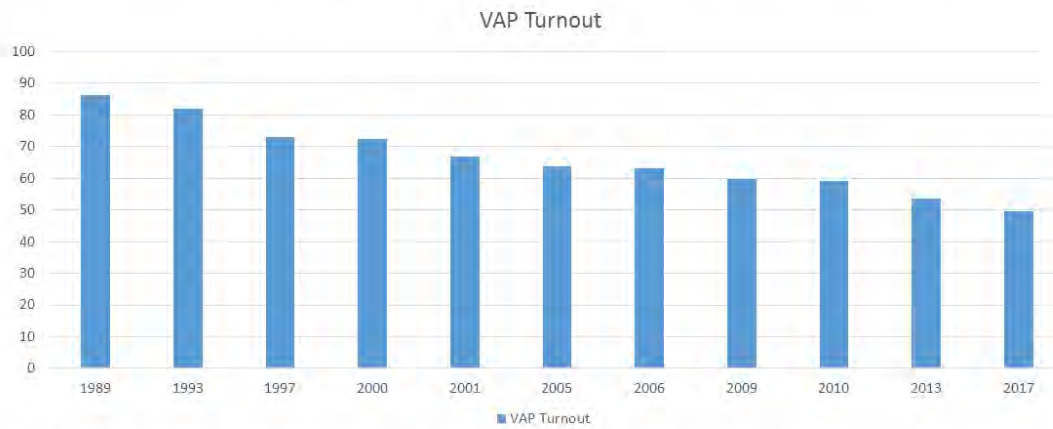
## Conclusion

Thirty years after the plebiscite which dislodged Augusto Pinochet from power, his legacy lingers on. Mass student protests in Chile beginning in 2011, ostensibly about education, demonstrated disaffection with the overall political system, as does decreasing voter turnout and citizen apathy. The long-term effects of policies and institutions bequeathed by the Pinochet regime have been blamed. This paper has examined one of these residual institutions, the stalemate over reforming the voluntary registration/compulsory voting system created during the transition to democracy. This and other major reforms have occurred relatively recently; these changes may yet help in fostering citizen engagement.

Appendix

Figure 1: Turnout in Chile

Chile: Voting Age Population (VAP) Turnout in  
Presidential & Legislative Elections (% VAP who voted)



Source: IDEA, "VAP Turnout" for Chile, <https://www.idea.int/data-tools/question-countries-view/525/79/ctr> (accessed March 7, 2018)

Figure 2: A Prisoner's Dilemma: Initial Party Alliance Positions regarding solution to Voluntary Registration and Compulsory and Voting

		<i>Alianza</i>	
		Cooperate	Defect
<i>Concertación</i>	Cooperate	<p>A</p> <p>Compulsory Registration* Voluntary Voting</p> <p>(identified as best overall solution)</p> <p><i>(23.3%)**</i></p>	<p>B</p> <p>Voluntary Registration Voluntary Voting</p> <p>(preferred by <i>Alianza</i>)</p> <p><i>(34.4%)</i></p>
	Defect	<p>C</p> <p>Compulsory Registration* Compulsory Voting</p> <p>(preferred by <i>Concertación</i>)</p> <p><i>(15.4%)</i></p>	<p>D</p> <p>Voluntary Registration Compulsory Voting</p> <p>(Status Quo after democratic transition)</p> <p><i>(24%)</i></p>

\*Compulsory registration and automatic registration considered equivalent for the model.

\*\*Figures in (red italics) are citizen preferences expressed in 2008 survey

Coalitions

*Concertación:*

*Concertación de partidos por la democracia*  
(Coalition of Parties for Democracy)

PS (*Partido Socialista de Chile, Socialist Party of Chile*);

PDC (*Partido Demócrata Cristiano, Christian Democratic Party*); the

PPD (*Partido por la Democracia, Party for Democracy*)

PRSD (*Partido Radical Socialdemócrata, Radical Social Democrat Party*)

*Alianza:*

*Alianza por Chile* (Alliance for Chile).

RN (*Renovación Nacional, National Renovation*)

UDI (*Partido Unión Demócrata Independiente, Independent Democratic Union*)

**Table 1: Elections in Chile 1988-2017: Changes in Procedures and Rules**

<b>Year</b>	<b>Election</b>	<b>Changes</b>
<b>1988</b>	Plebiscite in October	
<b>1989</b>	Plebiscite in June; Presidential and Legislative elections in December	Concurrent presidential and legislative elections; president elected to 4 year term
<b>1992</b>	Municipal Elections in October	Council elections only (consejal)
<b>1993</b>	Presidential and Legislative elections in December	Concurrent presidential and legislative elections; president elected to 6 year term
<b>1996</b>	Municipal Elections in October	Council elections only
<b>1997</b>	Legislative Elections in December	Nonconcurrent legislative election
<b>1999</b>	Presidential election in December	Nonconcurrent presidential election; president elected to 5 year term
<b>2000</b>	Presidential runoff in January; Municipal elections in October	First Presidential runoff
<b>2001</b>	Legislative Elections in December	Nonconcurrent legislative election
<b>2004</b>	Municipal Elections in October	
<b>2005</b>	Presidential and Legislative elections in December	Concurrent presidential and legislative elections; president elected to 4 year term
<b>2006</b>	Presidential runoff in January	
<b>2008</b>	Municipal Elections in October	First time mayors (alcaldes) elected in addition to council
<b>2009</b>	Presidential and Legislative elections in December	Concurrent presidential and legislative elections
<b>2010</b>	Presidential runoff in January	
<b>2012</b>	Municipal Elections in October	First election with automatic registration and voluntary voting
<b>2013</b>	Presidential and Legislative elections in November AND Presidential runoff in December	Concurrent presidential and legislative elections; first presidential and legislative elections with automatic registration and voluntary voting; election date changed from December/January to November/December; first presidential primaries (voluntary but binding)
<b>2016</b>	Municipal Elections in October	Begin limits on campaign; Servicio Electoral errors in voter registry
<b>2017</b>	Presidential and Legislative elections in November AND Presidential runoff in December	Concurrent presidential and legislative elections; first PR election; first time Chileans abroad vote; enlargement of Senate and Chamber of Deputies; gender quotas

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