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THESIS

**THE ROLE OF THE RULE OF LAW IN THE
DEMOCRATIZATION OF CIVIL-MILITARY RELATIONS
AND DEMOCRATIC CONSOLIDATION: A COMPARATIVE
CASE STUDY OF MALI AND CHILE**

by

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September 2018

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CIVIL-MILITARY RELATIONS AND DEMOCRATIC CONSOLIDATION: A
COMPARATIVE CASE STUDY OF MALI AND CHILE**

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ABSTRACT

This thesis explores the causal relationship between the rule of law, democratization of civil-military relations, and democratic consolidation. This research offers a conceptual framework—developed from existing literature—linking the rule of law to successful democratic consolidation as well as the democratization of civil-military relations. In light of the role of the rule of law in these two areas, this study aspires to identify appropriate courses of action for Mali following the 2012 military coup, to transform its rule of law institutions to ensure the democratization of civil-military relations as well as democratic consolidation. We draw inspiration from Chile, a new democracy that has undergone similar democratic consolidation challenges and opportunities. In this context, this thesis recommends that the Malian government pursue the separation of powers, the restoration of citizens’ trust in the state’s institutions, and the implementation of corruption-free institutions. To this end, Mali should pay a close attention to the parliamentary oversight of the armed and security forces while keeping these forces under the authority of civilian elected leaders. Moreover, political liberalization, the creation of the Truth and Reconciliation Commission, and the raising of a free and independent press are important to achieving this goal.

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LIST OF ACRONYMS AND ABBREVIATIONS

ANI	National Intelligence Agency
ATT	Amadou Toumani Touré
CMR	Civil-Military Relation
CNI	National Information Center
COAB	Control, Oversight, and Accountability Bodies
Codelco	National Copper Corporation
DGSE	General Directorate of State Security
DIGC	Directorate of Inspector General on Corruption
DINA	Directorate of National Intelligence
DISPI	Public Security and Information Directorate
ECCC	Evaluation, Census, and Compensation Commission
ECOWAS	Economic Community of West African States
EU	European Union
EUTM	European Union Training Mission in Mali
FCFA	Franc of the Financial Community of Africa
FORSAT	Special Counter-Terrorism Security Force
GTIA	Joint Tactical Battalions
HRW	Human Rights Watch
IBK	Ibrahim Boubacar Keïta
LOMP	Law of Orientation and Military Programming
MINUSMA	United Nations Mission in Mali
MoD	Ministry of Defense
MTI	Mali Transition Initiative
NCPIT	National Committee on Political Imprisonment and Torture
NCRR	National Corporation for Reparation and Reconciliation
NPS	Naval Postgraduate School
PPP	Public-Private Partnerships
SGI	Security Governance Initiative
UN	United Nations
USAID	United States Agency for International Development

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I. INTRODUCTION

On the morning of March 22, 2012, the Malians, like the international community, were shocked to learn that a military junta led by army Captain Amadou Aya Sanogo had just overthrown President Amadou Toumani Touré (ATT). In a statement broadcast on national television, Sanogo announced the suspension of the existing democratic institutions in Mali, including the constitution. He also announced the introduction of an immediate curfew from midnight to 6 a.m., meaning that citizens were forced to remain inside their dwellings until further notice. The U.S. embassy also declared a curfew on its citizens living within the capital of Mali, explaining this measure by the “increased police checkpoints and heightened tensions in Bamako.”¹ Out of concern for their safety in this fraught climate, the embassy also “encourage[d] U.S. citizens in Bamako to avoid travelling late at night and to be prudent in choosing where to go.”²

Even as these events occurred, the army was struggling to contain the progress of rebel groups and jihadists in the north of the country. The coup led to a rapid break in the military chain of command, which precipitated the fall of the entire northern part of Mali, representing two-thirds of the country’s territory. It was the beginning of an institutional and security crisis, the most severe in Mali since 1992, when at the end of the democratic transition led by ATT (who had just overthrown the dictatorial regime of Moussa Traoré that lasted more than 22 years), Alpha Oumar Konaré was elected President of the Republic.³ In the 2012 event, the democracy in Mali collapsed while the country split in two, with the South remaining under government control and the North being controlled by the coalition of the separatist rebels and their jihadist allies, linked to the branch of Al Qaeda in the Islamic Maghreb.

¹ Department of State, The Overseas Security Advisory Council (OSAC), *Emergency Message for U.S. Citizens: Bamako (Mali), Curfew for Official U.S. Embassy Personnel* (Bamako: January 17, 2013), <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=13472>.

² Department of State, *The Overseas Security Advisory Council (OSAC)*.

³ In Malian’s political history, President Alpha Oumar Konaré was the first to be democratically elected for two five-year terms from 1992 to 2002. At the end of his second and last term, a peaceful and successful transfer of power occurred when Amadou Toumani Touré was elected president.

On April 12, 2012, through the mediation of the Economic Community of West African States (ECOWAS), Captain Sanogo relinquished power, Dioucounda Traoré became interim President, and Cheick Modibo Diarra became interim Prime Minister. This new transitional government was assigned the mission of restoring order in the country by organizing general elections, including the presidential and parliamentary elections. The leadership competition⁴ between Dioucounda Traoré and Cheick Modibo Diarra, however, eventually paralyzed the transitional institutions.

Meanwhile, the capital was under the threat of armed groups that continued their military offensive to the south. Dioucounda Traoré made a distress call, appealing to France and the United Nations (UN) for help. On January 11, 2013, French President Francois Hollande deployed troops to Mali under the code name of “Operation Serval.” This operation was beneficial for Mali in that it allowed it to regain control of the lost areas (Gao, Timbuctou, and Kidal) and to drive the enemy forces into their last retrenchments. As a result of “Operation Serval,” the country was reunified, democratic elections were conducted in July 28, 2013 (first round) and August 15, 2013 (second round), and Ibrahim Boubacar Keïta was elected President of the Republic.

This series of events marked the beginning of Mali’s redemocratization, which continued with the organization of the legislative elections, the second round of which was held on December 15, 2013. Also, after several months of negotiations, on May 15, 2015, the Malian government and the armed groups signed an agreement called the “Peace and Reconciliation Agreement from the Algiers Process.”

⁴ Indeed, Prime Minister Diarra, believing himself invested with “full powers” to lead the transition, proceeded to the appointment of ministers of his government, without referring to the president of the Republic or even the political parties. Dioucounda Traoré counterattacked, announcing his intention to create new transitional organs that would strengthen his powers to the detriment of the powers of the prime minister. In fact, the president announced the formation of a Government of National Unity whose consultations leading to its formation would be conducted under his authority. He also proposed the creation of a National Transition Council chaired by a vice president, excluding the prime minister; “Mali: l’Intégralité du Discours à la Nation de Dioncounda Traoré” [Mali: Dioncounda Traore’s entire address to the Nation], *Jeune Afrique*, July 30, 2012, <http://www.jeuneafrique.com/174982/archives-thematique/mali-l-int-gralit-du-discours-la-nation-de-dioncounda-traor/>.

A. MAJOR RESEARCH QUESTION

All in all, the 2012 coup illustrated weaknesses in the rule of law and civil-military relations in Mali, which led to the collapse of democracy.⁵ If Mali is to succeed in consolidating its democracy and democratizing its civil-military relations, it must strengthen its rule of law, first by undertaking reforms to promote a better democratic culture that would lead to the primacy of law over ruling elites, leaders, as well as armed and security forces and institutions. From such a perspective, the rule of law is not only the foundation of democracy, but also its guarantor in the sense that abiding by the rule of law strengthens democracy, makes it more resilient, and prevents it from the breaking down. This thesis examines the role of the rule of law in the redemocratization of Malian civil-military relations and democratic consolidation. Specifically, this investigation aspires to answer the following question: How should Mali transform its rule of law institutions to ensure the democratization of civil-military relations as well as democratic consolidation?

B. SIGNIFICANCE OF THE RESEARCH QUESTION

The multifarious challenges Mali faces today to update and strengthen its democratic institutions, making them much more secure, more resilient, more responsive and more anticipatory, underscore the importance of this thesis. In particular, this thesis may interest three groups of actors. First, this thesis is relevant to Mali's policy makers. It aspires to provide them with a roadmap for the implementation of sound policies that will help consolidate democratic institutions by completely eradicating the specter of coups that still hangs over the political landscape of the country.

Second, this thesis is significant for policy makers in other countries undergoing similar political transformations to Mali, especially West African countries like Burkina Faso, Ivory Coast, Guinea, and Niger. Because Mali shares a border with each of these states, an outbreak of any politico-military crisis in one state can rapidly spread and affect the neighboring states. Indeed, becoming aware of this contagion effect, during the 2002

⁵ For the definitions of the concepts of rule of law, civil-military-relations, and democratic consolidation, see pp. 5-23 of this thesis.

National Reconciliation Forum in Ivory Coast, the former president of Mali, Alpha Oumar Konaré, wisely stated:

The security of each of our neighbors is our security, the stability of each of our neighbors is our stability; do you see my brothers and sisters, Mali is a bit of each of our neighbors. Mali is a bit of Algeria, it's a bit of Niger, a bit of Burkina Faso, a bit of Ivory Coast, a little bit of Guinea, a bit of Senegal, a bit of Mauritania, and a bit of more besides.⁶

As matter of fact, these countries share with Mali a common heritage from French colonization. They face the same economic, social, political instability, and security issues in the Sahel region, such as terrorism, that undermine the area's overall democratic health.

Third, this thesis is important for U.S. decision makers. The United States is an important security-assistance provider to Mali with respect to issues related to good governance and the process of democratic consolidation, as evidenced by the "Mali Transition Initiative" (MTI), a project of the United States Agency for International Development (USAID), aiming to support the transition to democracy and long-term development in Mali.⁷ Also, within the context of military cooperation and capacity building, ten Malian military officers and civilians, including myself, are currently at the Naval Postgraduate School (NPS), pursuing a master's degree, to improve their expertise in defense, security, and civil-military relations matters. Clearly, the United States has identified and acted on its interests in Mali and the Sahel. This thesis will likely interest U.S. decision makers in that it provides guidelines, suggestions, and recommendations to improve their cooperation not only with Mali but also with the West African countries.

Additionally, this thesis is relevant to the literature of democracy and civil-military relations as it includes a case study that is not explored by previous scholarly works.

⁶ Ciwara Info, "Devoir de Rappel: Alpha Oumar Konaré un Exemple à Suivre" [A Need to Remember: Alpha Oumar Konaré an Example to Follow], Maliweb.net, January 12, 2012, <https://www.maliweb.net/politique/devoir-de-rappel-alpha-oumar-konar-un-exemple-suivre-42874.html>.

⁷ United States Agency for International Development, *Mali Transition Initiative (MTI) Annual Report: Project Year 1 and Fiscal Year 2013, 4th Quarter, May 28, 2013 - September 30, 2013* (Arlington, VA: AECOM International Development, 2013), 3, http://pdf.usaid.gov/pdf_docs/PA00K5SR.pdf.

C. LITERATURE REVIEW

This thesis intends to establish a logic correlation between the rule of law, democratization of civil-military relations, and democratic consolidation.

1. Democracy and Rule of Law

The role of the rule of law in the consolidation of democracy is widely recognized, especially by the leading scholars of democratic consolidation. For example, drawing a correlation between democratic consolidation and the rule of law, Larry Diamond states: “Democratic consolidation is fostered by a number of institutional, policy, and behavioral changes. Many of these improve governance directly by strengthening state capacity; liberalizing and rationalizing economic; securing social and political order while maintaining basic freedoms; improving horizontal accountability and the rule of law.”⁸ In addition, Diamond points to the role of the rule of law in ensuring an independent judicial system, which is one expression of democratic consolidation, to protect civil liberties; he asserts: “elected executives, state bureaucrats, soldiers, and police cannot be held accountable without a judicial system that has the constitutional and political autonomy to ensure a genuine rule of law. Neither can civil liberties be protected, nor the power of the state constrained without such an institutionalized judicial system.”⁹ Furthermore, confirming the link between “democratic consolidation” and “rule of law” Juan J. Linz and Alfred Stepan argue: “To achieve a consolidated democracy the necessary degree of autonomy and independence of civil society and political society must be embedded in and supported by the rule of law.... All significant actors-especially the democratic government and the state-must respect and uphold the rule of law.”¹⁰

⁸ Larry Diamond, “Introduction: In Search of Consolidation,” in *Consolidation the Third Wave Democracies Themes and Perspectives*, ed. Larry Diamond, Marc F. Plattner, Yun-han Chu, and Hund-mao Tien (Baltimore: Johns Hopkins University Press, 1997), xviii.

⁹ Larry Diamond, *Developing Democracy: Toward Consolidation* (Baltimore: Johns Hopkins University Press, 1999), 111.

¹⁰ Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-communist Europe* (Baltimore: Johns Hopkins University Press, 1998), 10.

Nevertheless, the rule of law is not the only criterion of democratic consolidation. In fact, it remains one of five interconnected and mutually reinforcing conditions for the deepening of democracy. Describing the interaction of these five criteria (or “the five arenas of a consolidated democracy” as they name them) Linz and Stepan state: “First, the conditions must exist or be crafted for the development of a free and lively civil society. Second, there must be a relatively autonomous and valued political society. Third, there must be a rule of law to ensure legal guarantees for citizens’ freedoms and independent associational life. Fourth, there be a state bureaucracy that is usable by new democratic government. Fifth, there must be an institutionalized economic society.”¹¹ In short, even though Linz and Stepan focus on the rule of law as one criterion of democratic consolidation, they point out the necessary interaction between the rule of and other arenas to ensure the deepening of democracy. This tells us that, taken in isolation, none of these arenas is sufficient: the five arenas must work hand in hand for achieving democratic consolidation.

In addition, one of the major contributions of Linz and Stepan in this regard remains the concept of consolidation of democracy, the definition of which is widely shared by many of their peers.¹² Defining democratic consolidation, Linz and Stepan posit that it is “a political situation in which, in a phrase, democracy becomes ‘the only game in town.’”¹³ In so doing, they “combine behavioral, attitudinal, and constitutional dimensions.”¹⁴ First, they argue that, behaviorally, democracy becomes the only ‘game in town’ when “no significant political group seriously attempts to overthrow the democratic regime.”¹⁵ Second, from an attitudinal perspective, they posit that “democracy becomes the only game in town when, even in the face of several political and economic crises, the overwhelming majority of the people believe that any further political change must emerge from within

¹¹ Linz and Stepan, 7.

¹² Diamond, “Introduction: In Search of Consolidation,” xvii; Georg Sørensen, *Democracy and Democratization: Processes and Prospects in a Changing World* (London: Westview Press, 2008), 44.

¹³ Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 5.

¹⁴ Linz and Stepan, 5-6.

¹⁵ Linz and Stepan, 6.

the parameters of democratic formulas.”¹⁶ Third, they claim, “constitutionally, democracy becomes the only game in town when all the actors in the policy become habituated to the fact that political conflict will be resolved according to the established norms and that violations of these norms are likely to be both ineffective and costly.”¹⁷ Expressing his full adherence to this definition, Georg Sorensen adds that democratic consolidation:

is one in which none of the major political actors, parties, or organized interests, forces, or institutions consider that there is any alternative to democratic processes to gain power, and that no political institution or group has a claim to veto the action of democratically elected decision makers. This does not mean that there are no minorities ready to challenge and question the legitimacy of the democratic process by nondemocratic means. It means, however, that the major actors do not turn to them and they remain politically isolated. To put it simply, democracy must be seen as the ‘only game in town.’¹⁸

In addition, Linz and Stepan re-emphasize the relevance of the rule of law to democratic consolidation as “the most important continuous and routine way in which the elected government and the state administration are subjected to a network of laws, courts, semiautonomous review and control agencies, and civil-society norms that not only check the state’s illegal tendencies but also embed it in an interconnecting web of mechanisms requiring transparency and accountability.”¹⁹ As such, they further argue that “the more all the institutions of the state function accordingly to the principle of the state of law, the higher the quality of democracy and the better the society.”²⁰ In short, they highlight the crucial role of the rule of law in both the deepening of democracy and the prosperity of the society.

Diamond, going further in his analysis of democratic consolidation, draws a correlation between democratic consolidation and the liberal nature of democracy. In this

¹⁶ Linz and Stepan.

¹⁷ Linz and Stepan.

¹⁸ Sørensen, *Democracy and Democratization*, 44.

¹⁹ Juan J. Linz and Alfred Stepan, “Toward Consolidated Democracies,” in *Consolidating the Third Wave Democracies Themes and Perspectives*, ed. Larry Diamond, Marc F. Plattner, Yun-han Chu, and Hund-mao Tien (Baltimore: Johns Hopkins University Press, 1997), 19.

²⁰ Linz and Stepan, “Toward Consolidated Democracies,” 19.

regard, he argues: “Democracy is significantly more likely to become consolidated if it is liberal, and there is no third-wave democracy in the world today that is both illiberal (or less than ‘free,’ according to Freedom House scales) and consolidated.”²¹ From such an argument, Diamond raises another issue related to the distinction between democratization and liberalization. This distinction has the merit of describing the role of the rule of law in a mere democratic regime in comparison to a liberal regime. It also has the value of describing the role of the rule of law in a simple democratic regime compared to a liberal regime, from which he draws up ten characteristic components, and among them is the rule of law.

It is with Linz and Stepan’s work that this distinction becomes more obvious in the sense that the authors draw up the specific characteristics of each concept through two definitions revealing their differences. Indeed, Linz and Stepan, talking about liberalization from a nondemocratic setting, state that the concept entails “a mix of policy and social changes, such as less censorship of the media, somewhat greater space for the organization of autonomous working-class activities, the introduction of some legal safeguards for individuals such as *habeas corpus*, the releasing of most political prisoners, the return of exiles, perhaps measures for improving the distribution of income, and most important, the toleration of opposition.”²² This definition, which contains a certain idea of freedom and political liberalism, including freedom of expression and the toleration of the opposition, also calls for social equality between citizens on a daily basis of the rule of law.²³

According to Linz and Stepan, there is a causal relationship between democratization and liberalization. In this connection, they argue: “Democratization requires open contestation over the right to win control of the government, and this in turn requires free competitive elections, the results of which determine who govern.”²⁴ Obviously, the correlation between these two concepts makes sense in the context of Mali,

²¹ Diamond, *Developing Democracy: Toward Consolidation*, 20.

²² Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 3.

²³ Linz and Stepan, 14.

²⁴ Linz and Stepan, 3.

which was a liberal democracy by 2011, according to the widely respected Freedom House. Freedom House listed Mali as one of only five fully free democracies in Africa,²⁵ while the same organization, in 2017, listed the country as only partly democratic.²⁶

Another scholar, Adam Przeworski, sharing Linz and Stepan's opinion about democratic consolidation, has stated that "Democracy is consolidated when under given political and economic conditions a particular system of institutions becomes the only game in town, when no one can imagine acting outside the democratic institutions, when all the losers want to do is to try again within the same institutions under which they have just lost."²⁷ Talking about *democracy as an equilibrium*, he also posits that: "Democracy is consolidated when it becomes self-enforcing, that is, when all the relevant political forces find it best to continue to submit their interests and values to uncertain interplay of institutions."²⁸ Based on this claim, one can assume that Przeworski discusses the role of the rule of law in the consolidation of democracy because the self-enforcing and the institutional interactions he refers to are both derived from the rule of law, which is the legal framework organizing and safeguarding the daily behavior of both individuals and the state apparatus.

Otherwise, to find out why some countries succeed in consolidating democracy, while others fail, Larry Diamond, Juan J. Linz, and Seymour Martin Lipset come up with a new idea based on the concept of stability, which they define as "the persistence and durability of democratic and other regimes over time, particularly through periods of unusually intense conflict, crisis and strain."²⁹ Indeed, their approach is relevant because

²⁵ Florina Cristiana Matei, "The Case of Mali," in *Security Forces in African States: Cases and Assessment*, ed. Paul Shemella and Nicholas Tomb (Amherst, NY: Cambria Press, 2017), 104; Freedom House, <http://www.freedomhouse.org/reports>.

²⁶ "Freedom in the World 2017 Mali Profile," Freedom House, <https://freedomhouse.org/report/freedom-world/2017/mali>.

²⁷ Adam Przeworski, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (Cambridge: Cambridge University Press, 2003), 26.

²⁸ Przeworski.

²⁹ Larry Diamond, Juan J. Linz, and Seymour Martin Lipset, "Introduction: Comparing Experiences with Democracy," in *Politics in Developing Countries: Comparing Experiences with Democracy*, eds. Larry Diamond, Juan J. Linz, and Seymour Martin Lipset (Boulder, CO: Lynne Rienner, 1990), 9.

rather than questioning a theoretical definition of democracy, they “seek to determine why countries do or do not evolve, consolidate, maintain, lose, and reestablish more or less democratic systems of government.”³⁰ The conclusions they reach based on the level of regimes’ stability are as follows:

A stable regime is one that is deeply institutionalized and consolidated, making it likely to enjoy a high level of popular legitimacy.... Partially stable regimes are neither fully secure nor in imminent danger of collapse.... Unstable regimes are, by definition, highly vulnerable to breakdown or overthrow in periods of acute uncertainty and stress. New regimes, including those that have recently restored democratic government, tend to fall in this category.³¹

The current situation of Mali, which has just restored its democratic institutions following the March 2012 coup d’état, undoubtedly corresponds to the latter category. In fact, this approach will allow a better analysis of the political situation of Mali, based on the concept of *stability*, which is one indicator of the rule of law in the sense that, as Linz and Stepan point out: “the more all the institutions of the state function accordingly to the principle of the state of law, the higher the quality of democracy and the better the society.”³²

Furthermore, when Andreas Schedler claims that democratic consolidation “was meant to describe the challenge of making new democracies secure, of extending their life expectancy beyond the short time, of making them immune against the threat of authoritarian regression, of building a dam against eventual reverse waves,”³³ he, in fact, points out the role of rule of law in the deepening of democracy. Indeed, to build “a dam against eventual reverse,” one needs the implementation of an independent judiciary in charge of protecting civil liberties and holding public officers accountable, based on an equal application of the law.³⁴

³⁰ Diamond, Linz, and Lipset, 7.

³¹ Diamond, Linz, and Lipset.

³² Linz and Stepan, “Toward Consolidated Democracies,” 19.

³³ Andreas Schedler “*What is Democratic Consolidation?*” in *The Global Divergence of Democracies*, ed. Larry Diamond and Marc F. Plattner (Baltimore: Johns Hopkins University Press, 2001), 149.

³⁴ Diamond, *Developing Democracy: Toward Consolidation*, 111.

In short, the framework of these scholars highlights the role of the rule of law in the consolidation of democracy. First, this framework implies Schedler's idea of preventing the collapse of democracy. Second, it also refers to the position of Linz and Stepan that democratic consolidation is effective once democracy becomes "the only game in town."³⁵ Third, it validates the requirement of an independent judiciary, defended by Diamond.³⁶ These claims are complementary because abiding by the rules makes democracy stronger and protects it from breakdown. In other words, the more people are respectful of common pre-established rules, the more secure democracy becomes.

Yet, other scholars are divided about the nature of the connection between the rule of law and democracy. Indeed, while Andreas Assiotis and Kevin Sylwester argue that democracy promotes the rule of law,³⁷ others see a contradiction between the two concepts. In fact, according to Isaiah Berlin, the rule of law and democracy are "two profoundly divergent and irreconcilable attitudes to the ends of life."³⁸ Pointing out the contradiction between these two concepts, Francis Sejersted claims: "Democracy was introduced to support the rule of law, but it also undermines the same rule."³⁹ Sejersted's argument, which is based on the fact that the two notions are difficult to reconcile with regard to the competing interests they defend, contends: "Rule of law was meant to curb state authority while democracy was meant to mobilize society in the exercising of state authority."⁴⁰ Unlike Sejersted (who partially agrees that democracy promotes the rule of law) and Isaiah Berlin for whom these two concepts are irreconcilable, Assiotis and Sylwester conclude that "the rule of law increases as countries become democratic,"⁴¹ meaning that democracy supports and promotes the rule of law. Going further in their conclusions, they assert that

³⁵ Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 5.

³⁶ Diamond, *Developing Democracy: Toward Consolidation*, 111.

³⁷ Andreas Assiotis and Kevin Sylwester, "Does Democracy Promote the Rule of Law?," *Journal of Economic Development*, 40, no. 1 (March 2015): 88.

³⁸ Isaiah Berlin, *Two Concepts of Liberty* (Oxford: Clarendon Press, 1958), 51-52.

³⁹ Francis Sejersted, "Democracy and 'The Rule of Law.' Some Historical Experiences of Contradictions in the Striving for Good Government," *SAGE* 18, no. 6 (1979): 962.

⁴⁰ Sejersted, "Democracy and 'the Rule of Law,'" 947.

⁴¹ Assiotis and Sylwester, "Does Democracy Promote the Rule of Law?," 21.

democracy's promoting effect on the rule of law is much more pronounced, especially for sub-Saharan Africa⁴² and the East Asian-Pacific region.⁴³

2. The Role of the Rule of Law in Democratic Civil-Military Relations

The issue becomes more complicated when one tries to draw a link between civil-military relations (CMR) and the rule of law, described by Linz and Stepan as:

the most important continuous and routine way in which the elected government and the state administration are subjected to a network of laws, courts, semiautonomous review and control agencies, and civil-society norms that not only check the state's illegal tendencies but also embed it in an interconnecting web of mechanisms requiring transparency and accountability.⁴⁴

Adedeji Ebo makes this link more obvious, stressing:

the web of relations between the military and the society within which it operates, and of which it is necessarily a part. Such relations encompass all aspects of the role of the military (as a professional, political, social and economic institution) in the entire gambit of national life. Civil-military relations involve issues of the attitude of the military towards the civilian society, the civilian society's perception of, and attitudes to the military, and the role of the armed forces in relation to the state.⁴⁵

In fact, the interactions between civilians and the military entail a legal framework, including subsequent bodies of laws, along with control, oversight, and accountability institutions⁴⁶ under which the actors act and interact. Without such a legal framework, it will be difficult, even impossible, to determine the rights and obligations of both civilians and the military.

Moreover, the implementation of a genuine rule of law is crucial to attenuate military influence in domestic political issues, because the military can attempt to use its

⁴² Note that Mali is a West African country, located in this area.

⁴³ Assiotis and Sylwestern, "Does Democracy Promote the Rule of Law?," 21.

⁴⁴ Linz and Stepan, "Toward Consolidated Democracies," 19.

⁴⁵ Adedeji Ebo, *Towards a Code of Conduct for Armed Security Forces in Africa: Opportunities and Challenges* (Geneva: Centre for the Democratic Control of Armed Forces, March 2005), 2.

⁴⁶ Linz and Stepan, "Toward Consolidated Democracies," 19.

power to upset civilian authority. In fact, Eva Etzioni-Halevy, aware of this concern, warns: “The military elite—heading one of the most formidable organizations in the modern states—enjoys considerable power, which may easily be diverted for domestic use”⁴⁷ So, in a democracy, civilian leaders should anticipate and prevent this kind of intrusion, which can be a source of tension between them and the military. In this regard, Thomas-Durell Young recommends: “In a democracy, the military’s activities and missions are established, controlled, and limited by political authorities through mechanisms such as a constitution, laws, policies, and regulations.”⁴⁸ These solutions entail widely the rule of law because the constitution, laws, and regulations he refers to are legal institutions related to the state of law.

In addition, Young’s recommendations underline the concept of control to which many scholars refer in defining civil-military relations. In fact, civilian control over the military is the key indicator of civilian supremacy in a democracy. As Diamond points out, civilian supremacy over the military is a key component of liberal democracy.⁴⁹ Although both Adam Przeworski and Philippe Schmitter agree that control by civilians is a critical condition for democratic consolidation,⁵⁰ they do not, however, as José A. Olmeda regrets, “go into detail about issues, actors, and institutions involved.”⁵¹ While the mechanisms of democratic civilian control may vary from a country to another, civilian control over the military remains a key component of the rule of law because its implementation is only

⁴⁷ Eva Etzioni-Halevy, “Civil-Military Relations and Democracy: The Case of the Military-Political Elites’ Connection in Israel,” in *The Military and Society Civil-Military Relations*, ed. Peter Karsten (New York: Garland, 1998), 113; Eva Etzioni-Halevy, “Civil-military Relations and Democracy: The Case of the Military-Political Elites’ Connection in Israel,” *Armed Forces & Society* 22, no. 3 (1996): 401.

⁴⁸ Thomas-Durell Young “Military Professionalism in a Democracy,” in *Who Guards the Guardians and How: Democratic Civil-Military Relations*, ed. Thomas C. Bruneau and Scott D. Tollefson (Austin: University of Texas Press, 2006), 24.

⁴⁹ Diamond, *Developing Democracy: Toward Consolidation*, 11; José A. Olmeda, “Escape from Huntington’s Labyrinth: Civil-Military Relations and Comparative Politics,” in *The Routledge Handbook of Civil-Military Relations*, eds. Thomas C. Bruneau and Florina Cristiana Matei (London: Routledge, 2015), 64.

⁵⁰ Przeworski, *Democracy and the Market*, 29; Philippe Schmitter, “The Consolidation of Political Democracies: Processes, Rhythms, Sequences, and Types,” in *Transitions to Democracy: Comparative Perspectives from Southern Europe, Latin America and Eastern Europe*, ed. Geoffrey Pridham (Aldershot, UK: Dartmouth, 1995), 562.

⁵¹ Olmeda, “Escape from Huntington’s Labyrinth,” 63.

achieved through a network of legal institutions (constitutions, laws, and regulations), as mentioned previously.

Furthermore, some scholars like Michael C. Desch seek to identify the main values of democratic civilian control over the military. In doing so, he comes up with three major justifications. First, he argues that “the best indicator of the state of civilian control is who prevails when civilian and military preferences diverge. If the military does, there is a problem; if civilians do, there is not.”⁵² From this statement, the author points out the importance of civilian control as an indicator of the firming of democracy. Second, Desch argues: “Military institutions are inherently undemocratic, because they are hierarchically organized. Moreover, they have a near monopoly on coercive power in a state. If it is not under civilian control, the military can represent a serious threat to democracy.”⁵³ From such a perspective, civilian control appears to be a shield against the military’s threat, by protecting against the armed forces’ holding democratic institutions hostage. Third, he states: “when democratic civilian leaders make bad policy decisions, they can be replaced. It is more difficult for the public to hold military leaders directly accountable for failure.”⁵⁴ Therefore, civilian control derives from the popular sovereignty that entails a mechanism of transparency and accountability between the constituency and its representatives.

In addition, José A. Olmeda raises an important question when wondering if there is any distinction between civil-military relations and civilian control.⁵⁵ According to Florina Cristiana Matei, these two concepts are distinct, and the former is deficient to define the latter. In so doing, she argues: “...not only is control of the military insufficient to define civil-military relations, but even extending control to include police and intelligence remains unsatisfactory.”⁵⁶ Diamond comes up with supportive

⁵² Michael C. Desch, *Civilian Control of the Military: The Changing Security Environment* (Baltimore: Johns Hopkins University Press, 2001), 4.

⁵³ Desch, 5.

⁵⁴ Desch, 6.

⁵⁵ Olmeda, “Escape from Huntington’s Labyrinth,” 62.

⁵⁶ Florina Cristiana Matei, “A New Conceptualization of Civil-Military Relations,” in *The Routledge Handbook of Civil-Military Relations*, eds. Thomas C. Bruneau and Florina Cristiana Matei (London: Routledge, 2015), 26.

recommendations to strengthen civilian control over the military. In this regard, he states: “If the military is to be subordinated to civilian control, then civilian institutional capacities to manage and oversee it must be strengthened in the executive and legislative branches.”⁵⁷ Thus, these two concepts, although distinct, must work hand in hand under a legal framework directly derived from the rule of law. Talking about this legal framework and its critical role in democracy, Adam Przeworski argues: “Obviously, the institutional framework of civilian control over the military constitutes the neuralgic point of democratic consolidation.”⁵⁸ In addition, Richard H. Kohn writes: “For democracy, civilian control—that is, control of the military by civilian officials elected by the people—is fundamental.”⁵⁹ Thus, he agrees with Przeworski’s opinion relative to the role of democratic civilian control in consolidating democracy.

Contributing to this debate without clearly opposing the two concepts, Claude E. Welch and Arthur K. Smith describe civilian control as follows: “Civilian control is not a matter of levels of social and economic development, nor of maximizing the professionalism of the military, nor even of a distribution of political power overwhelmingly favorable to civilian groups. Civilian control exists if the officer corps has internalized the value of civilian supremacy as part of its ethical makeup.”⁶⁰ From this perspective, as mentioned previously, civilian control may be easily achieved once the military embraces democratic values and expresses its willingness of abiding by the rule of law. In addition, Welch and Smith’s point is relevant that, in the case of Mali, the military officers could not escape from the obligation of recognizing civilian supremacy by claiming the state of underdevelopment of the country. Ultimately, the principle of

⁵⁷ Diamond, *Developing Democracy: Toward Consolidation*, 76.

⁵⁸ Przeworski, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America*, 29; However, as mentioned earlier, Olmeda denounces a gap in Przeworski’s statement, arguing that Przeworski “did not go into detail about issues, actors, and institutions involved. See Olmeda, “Escape from Huntington’s Labyrinth: Civil-Military Relations and Comparative Politics,” 63.

⁵⁹ Richard H. Kohn, “How Democracies Control the Military,” *Journal of Democracy*, 8, no 4 (October 1997): 140-153.

⁶⁰ Claude E. Welch and Arthur K. Smith, *Military Role and Rule: Perspectives on Civil-Military Relations* (North Scituate, MA: Duxbury Press, 1974), 6.

civilian supremacy over the military must be seen, primarily, as a matter of professional ethics, and enforced by the rule of law.

Additionally, Linz and Stepan's five arenas (civil society, political society, rule of law, state apparatus, and economic society), although describing the conditions of democratic consolidation, provide a deep insight relative to the link between the rule of law and the democratization of CMR, in the sense that the rule of law interacts with the other arenas to regulate either the military's relationship to civil society, or its position or role in the state bureaucracy. For example, as the authors point out: "civil society in a democracy needs the support of rule of law that guarantees the right of association and need the support of a state apparatus that will effectively impose legal sanctions on those who attempt to use illegal means to stop groups from exercising their democratic right to organize."⁶¹ In fact, talking about the use of illegal means against protesters or activists, the authors denounce the use of massive force, including the shooting on crowds, by the military against civilians.⁶² Here, the bottom line is: because military officers are present in the state bureaucracy, they must effectively and resourcefully fulfill their missions under the rule of law, hence under the authority of civilian elites.

With regard to Matei, a leading scholar in the field of CMR, she proposes a new conceptual framework of civil-military relations, focused on the trinity of control, effectiveness, and efficiency. Under a democratically elected civilian control, the effectiveness of the armed and security forces refers to their ability to perform their missions,⁶³ while efficiency refers to their ability to achieve assigned missions at a lower cost.⁶⁴ Matei envisions democratic civilian control in terms of functional bodies of control, oversight, and accountability, not without acknowledging that professionalism can also contribute to effectiveness.⁶⁵ So, according to Matei, democratic civilian control may

⁶¹ Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 15.

⁶² Linz and Stepan, 8.

⁶³ Matei, "A New Conceptualization of Civil-Military Relations," 31-32.

⁶⁴ Matei, 32-33.

⁶⁵ Matei, 30.

entail a parliamentary oversight of budget, well known as “the power of the purse,”⁶⁶ which is an attribute of democracy because parliamentarians are the representatives of taxpayers, their constituents.

Also, through her new conceptualization, based on the trinity of control, effectiveness, and efficiency, one can easily draw a link between the rule of law and these three components. From such a perspective, Matei is in good company with Diamond, who points out: “If the military is to be subordinated to civilian control, then civilian institutional capacities to manage and oversee it must be strengthened in the executive and legislative branches.”⁶⁷ That implies, once again, as mentioned earlier, the implementation of a network of legal institutions, laws, and regulations must be embedded in the rule of law through the state bureaucracy.

D. POTENTIAL EXPLANATIONS AND HYPOTHESES

Today, as a constitutional democracy,⁶⁸ Mali needs to implement the rule of law, which is a political system that establishes the primacy of law over rulers, ruling people, and institutions. This need for the rule of law is crucial for the proper functioning and the accountability of the democratic institutions of Mali, especially when dealing with the democratization of civil-military relations and democratic consolidation. In this context, I hypothesize that the rule of law is the key to successful democratization of civil-military relations, as well as democratic consolidation in Mali. I posit the rule of law is the core of and the legal framework under which civilians and the military act and interact. The rights and obligations of each component should be clearly defined in a legal corpus that includes a constitution, treaties, laws, executive orders, and other norms.

⁶⁶ Hans Born, “Parliamentary and External Oversight of Intelligence Services,” in *Democratic Control of Intelligence Services: Containing Rogue Elephants*, ed. Hans Born and Marina Caparini (Farnham, UK?: Ashgate, 2009), 173.

⁶⁷ Diamond, *Developing Democracy: Toward Consolidation*, 76.

⁶⁸ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices for 2016: Mali,” March 3, 2017, <https://www.state.gov/j/drl/rls/hrrpt/2016humanrightsreport/index.htm#wrapper>.

These texts, however, do not have equal value. They are ranked according to their primacy in the hierarchy of norms or the pyramid of norms. At the top of the pyramid is the constitution, which is the supreme norm. Then follow the treaties or international agreements, the laws, the executive orders, etc. Such a ranking is relevant because it prioritizes a legal order of norms in order to get “actions by, and upon, other arenas legitimate and predictable.”⁶⁹ I also hypothesize that the rule of law is a crucial condition in the process of democratic consolidation in Mali. Indeed, Linz and Stepan emphasize this critical role of the rule of law by stating that the rule of law is “the most important continuous and routine way in which the elected government and the state administration are subjected to a network of laws, courts, semiautonomous review and control agencies, and civil-society norms that not only check the state’s illegal tendencies but also embed it in an interconnecting web of mechanisms requiring transparency and accountability.”⁷⁰

Under these circumstances, I posit that there is a causal relationship between these three components, namely rule of law, democratization of civil-military relations, and consolidation of democracy. This relationship, when working efficiently, could be an operational concept that can guarantee the stability and security of democratic institutions by protecting them from the risk of breakdown. In a sharp contrast, any failure of one of the first two components (i.e., rule of law, democratization of CMR) would probably compromise and endanger the achievement of the third one, namely democratic consolidation.

I propose a conceptual framework—developed from existing literature—linking the rule of law to successful democratic consolidation, as well as democratization of civil-

⁶⁹ Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 14.

⁷⁰ Linz and Stepan, “Toward Consolidated Democracies,” 19.

military relations.⁷¹ In this proposed framework, the rule of law is the core and the legal frame under which citizens (both civilians and the military) act and interact. Therefore, everyone's rights and obligations should be clearly defined in a legal corpus that includes the constitution and subsequent body of law. As Linz and Stepan pointed out, for a democracy to be consolidated, "[There] must be a rule of law to ensure legal guarantees for citizens' freedom and independent association life."⁷² For such a purpose, the proposed framework includes the following requirements:

- Legal framework (constitution and subsequent body of laws) aimed at strengthening democratic governance, including the promotion of democratic rules, political pluralism, the toleration of the opposition through the institutionalization of its status, organization of free and fair elections, etc.
- Independent judiciary, as the ultimate rampart for the defense and protection of rights and freedoms, including freedom of association and

⁷¹ Matei, "A New Conceptualization of Civil-Military Relations," 26-38; Florina Cristiana Matei, "NATO, The Demand for Democratic Control and Military Effectiveness: Romania," in *The Routledge Handbook of Civil-Military Relations*, eds. Thomas C. Bruneau and Florina Cristiana Matei (London: Routledge, 2015), 26-38, 318-330; Florina Cristiana Matei and Marcos Robledo, "Democratic Civilian Control and Military Effectiveness," in *The Routledge Handbook of Civil-Military Relations*, eds. Thomas C. Bruneau and Florina Cristiana Matei (London: Routledge, 2015), 283-295; Thomas C. Bruneau, "Efficiency in the Use of Resources," in *The Routledge Handbook of Civil-Military Relations*, eds. Thomas C. Bruneau and Florina Cristiana Matei (London: Routledge, 2015), 39-47; Diana Molodilo and Valeriu Mija, "The Impact of the Partnership For Peace on Civil-Military Relations," in *The Routledge Handbook of Civil-Military Relations*, eds. Thomas C. Bruneau and Florina Cristiana Matei (London: Routledge, 2015), 231-242; Jargalsaikhan Mendee, "Civil-Military Relations in a Dictatorship: North Korea," in *The Routledge Handbook of Civil-Military Relations*, eds. Thomas C. Bruneau and Florina Cristiana Matei (London: Routledge, 2015), 79-92; Abbas Kadhimi, "Rebuilding the Military under Democratic Control," in *The Routledge Handbook of Civil-Military Relations*, eds. Thomas C. Bruneau and Florina Cristiana Matei (London: Routledge, 2015), 135-145; Florina Cristiana Matei and Andres de Castro García, "Chilean Intelligence after Pinochet: Painstaking Reform of an Inauspicious Legacy," *International Journal of Intelligence and Counter Intelligence* 30, no. 2 (2017): 340-367, DOI: 10.1080/08850607.2017.1263530, 341; Diamond "Introduction: In Search of Consolidation" xviii; Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 10; Linz and Stepan, "Toward Consolidated Democracies," in *Consolidating the Third Wave Democracies Themes and perspectives*, ed. Larry Diamond, Marc F. Plattner, Yun-han Chu, and Hund-mao Tien, 19; Przeworski, *Democracy and the Market*, 29; However, as mentioned previously, José A. Olmeda denounces a gap in Przeworski's statement, arguing that Przeworski "did not go into detail about issues, actors, and institutions involved. See Olmeda, "Escape from Huntington's Labyrinth: Civil-Military Relations and Comparative Politics," 63.

⁷² Linz and Stepan, "Toward Consolidated Democracies," 7.

peaceful protest, the fight against corruption and impunity, the rejection of a two-tiered judicial system, etc.

- The creation of a Truth, Justice, and Reconciliation Commission, tasked with the mission to shed light on the abuses committed by the armed and security forces, and to refer the eventual culprits to justice in order to be prosecuted. Military officers could use the commission's platform to do their mea culpa and try to regain the trust and esteem of civilians. In addition, the commission's findings could help victims heal their wounds and speed up the reconciliation process between them and their torturers. The commission can also extend its mandate in order to make recommendations so that these abuses cannot be repeated in the future.
- The implementation of actions aimed at ensuring the effectiveness of the armed and security forces.
- The creation of functional control, oversight, and accountability institutions like a civilian-led Ministry of Defense (MoD). The civilian lead can also be extended to the Ministry of Homeland Security, having under his authority the security forces. In addition, as the civilian authorities reassert their supremacy, the military will be able to perform their missions optimally. Parliamentary oversight over the military funding and activities, along with the informal oversight of the media—including the provision of extensive freedom of information aimed at overseeing the openness and the transparency of the government's activities—are needed as well.

Although a legal framework on the rule of law exists in Mali, as mentioned earlier, the country is still struggling to implement it effectively. Moreover, the problem of Mali is that people, mainly politicians, although aware of the role of the rule of law in maintaining the balance of the nation, refrain from implementing appropriate policies to strengthen the institutions of the rule of law, including the judiciary. Instead, their behavior shows their

persistent unwillingness in promoting the rule of law in the sense that they refrain from performing sanctions against the abuse and notorious misconduct of public servants. For instance, the 2013 Report of the Office of the Auditor General denounced this deliberate absence of administrative sanctions against public officials.⁷³ That is an obvious paradox when listening to the speeches these officials daily advocate during national or international conferences.⁷⁴

Another example of the violation of the rule of law is the management of the fate of Captain Sanogo by the transitional government chaired by Dioucounda Traoré. Indeed, it is a principle of law that all citizens, without any distinction, must submit to the rule of law in all places and in all circumstances. To this end, an independent judicial system to interpret the law and prosecute offenders, especially those who violate the constitution, is urgently required.⁷⁵ Unfortunately, the management of the case of Captain Sanogo, after his resignation, reveals a kind of scheme between the transitional government and the military against the constitution, which points out any coup as an imprescriptible crime affecting the people of Mali. In fact, the government of Dioucounda Traoré, after offering amnesty to Captain Sanogo, promoted him to lieutenant general and appointed him as head

⁷³ *Le Verificateur Général: Rapport Annuel 2013* [The General Auditor: Annual Report 2013], Bamako, Mali: Office of the Auditor General of Mali, 2013), 124, http://www.bvg-mali.org/files/RA/rapport_annuel_2013.pdf.

⁷⁴ The current head of state, Ibrahim Boubacar Keïta, during the official ceremony of the 2016-2017 new judicial session, stated: “it is the violation of the law or the rule of law which creates the abuse, the excess, the dysfunctions, endangering the state’s vital interests.” See “Le Président IBK: «le Mali ne se Laissera pas Abattre,” “[President IBK: “Mali Will Not Be Defeated.], *Malinet*, accessed August 28, 2018, <https://www.malinet.net/flash-info/le-president-ibk-le-mali-ne-se-laissera-pas-abattre/>; The address of the former head of the state, Alpha Oumar Konaré, during the 2002 National Reconciliation Forum in Ivory Coast: “Political problems require real political solutions ... They can be difficult to find, but we must find them together with concessions, compromises in accordance with the rule of law and democratic compromise.” See “Devoir de Rappel: Alpha Oumar Konaré un Exemple à Suivre,” [Duty to Recall: Alpha Oumar Konaré an Example to Follow] *Ciwara Info*, January 12, 2012, <https://www.maliweb.net/politique/devoir-de-rappel-alpha-oumar-konar-un-exemple-suivre-42874.html>.

⁷⁵ Mali’s Constitution of February 14, 1992 states in its Article 121: “The foundation for every power of the Republic of Mali resides in the Constitution. ... Any coup d’Etat or putsch is a crime against the Malian people.” Article 24 of the same text also provides: “Every citizen and every person living in the Malian territory has the duty to respect, in every circumstance, the constitution.” Theoretically, these texts appear as a shield against the seizure of power by force because, on one hand, they forbid the putsch and make it a crime against the people of Mali; on the other hand, they oblige all citizens, including the military, to respect the constitution. Jeffery Craver (trans.), “The Constitution of the Republic of Mali,” University of Richmond School of Law, accessed December 1, 2017, <http://confinder.richmond.edu/admin/docs/Mali.pdf>.

of the Military Committee for the Reform of the Defense and Security Forces. In so doing, the all-new Lieutenant General Sanogo escaped all charges over the violation of the Constitution of Mali. Several explanations exist to justify this immunity. However, the most plausible would be the fact that Captain Sanogo would require, before resigning, a guarantee of not being prosecuted for the crime⁷⁶ that he had committed. Thus, instead of being punished for his crime against Mali's people, Captain Sanogo seems to have been rewarded for openly violating Mali's fundamental law. Such a practice does not promote the rule of law or the consolidation of democracy. On the contrary, this behavior is counterproductive because it may inculcate the idea in military officers that coups pave the way to rapid promotion.

E. RESEARCH DESIGN

This thesis is intended to accomplish one main goal: Highlight the role of rule of law in redemocratization of CMR, as well as democratic consolidation, because I suspect that the occurrence of the 2012 coup in Mali is the result of a violation of the rule of law. From this standpoint, this thesis appears to be a call to decision makers in Mali, encouraging them to endeavor to craft adequate policies to consolidate the democratic institutions of the rule of law.

To conduct my analysis, I rely first on the speeches of three successive democratic presidents of Mali, namely Alpha Oumar Konaré, Amadou Toumani Touré and Ibrahim Boubacar Keïta (IBK), the current head of the state. Once decrypted and analyzed, these speeches reveal how serious their authors are in their commitment, when referring to the rule of law. These sources also shed light on whether the regime of Alpha Oumar Konaré, contrary to the regime of Amadou Toumani Touré, succeeded in avoiding a coup because of its adherence to the rule of law. Another essential issue to consider is whether the current regime is respectful of the rule of law, to the point of sheltering it from another coup d'état.

Second, I rely on materials of Freedom House and the United Nations Mission in Mali (MINUSMA), which are critical because they are perceived as a barometer of the

⁷⁶ Mali's Constitution of February 14, 1992, states in its Article 121 (3): "Any coup d'état or putsch shall be an imprescriptible crime against the Malian People. "

level of democratization and appeasement of the country. Also, journalists, a component of civil society identified by Linz and Stepan as the first arena of democratic consolidation, play a critical role in the consolidation of democracy, and do so most often at the risk of their own security.⁷⁷ Their criticisms and comments are good indicators of tension between the military and civil society, and thus, I use newspaper articles to document these contemporaneous aspects. I also rely on published academic books and articles dealing with the subject.

Third, I draw comparative analysis from the Chilean case because Chile underwent similar challenges to re-democratize its civil-military relations, as well as to consolidate its democratic institutions.

Finally, based on my findings, I draw conclusions and make recommendations on how abiding by the rule of law is critical in democratization of CMR as well as in democratic consolidation.

F. THESIS OVERVIEW

This thesis is organized in five chapters, as follows:

This first chapter comprises the introduction. Chapter II provides background on the Malian government's endeavors to strengthen the rule of law, democratize the civil-military relations in Mali, and consolidate Mali's democracy after the military coup of March 2012. Chapter III provides background on the Chilean government's endeavors to institutionalize the rule of law, develop democratic civil-military relations, and consolidate that country's democracy. The comparison case of Chile is justified in the sense that it has many similarities with Mali. In fact, like Mali, the Chilean democracy has also been confronted with tough challenges. As Matei points out: "Dating from 1925, Chile had been one of the few democracies in Latin and South America. But, on 11 September 1973,

⁷⁷ "Mali: Un Journaliste Malien Arrêté par les Services Secrets," [Mali: Malian Journalist Arrested by Intelligence Services] *Challenges*, May 16, 2012, https://www.challenges.fr/media/mali-un-journaliste-malien-arrete-par-les-services-secrets-confres_290206.

Chile's path to democratic consolidation was abruptly interrupted by a military coup."⁷⁸ So, Chile went through a democratic transition, and the organization of a presidential election, which took place in December 1989, after Pinochet's departure from the presidency. Even today, the country is still facing challenges of democratic institution building, as Cristiana Matei and Andres de Castro Garcia point out: "In the nearly three decades since the 1989 elections and Pinochet's departure from presidency, Chile has strived to consolidate its democracy, including the strengthening of democratic civil-military relations and the reforming of intelligence."⁷⁹

Chapter IV seeks to answer the research question and test the hypotheses. Specifically, drawing from the two case studies, this chapter seeks to demonstrate that there is a causal relationship between the role of the rule of law in the democratization of civil-military relations and the consolidation of democracy. Chapter V focuses on the findings of this study and provides recommendations to strengthen the institutions of the rule of law in order to ensure the democratization of civil-military relations as well as democratic consolidation in Mali.

⁷⁸ Florina Cristiana Matei and Andres de Castro García, "Chilean Intelligence after Pinochet: Painstaking Reform of an Inauspicious Legacy," *International Journal of Intelligence and Counter Intelligence* 30, no. 2 (2017): 340-367, DOI: 10.1080/08850607.2017.1263530.

⁷⁹ Matei and de García, "Chilean Intelligence after Pinoche," 341.

II. THE MALIAN GOVERNMENT'S ENDEAVORS TO STRENGTHEN ITS RULE OF LAW INSTITUTIONS AND CMR

The coup of March 2012 seriously undermined the democratic institutions of the Republic of Mali. The suspension of the constitution on March 22, 2012, by the military coup leaders, coupled with the breaking of the military chain of command, which precipitated the fall of the northern regions, are a few examples in this context.⁸⁰ This chapter provides an overview of Malian government endeavors since 2013 to strengthen democratic governance and re-democratize CMR, using the conceptual framework proposed in the first chapter.

A. STRENGTHENING RULE OF LAW INSTITUTIONS AND DEMOCRATIC CONSOLIDATION

The strengthening of the rule of law and democratic consolidation require the implementation of a legal framework, along with the existence of an independent judiciary.

1. Legal Framework

The Constitution of Mali, in Article 5, recognizes and guarantees the freedom of association, including the creation of political parties. In this connection, a particular focus of the legal framework has been the institutionalization of the status of the political opposition. The institutionalization of the political opposition implies the promotion of democratic rules, namely political pluralism and its corollary of tolerance for the opposition, which is a major sign of democratic openness.⁸¹ President Keïta's administration, understanding the importance and the role of the political opposition in the process of redemocratization, quickly submitted a bill to the parliament; in March 2015, the parliament promulgated Law No.2015-007, demonstrating the will of the Malian

⁸⁰ Mohomodou Houssouba, "Le Nord-Mali aux Mains des Rebelles," [Northern Mali Under Rebels's Control], *Le Monde Diplomatique*, May 9, 2012, <https://blog.mondediplo.net/2012-05-09-Le-Nord-Mali-aux-mains-des-rebelles>; Marc-André Boisvert, "2012: L'Etrange Défaite de l'Armée Malienne," [The Strange Defeat of Malian Army], *Ultima Ratio*, January 18, 2017, <http://ultimaratio-blog.org/archives/8272>.

⁸¹ Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 3.

government to consolidate democratic governance by institutionalizing the role of democratic opposition, which can be parliamentary or extra-parliamentary.⁸² Article 12 of this law provides that the political opposition (parliamentary and extra-parliamentary) has the duty to watch over governmental action, and to criticize it objectively and constructively in order to reinforce the democratic ideal and progress.⁸³ Thus, to enable it to fulfill its watchdog duty, the opposition enjoys free and equal access to the state media in the same way as the parties of the presidential majority. Nonetheless, this right is not always upheld, so that political opposition regularly protests for equal access to public media.⁸⁴

The opposition also benefits from public funding in accordance with Article 29 of Law No. 05-047, adopted on August 18, 2005, and related to the charter of political parties.⁸⁵ In addition, the regime of IBK has the merit of maintaining the legal system of public funding of political parties, including those from the majority wing, provided for by Law No. 05-047 dating from ATT's regime.⁸⁶ In 2017, for example, IBK's government distributed FCFA⁸⁷ 1,953 billion (approximately US\$ 3,507,984) to both the majority and opposition parties.⁸⁸

⁸² The parliamentary opposition is the one represented in parliament, while the extra-parliamentary opposition is constituted by the political parties that do not have representatives in the parliament.

⁸³ Ibrahim Boubacar Keïta, Loi No.2015-007/ AN-RM, "Portant Statut de l'Opposition Politique," [Law No.2015-007/ AN-RM, Regulating the Statute of the Political Opposition], *Journal Officiel de la République du Mali*, no. 13 (March 20, 2015): 483, <http://sgg-mali.ml/JO/2015/mali-jo-2015-13.pdf>.

⁸⁴ "Mali: L'Opposition Proteste Contre la Nouvelle Loi Electorale," [Mali: The Opposition Protests Against the New Electoral Law], Sahelien.com, October 1, 2016, <http://sahelien.com/mali-lopposition-proteste-contre-la-nouvelle-loi-electorale/>.

⁸⁵ Amadou Toumani Touré, Loi No. 05-047/ AN-RM, "Portant Charte des Partis Politiques," [Regulating the Charter of Political Parties], *Journal Officiel de la République du Mali*, no. 30 (October 31, 2005): 1166, <http://sgg-mali.ml/JO/2005/mali-jo-2005-30.pdf>.

⁸⁶ Touré, Loi No. 05-047/ AN-RM, "Portant Charte des Partis Politiques," 1166

⁸⁷ The FCFA is the local currency in Mali. One FCFA is worth about U.S. \$556.73.

⁸⁸ Bréhima Sogodogo, "Mali: Aide Publique aux Partis Politiques: 22 Partis Politiques se Partagent Près de 2 Milliards de FCFA," [Mali: Public Aid to Political Parties: 22 Political Parties Are Providing Nearly 2 Billion FCFA], Maliactu.net, June 2, 2017, <http://maliactu.net/mali-aide-publique-aux-partis-politiques-22-partis-politiques-se-partagent-pres-de-2-milliards-de-f-cfa/>.

The most important aspect of Law No. 2015-007, however, remains the institutionalization of the status of the opposition leader, president of the parliamentary minority, and spokesperson for the entire opposition. The leader of the opposition, currently Mr. Soumaïla Cissé, has protocol rights equal to those granted to the ministers, and has a cabinet whose annual funding is entirely provided by the national budget⁸⁹ up to FCFA 500,000,000 (approximately US\$ 898,101). In addition, Article 20 of Law No. 2015-007 guarantees to the opposition the right to the free exercise of its activities. Thus, neither the leader of the opposition nor the leaders of the other opposition parties can be subjected to any discrimination, administrative punishment, or imprisonment because of their political opinion or affiliation.⁹⁰ Ultimately, all these efforts are aimed at consolidating democracy through exemplary democratic governance.

For example, with regard to strengthening governance and democratic consolidation, during the XI International Meeting of Public-Private Partnerships (PPP), held on March 21 and 22 this year in Paris, the former prime minister of Mali, Moussa Mara, declared: “In Mali, we need to restore responsible and virtuous governance.”⁹¹ As such, by strengthening its democratic governance, which in turn requires promoting the rule of law, Mali could regain its place among the liberal democracies from which it was deposed after the coup d’état of March 2012.⁹²

2. The Need for an Independent Judiciary

It is widely recognized that an independent judiciary is cardinal to the protection of rights and freedoms, including freedom of association, freedom of thought, and freedom

⁸⁹ Tiékorobani, “Leader de l’Opposition: Un Budget de 500 Millions de Francs CFA pour l’Année 2016,” [Official Leader of the Opposition: 500 Million Francs CFA Budget Granted for the Year 2016], *MaliJet*, December 15, 2015, <http://malijet.com/actualite-politique-au-mali/142275-leader-de-l-opposition-un-budget-de-500-millions-de-francs-cfa-p.html>.

⁹⁰ Keïta, Loi No. 2015-007/ AN-RM, “Portant Statut de l’Opposition Politique”

⁹¹ “Moussa Mara, Ancien Premier Ministre: “Au Mali, Nous Avons Besoin de Rétablir une Gouvernance Responsable et Vertueuse », [In Mali, We Need to Restore Responsible and Virtuous Governance], *Africapresse.Paris*, March 23, 2018, <https://www.africapresse.paris/Moussa-Mara-ancien-Premier-ministre-Au-Mali-nous-avons-besoin-de-retablir-une>.

⁹² Freedom House, Mali, “Freedom in the World 2013,” <https://freedomhouse.org/report/freedom-world/2013/mali>.

of movement. A particular focus in this area is the Malian government's endeavors to combat corruption, financial delinquency, laxity, and impunity.

a. *Combating Corruption and Financial Delinquency*

As early as 2014, at the traditional annual greeting ceremony, President IBK reaffirmed his willingness to make the fight against corruption a priority of his governance.⁹³ The commitment of President IBK is easy to understand, because in Mali, corruption has become so widespread that it is anchored in the mores, and even tends to become institutionalized to the point of reaching all segments of public sectors, including the judiciary.⁹⁴ The corruption of and in the Malian justice system is, unfortunately, a reality; it was even deplored by the U.S. Department of State.⁹⁵

Malian judiciary corruption takes many forms, the most common of which are arbitrary arrest or detention and denial of a fair and equitable trial.⁹⁶ In this connection, President IBK, at the formal opening of the new legal year in 2014, publicly blamed the judges for failing to prosecute more than 200 ongoing corruption cases he had transmitted to them, less than one year after taking office.⁹⁷ Ultimately, it appears that corruption impedes the rise of an independent judiciary, which is an essential criterion for the consolidation of the rule of law and democracy.

⁹³ Mali: IBK Fait de la Lutte Contre la Corruption une Priorité pour 2014,” [Mali: IBK Makes the Fight Against Corruption a Priority for 2014], *Rfi Afrique*, January 2, 2014, <http://www.rfi.fr/afrique/20140102-mali-ibk-fait-lutte-contre-corruption-une-priorite-2014>.

⁹⁴ Sambou Sissoko, “Mali: La Corruption: Une Pathologie Sociale ou un Mal Culturel dans Notre Pays?,” [Mali: Corruption: A Social Pathology or Cultural Illness in Our Country ?], *Maliactu.net*, August 30, 2017, <http://maliactu.net/mali-la-corruption-une-pathologie-sociale-ou-un-mal-culturel-dans-notre-pays/>.

⁹⁵ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, “2016 Country Reports on Human Rights Practices: Mali,” March 3, 2017, <https://www.state.gov/j/drl/rls/hrrpt/2016/af/265276.htm>.

⁹⁶ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, “2016 Country Reports on Human Rights Practices: Mali.”

⁹⁷ Mohamed Naman Keïta, “Lutte Contre la Corruption: IBK Invite les Magistrats à Agir,” [Fighting Against Corruption: IBK Invites Magistrates to Act], *NiarelaNet*, accessed on September 7, 2018, <https://niarela.net/societe/justice/lutte-contre-la-corruption-ibk-invite-les-magistrats-a-agir>.

As a result, the battle against financial and economic delinquency has become a challenge for IBK's government. That challenge, unfortunately, is far from being won, despite the establishment of control and repression bodies (inherited from the previous governments), including the Office of the Auditor General⁹⁸ (responsible for auditing the financial management of public institutions), and the Judicial Pole devoted to Economic and Financial Delinquency (tasked with prosecuting the cases related to corruption, economic and financial delinquency). Thus, on May 27, 2014, IBK reinforced the apparatus of repressing corruption and both financial and economic delinquency, by enacting Law No. 2014-015, providing for the creation of the Central Office for the prevention and the repression of illicit enrichment.⁹⁹

Before the adoption of this law, only the president of the republic, the prime minister, and the ministers were obliged, by the constitution, to offer a public disclosure of their belongings before the Supreme Court. Henceforth, with the adoption of law No. 2014-015, all public servants, including the security and defense staffs,¹⁰⁰ judges, and the elected officials are now obliged to provide a financial disclosure statement before the Central Office. In the event of non-compliance, the offending agent may face consequences, such as forfeits or the revocation of his occupation. Also, a false or erroneous disclosure perceived in the job occupied by the offending agent is punished with a fine equal to 12 months of salary.

⁹⁸ After having conducted the financial audit of the state services, the Office of the Auditor General transmits an annual report to the president of Mali, containing the amount of misappropriated funds and the identity of the public officials who are responsible for them. This report is then forwarded by the president to the courts for prosecution of the offenders.

⁹⁹ Ibrahim Boubacar Keïta, "Loi No. 2014-015/AN-RM Portant Prévention et Répression de l'Enrichissement Illicite," [Law No. 2014-015/AN-RM Regulating the Prevention and the Repression of Illicit Enrichment], *Journal Officiel de la République du Mali*, no. 26 (June 27, 2014): 1004, <http://sgg-mali.ml/JO/2014/mali-jo-2014-26.pdf>.

¹⁰⁰ In connection with Article 9 of Law No. 2014-015, this is about the officials like the chiefs of staff, directors, heads of central and similar services of Mali's Army, the National Gendarmerie, the National Police, and the National Guard.

b. *Rejection of Laxity and Impunity*

The amnesty granted to former Captain Sanogo remains a telling case of laxity and impunity, which has generated a denial of justice. Indeed, Article 121 of the Malian constitution condemns the coup, which it describes as an imprescriptible crime against the whole nation, meaning that the perpetrators cannot escape their criminal responsibility and must, therefore, be sentenced from five to 20 prison terms, in accordance with articles 45 and 46 of the Malian Criminal Code.¹⁰¹

Yet, Captain Sanogo and his comrades had never been worried about the coup they attempted against the democratic institutions of Mali. Rather, they benefited from an amnesty:¹⁰² Captain Sanogo was promoted to lieutenant general, while his partner in crime, Colonel Moussa Sinko Coulibaly, was promoted to general, provoking outrage from Human Rights Watch (HRW), which denounced a “shameful” decision.¹⁰³ One of the consequences of the laxity of the Malian post-transition authorities in this respect is that the amnesty guaranteed to Sanogo could be translated into a kind of encouragement to the military to perpetrate a coup d’état, which would be a means of paving the way for a rapid promotion.

One can, of course, argue about the usefulness of the amnesty granted. Some people may think it was welcome because that decision intervened on May 12, 2012, well before the implementation of the transition that will be chaired by the President of the National Assembly, Diounounda Traoré. At that time, the military still held power, while negotiations were underway, through the mediation of ECOWAS, to get the military to relinquish power. The amnesty was, therefore, seen as a reassurance to the junta that there would be no revenge against its members, so that the country could quickly move toward

¹⁰¹ Alpha Oumar Konaré, Loi No. 01-79/AN-RM “ Code Pénal, “[Law No. 01-79/AN-RM Regulating the Penal Code], *Sécrétariat Général du Gouvernement*, August 20, 2001, <http://sgg-mali.ml/codes/mali-code-2001-penal-maj-2016.pdf>.

¹⁰² Mali: Les Députés Votent une Loi d’Amnistie en Faveur de l’Ex-Junte,” [Mali: The Representatives Pass an Amnesty Law in Favor of the Ex-Junta], *RFI Afrique*, May 19, 2012, <http://www.rfi.fr/afrique/20120519-mali-deputes-votent-une-loi-amnistie-faveur-ex-junte>.

¹⁰³ “Mali: Le Capitaine Sanogo Promu Général,” [Mali: Captain Sanogo Promoted General], *RFI Afrique*, August 14, 2013, <http://www.rfi.fr/afrique/20130814-mali-le-capitaine-sanogo-promu-general>.

the return of the constitutional order. In the end, it does not matter whether one approves or disapproves of that decision. The objective reality is that the amnesty reveals the laxness of the Malian public authorities to protect the rule of law by bringing to justice those who violated the constitution. Also, by refusing to indict the putschists, the Malian post-transition authorities have created a discomfort within the public opinion, while aggravating the deficit of trust between them and the population who could legitimately believe in the existence of a two-tiered judicial system: one for the indigent people, and the other for the powerful people.

Notwithstanding the amnesty, in early November 2013, Sanogo and 20 other soldiers, including Generals Yamoussa Camara and Ibrahima Dahirou Dembelé, were indicted for their alleged responsibility in the arrest and disappearance on May 2, 2012, of 21 *Red Berets*.¹⁰⁴ Thus, under judicial arrest since November 27, 2013, Sanogo is still waiting for his trial,¹⁰⁵ which has been postponed several times. Similarly, after being jailed in connection with this case, General Yamoussa Camara was released in January 2018, pending his trial. Unfortunately, these procrastinations are likely about to undermine IBK's endeavors, in that they could ultimately lead to a denial of justice, as the legal maxim suggests: "Justice delayed is justice denied."¹⁰⁶

The delay of the trials may reflect the existence of a two-tiered judicial system, benefiting putschists, who could be litigants placed above the rule of law. In this connection, the delaying of justice could constitute a violation of the principle of equal protection under the law, one of the most important attributes of the rule of law. It is worth

¹⁰⁴ Indeed, Captain Sanogo, General Dembélé, and many other soldiers are charged with the so-called "21 Missing Red Berets" case. These *Red Berets* belonged to the presidential guard of Amadou Toumani Toure, the deposed president. Remaining loyal to President Touré, they attempted a counter-coup to overthrow Captain Sanogo, belonging to the *Green Berets* unit. This led to the outbreak of an armed opposition between the Red Berets and the Green Berets. This clash, well known in Mali under the name of "The Battle of the Berets," resulted in the death of several Red Berets, and 21 of them were missing after being shown on national television and presented as criminals, according to the camp of the Green Berets, which still controlled the power.

¹⁰⁵ It is worth mentioning that Sanogo is still under arrest, not for perpetrating a coup d'état, but for his eventual role in the assassination and disappearance of the Red Berets.

¹⁰⁶ "Justice Delayed Is Justice Denied," *Wikipedia*, accessed on August 28, 2018, https://en.wikipedia.org/wiki/Justice_delayed_is_justice_denied.

mentioning, however, that the indictment of Sanogo proceeds from the will of IBK's government to demonstrate its commitment in the rejection of impunity, even if, as mentioned earlier, it is to be feared that the successive postponements of his trial lead to a denial of justice. Accordingly, the indictment of Sanogo proceeds from the will of IBK's government to demonstrate its commitment to the principle of equal protection under the law. Nevertheless, it is to be feared that the successive postponements of this trial will lead to a denial of justice.

B. RULE OF LAW AND DEMOCRATIZATION OF CIVIL-MILITARY RELATIONS

A particular focus in this respect is the implementation of the Truth, Justice, and Reconciliation Commission, along with the creation of control, oversight, and accountability institutions. The Malian government has displayed its particular concern of the armed and security forces' effectiveness.

1. Truth, Justice, and Reconciliation Commission

Protection against human rights violations is at the core of IBK's regime. Indeed, almost one year after taking office, IBK's government promulgated on January 15, 2014, Ordinance No. 2014-003/PR-M, establishing the Truth, Justice, and Reconciliation Commission.¹⁰⁷ The range of competence of that commission is very broad in that it extends from 1960 (the date of the independence of Mali) to 2013 (the date marking the beginning of the transition following the coup d'état of March 2012). The mission of the commission is to contribute to the establishment of a sustainable peace through the search for the truth, and to promote the reconciliation and the consolidation of both national unity and democratic values. To this end, it must investigate cases of serious human rights violations committed in the country, particularly those committed as a result of the coup d'état of March 2012. It also must try to identify the actors and the victims of abuses and make recommendations in the arena of conflict prevention. These recommendations also

¹⁰⁷ Ibrahim Boubacar Keïta, "Ordonnance No. 2014-003/P-RM Portant Création de la Commission Vérité, Justice et Réconciliation," [Ordonnance No. 2014-003/P-RM on the Creation of Truth, Justice and Reconciliation Commission], *Journal Officiel de la République du Mali*, no. 3 (January 17, 2014): 86, <http://sgg-mali.ml/JO/2014/mali-jo-2014-03.pdf>.

include proposals for financial compensation in favor of victims. Thus, as reported by Freedom House, the commission began executing its assigned mission in 2017 by receiving the testimony of thousands of witnesses in connection with human rights violations.¹⁰⁸

In addition, the Malian government's willingness to respond efficiently to these issues has resulted in the creation of two ministries, namely the Ministry for the Management of National Reconciliation and Social Cohesion and the Ministry of Human Rights. The first deals with issues relating to the reconstruction and consolidation of national reconciliation, while the second, as its name suggests, is responsible for issues of protection and promotion of human rights.

Furthermore, in order to ensure the effectiveness and the independence of the commission, Article 6 of Ordinance No. 2014-003 provides that the commission may not receive any injunction or instruction from public authorities or pressure from groups.¹⁰⁹ Nevertheless, as announced by its chairman, the commission will be open to the press (national and international), which he has considered as a privileged partner.¹¹⁰ In order to carry out its activities, the commission will rely on the work of its regional offices based mainly in the northern and central regions (Kidal, Gao, Timbuktu and Mopti), which have been most affected by the security crisis, as mentioned earlier. The main mission of these offices is to receive and collect the complaints from the victims, which they then transmit to the commission's headquarters, located in Bamako.¹¹¹ In addition, it is worth mentioning that the commission has a biennial action plan (2016-2018) that includes a

¹⁰⁸ Freedom House, "Freedom in the World 2018, Mali Profile," <https://freedomhouse.org/report/freedom-world/2018/mali>.

¹⁰⁹ Ibrahim Boubacar Keïta, "Ordonnance No. 2014-003/P-RM Portant Création de la Commission Vérité, Justice et Réconciliation," [Ordonnance No. 2014-003/P-RM on the Creation of Truth, Justice and Reconciliation Commission], *Journal Officiel de la République du Mali*, no. 3 (January 17, 2014): 86, <http://sgg-mali.ml/JO/2014/mali-jo-2014-03.pdf>.

¹¹⁰ A. D. Sissoko, "Mali: Commission Vérité, Justice et Réconciliation: A Pied d'œuvre," [Mali: Truth, Justice and Reconciliation Commission: at Work], maliactu.net, April 22, 2016, <http://maliactu.net/mali-commission-verite-justice-et-reconciliation-a-pied-doeuvre/>.

¹¹¹ "Les Antennes Régionales de la Commission Vérité Justice et Réconciliation," [Regional Antennae of the Truth, Justice and Reconciliation Commission], Commission Vérité, Justice et Réconciliation (C.V.J.R.), accessed on September 7, 2018, <http://cvjrmali.com/commission/antennes-regionales>.

victims’¹¹² compensation fund of up to FCFA 1,000,000,000 (approximately US\$ 1,941,747). The first report of the commission, eagerly anticipated by the Malian people and the international community, should be published by the end of 2018. It is only after this publication that we will be able to say whether or not the commission will have successfully fulfilled its mission.

2. Control, Oversight, and Accountability Institutions

In line with the law, the Malian president has considerable prerogatives in defense matters, which strengthen his authority over the military institutions. Article 44 of the constitution states: “The President of the Republic shall be the Commander-in-Chief of the armed forces.”¹¹³ This status as Commander-in-Chief places him at the top of the operational organs of the defense, as set up by Article 35 of the Defense Act, in these terms: “The operational organs of the defense work in an operational chain of command placed under the authority of the President of the Republic.”¹¹⁴ Also, according to Article 44 of the constitution, the President of the Republic presides over the High Council and the Committee of Defense.¹¹⁵ These two structures, composed of both civilian authorities (such as the Prime Minister and the Minister of Defense) and military authorities (such as the Chief of General Staff of the Armed Forces) are bodies responsible for strategic decision making in defense matters. As such, they constitute an ideal framework for the exercise of democratic civilian control in the sense that the Joint Chiefs of Staff could and must receive from the political authority directives concerning the legitimate use of violence. Also, as the creation of functional and accountability institutions under civilian control is required to facilitate and enhance civilian control over the armed and security

¹¹² “Plan d’actions de la Commission Vérité, Justice et Réconciliation (2016-2018)” [Action Plan of the Truth, Justice and Reconciliation Commission (2016-2018)], Commission Vérité, Justice et Réconciliation (C.V.J.R.), <http://cvjrmali.com/data/documents/Plan-daction-2016-2018-FINAL.pdf>.

¹¹³ “Mali’s Constitution of 1992,” Constitute Project, https://www.constituteproject.org/constitution/Mali_1992.pdf?lang=en.

¹¹⁴ Amadou Toumani Toure, “Loi No. 04-051/AN-RM Portant Organisation Générale de la Défense Nationale,” [Law No. 04-051/AN-RM: General Organization of National Defense], *Présidence de la République*, November 23, 2004.

¹¹⁵ Constitute Project, “Mali’s Constitution of 1992.”

forces, IBK's regime has implemented a legal framework within the MoD and the Ministry of Interior and Civil Protection,¹¹⁶ aiming at fulfilling this democratic requirement. Parliament also plays a critical role in the deepening of civilian control over the military, because the legislature is the body that votes the military fundings.

a. The Ministry of Defense

Law No. 04-051, enacted on November 23, 2004, regulating the general organization of Malian national defense, provides for the creation of an MoD that has authority over the armed forces. Yet, this law is silent about a fundamental issue, namely whether the MoD is meant to be specially run by civilians. The silence of the law on this specific issue led presidents ATT and Diounkounda Traoré to appoint military officers to lead the MoD. For example, General Sadio Gassama was appointed by the former to run the MoD (from February 2, 2012, to March 26, 2012), while General Yamoussa Camara (August 20, 2012-September 8, 2013) was appointed at the same position by the latter, then president of the transition. Unlike his predecessors, President IBK never appointed a military officer to lead the MoD; Colonel-Major Ba Ndao, whom he had appointed from May 2014 to January 2015, was a retired colonel major who was returning to civilian life. Thus, IBK's former MoD Soumeilou Boubeye Maiga (September 2013-May 2014), Tiéman Huber Coulibaly (January 2015-September 2016), and Abdoulaye Idrissa Maiga (September 2016-April 2017) are all civilians, as is the current incumbent in the post, Tiéman Coulibaly. Ultimately, by appointing civilians as MoD, President IBK reaffirms his determination to consolidate democratic civilian control over the armed forces.

Under these circumstances, the role of the Malian MoD in consolidating civilian control over the military is crucial. Specifically, the MoD appears as the nexus between the democratically elected civilian leaders and the armed forces. In other words, when it comes to the legitimate use of the armed forces, the MoD ensures the link between the actors who are in charge of initiating and implementing the defense policy (the democratically elected civilian leaders) and those who are invested with the monopoly on violence (the armed

¹¹⁶ The Ministry of Interior and Civil Protection serves in part to de-militarize some domestic functions—disaster response and law enforcement.

forces). As such, according to Article 21 of the Defense Act, the Malian Minister of Defense is entrusted with the responsibility for the execution of military policy, through the organization, the management, and the mobilization of the armed forces, as well as the military infrastructure, which is essential to fulfill its missions.¹¹⁷ In addition, based on Article 1 of Decree No. 2017 -0576 / P-RM, he has authority over all the armed forces, including the General Chief of Staff.¹¹⁸ The MoD receives from the latter the operational concepts for their submission to the approval of the Supreme Defense Council.¹¹⁹ Then, in the field of equipment and force conditioning, the General Chief of Staff is required to report periodically to the Minister of Defense. Indeed, the fact that the Chief of the General Staff is legally obliged to report to the defense minister, reinforces the legal inferiority of the former with respect to the latter, in that the obligation incumbent on a subordinate constrains him to report to the hierarchical superior.

Nevertheless, the defense minister's powers suffer from two weaknesses. First, while the General Chief of Staff periodically reports to the MoD, the concept of periodic reporting is not clearly defined to determine their frequency and form. In other words, it is necessary to determine whether a weekly phone exchange between the two personalities is as effective as the transmission of a written report or a direct meeting between them. Ultimately, the most important aspect here is the inability of the Minister of Defense to punish the General Chief of Staff when he violates his obligation to report or fails to report in a timely fashion.

Indeed, appointed by the President of the Republic who has the sole authority to dismiss him, the General Chief of Staff could disobey the Minister of Defense, who does not have, in this case, disciplinary power over the officer. In the Malian context where it is notoriously recognized that without disciplinary power of sanction, the hierarchical

¹¹⁷ Toure, "Loi No. 04-051/AN-RM Portant Organisation Générale de la Défense Nationale.

¹¹⁸ Ibrahim Boubacar Keïta, "Decret No. 0576/P-RM Fixant l'Organisation et les Modalités de Fonctionnement de l'Etat-Major Général des Armées," [Decree No. 0576/P-RM Regulating the Organization and Operating Procedures of the General Staff of the Armed Forces], *Journal Officiel de la République du Mali*, no. 32 (August 11, 2017): 1262, <http://sgg-mali.ml/JO/2017/mali-jo-2017-32.pdf>.

¹¹⁹ Keïta.

authority is ineffective, and it goes without saying that the power of the Minister of Defense is weakened when confronted with the disobedience of the Chief of General Staff.

Second, regarding the definition of the concept of defense policy, there is an obvious conflict of jurisdiction between Article 11 (2) of Decree No. 2017-0576 and Article 9 of Law No. 04-051.¹²⁰ Indeed, Article 11 (2) states that the defense policy is defined by the MoD, which then submits it for the approval of the High Defense Council. By contrast, Article 9 of the Defense Act states that defense policy is defined by the Council of Ministers. Thus, a crucial question remains to be answered, namely how to resolve this conflict of jurisdiction.

The answer to this question may entail the application of the well-known principle of the hierarchy of norms, according to which a law has a higher authority over a decree. In other words, the provisions of a decree (such as Decree No. 2017-0576) cannot call into question those of a law, in this case Law No. 04-051. In the current state of Mali, however, this duality of jurisdiction does not promote the consolidation of the MoD's control over the military. Furthermore, it could even be a source of confusion for the armed forces, whose command could be blurred because of this lack of harmony within the political authority responsible for the formulation of national security and military strategy policies.

b. Ministry of Security and Civil Protection

In 2016, as part of the fight against terrorism, the Minister of Interior and Civil Protection created an anti-terrorism unit called the Special Counter-Terrorism Security Force (FORSAT). The creation of this unit follows the adoption of the *Arrêté* No. 2016-0592 / MSPC-SG on March 22, 2016, which also determines the composition of the unit. Article 4 of the *Arrêté* provides that FORSAT is composed of members of the National Police, the National Gendarmerie, and the National Guard. Yet, this special unit is under the effective authority of the Minister of Interior and Civil Protection, who coordinates and

¹²⁰ Amadou Toumani Toure, “Loi No. 04-051/AN-RM Organisation Générale de la Défense Nationale,” [Law No. 04-051/AN-RM Regulating the General Organization of National Defense], *Présidence de la République*, November 23, 2004.

controls its operations.¹²¹ Article 3 of *Arrêté* No. 2016-0592 stipulates that the FORSAT has a national competence and intervenes only under the order of the Minister of Interior and Civil Protection.¹²² Thus, the submission of FORSAT forces to the authority of that Minister reflects the expression of the subordination of the armed forces to the administrative authority, in this case, the Ministry of the Interior. It also reflects the efforts of IBK's government to keep the military under the democratic control of civilian leaders.

c. Parliamentary Oversight over the Armed and Security Forces

The exercise of parliamentary oversight is important in consolidating the control of democratically elected leaders over the armed and security forces. The Malian Parliament, having a single chamber called the National Assembly, acts as a watchdog over the military's activities, in accordance with the constitution, which grants the legislators with the "power of purse," including military expenditures. The power of purse, as pointed out by both Hans Born and Thomas-Durell Young, is one of parliament's most dominant tools in controlling government activities over the military expenditures.¹²³ Nevertheless, in Mali the Minister of Defense, although responsible for the execution of the budget allocated to defense, is not the one who is responsible for defending it before the National Assembly. This task falls to his counterpart in finance, in charge of defending the national

¹²¹ Salif Traoré, "Arrêté No. 2016-0592/MSPC-SG, Portant Création et Composition d'Une Force Spéciale Anti-Terroriste de Sécurité," "[Arrêté No. 2016-0592/MSPC-SG on the Creation and Composition of a Special Anti-Terrorist Security Force], *Journal Officiel de la République du Mali*, no. 9 (March 3, 2017): 346, <http://sgg-mali.ml/JO/2017/mali-jo-2017-09.pdf>.

¹²² Traoré.

¹²³ Hans Born, "Parliamentary and External Oversight of Intelligence Services," in *Democratic Control of Intelligence Services*, ed. Hans Born and Marina Caparini (Aldershot, UK: Ashgate, 2009), 172; Thomas-Durell Young, "Military Professionalism in a Democracy," in *Who Guards the Guardians and How: Democratic Civil-Military Relations*, ed. Thomas C. Bruneau and Scott D. Tollefson (Austin: University of Texas Press, 2006), 26.

budgets a whole.¹²⁴ Eventually, by exercising its constitutional budgetary control¹²⁵ the Malian Parliament reaffirms its mission of oversight over the military funding (directly integrated to the national budget).

Furthermore, the Malian Parliament participates in the management of the use of the armed forces, through the declaration of war, a power with which it is invested by the constitution.¹²⁶ This prerogative is important insofar as it legitimizes the use of violence by the military for a public purpose and with public approval from their democratically elected civilian leaders.¹²⁷ For the Malian Parliament to fulfill its oversight duty, it is important that the lawmakers reaffirm their entire independence from the executive branch, which is not an easy task, when observing two major personalities involved in its administration, namely the Chairman of the Institution and the President of the Defense, Security and Civil Protection Committee. In fact, the Chairman of the Parliament, Issiaka Keïta, is the father-in-law of IBK's son, Karim Keïta who, in turn, chairs the parliament's Defense, Security and Civil Protection Committee. Both men, along with IBK, belong to the same political party (RPM), controlling the parliament. Under these circumstances, although the competence of these two lawmakers is not, in principle, called into question, the problem is the legitimate fear that a kind of family dynasty, responsible for the management of public affairs, will be installed through the state apparatus.

As such, the role of the parliament, in particular that of the Defense, Security, and Civil Protection Committee, is crucial when it comes to holding the armed forces accountable. For example, the meeting held on April 13, 2018, between members of the

¹²⁴ Bruno D. Segbedji, "Mali: Adoption de la Loi de Finances 2018 par l'Assemblée Nationale: Plus de 300 Milliards F CFA de Déficit Budgétaire à Combler," [Mali: Adoption of the 2018 Finance Law by the National Assembly: More than 300 Billion CFA of Fiscal Deficit to be Bridged,] Maliactu.net, December, 19, 2017, <http://maliactu.net/mali-adoption-de-la-loi-de-finances-2018-par-lassemblee-nationale-plus-de-300-milliards-f-cfa-de-deficit-budgetaire-a-combler/>.

¹²⁵ Indeed, Article 77 of the Malian constitution proclaims that the vote on the finance Act is the responsibility of the parliament. Also, in accordance with Article 65 of the constitution, the vote takes place yearly, during the first regular session of the institution, beginning the first Monday of October.

¹²⁶ Article 71 of the Malian Constitution provides: "Declaration of war shall be authorized by the National Assembly in a special meeting for that purpose. The President of the Republic shall then inform the nation by a public announcement."

¹²⁷ Young, "Military Professionalism in a Democracy," 17.

Defense Committee and the Minister of Defense, along with the general chief of staff of the military—following allegations of summary executions by the Malian army on civilians in the community of Djoura—is an encouraging sign. At the end of the session held behind closed doors, the defense minister publicly stated that an investigation was underway to shed light on these allegations.¹²⁸ Yet, because most parliamentarians lack expertise on defense and security related issues, it may impede their oversight mission, especially when it comes to investigating alleged abuses committed by the armed forces.¹²⁹ Indeed, due to this lack of expertise they likely will not know what to ask nor will they know how to corroborate or verify the military's story.

From April 4 to 6, 2016, the members of the Defense Committee visited the 7th military region of Mali (Gao) where they engaged with the troops on their daily working conditions.¹³⁰ This visit was very beneficial in that it demonstrated the interest and the support of the civil authorities for the soldiers' missions. Also, in addition to boosting the morale of the troops, this visit had the merit of relaxing any possible tension between the military and civilians,¹³¹ in such way to promote the democratization of civil-military relations.

¹²⁸ “Échange Entre la Commission de la Défense de l'Assemblée Nationale et Le ministre Tiéna Coulibaly,” [Exchange Between the Defense Committee of the National Assembly and Minister Tiéna Coulibaly], *Malizine.com*, April 15, 2018, <http://malizine.com/2018/04/15/echange-entre-la-commission-de-la-defense-de-lassemblee-nationale-et-le-ministre-tiena-coulibaly/>; “Mali: Echange Entre la Commission de la Défense de l'Assemblée Nationale et Le ministre Tiéna Coulibaly,” [Mali: Exchange Between the Defense Committee of the National Assembly and Minister Tiéna Coulibaly], *Niarela.net*, accessed on September 7, 2018, <https://niarela.net/societe/mali-echange-entre-la-commission-de-la-defense-de-lassemblee-nationale-et-le-ministre-tiena-coulibaly>.

¹²⁹ Christopher Holshek, “Mali and the Primacy of Civil Authority,” *Huffington Post* (Blog), May 28, 2013, https://www.huffingtonpost.com/christopher-holshek/mali-and-the-primacy-of-c_b_3348797.html.

¹³⁰ M. B. Cissé, “Mali: Commission Défense et Sécurité de l'Assemblée Nationale: Une Visite Instructive en 7ème Région,” [Mali: Defense and Security Committee of the National Assembly: An Informative Visit in the 7th Region], *Maliactu.net*, April 8, 2016, <http://maliactu.net/mali-commission-defense-et-securite-de-lassemblee-nationale-une-visite-instructive-en-7e-region/>.

¹³¹ Indeed, this visit could be an opportunity for soldiers committed on the field to express their concerns directly to the political authorities.

d. Informal Oversight

Like the Parliament, the media carry out a watchdog mission and very often alert the public of alleged abuses by the Malian defense and security forces against civilians, including summary execution.¹³² Unfortunately, in some cases, journalists themselves become victims by simply revealing compromising information about the military. For example, the editor-in-chief of the Malian newspaper *L'Indépendant*, Saouti Haidara, who was very critical of the junta, was abducted and held by the intelligence services.¹³³ Haïdara had been kidnapped at the headquarters of his editorial office while working on an article on the management of the armed forces. Fortunately, he was eventually released.

This episode reminded people of this sad reality: Malian citizens had become vulnerable, and no one was safe under military control. Moreover, it constituted a serious violation of the freedom of the press, recognized and protected by the constitution,¹³⁴ and therefore, by the rule of law. Recurrent cases of intimidation, death threats and attempted murder have been reported, as revealed by a Freedom House report.¹³⁵ In addition, in regard to the overall issue of the free access to information, the Malian government does not operate with openness and transparency, as evidenced by the lack of a comprehensive freedom of information regime, as reported by Freedom House.¹³⁶

¹³² “Vingt-Cinq Corps Retrouvés à la Suite d’Arrestations de l’Armée au Mali,” [Twenty-Five Dead Bodies Found Following Arrests by The Malian Army], *VOA Afrique*, June 18, 2018, <https://www.voaafrique.com/a/vingt-cinq-corps-retrouv%C3%A9s-%C3%A0-la-suite-d-arrestations-de-l-arm%C3%A9e-au-mali/4443519.html>; “Mali: Soupçons d’Exécutions Sommaires par des Fama près de Mopti,” [Mali: Suspicious of Summary Execution by Fama Near Mopti], *RFI Afrique*, March 27, 2018, <http://www.rfi.fr/afrique/20180327-mali-soupcons-executions-sommaires-fama-pres-mopti>.

¹³³ “Mali: Un Journaliste Malien Arrêté par les Services Secrets,” [Mali: A Malian Journalist Arrested by the Intelligence Services], *Challenges*, May 16, 2012, https://www.challenges.fr/media/mali-un-journaliste-malien-arrete-par-les-services-secrets-confres_290206.

¹³⁴ Freedom of press is granted by the Malian Constitution, in which Article 4 provides: “Every person has the right to freedom of thought, conscience, religion, worship, opinion, expression, and creation in respect to the law.”

¹³⁵ Freedom House, “Freedom in the World 2018, Mali Profile.”

¹³⁶ Freedom House.

3. Effectiveness of the Armed and Security Forces

Ordinance No. 2016-020/P-RM, adopted on August 18, 2016, under the regime of President IBK, specifies the missions of the Malian armed forces.¹³⁷ In fact, its Article 1 stipulates clearly that in the service of the nation, the Malian armed forces are tasked with the mission of preparing and ensuring the defense of the fatherland, the republican form of the state, the democratic advances, and the superior interests of the nation.¹³⁸ Based on these fundamental missions, the Malian armed forces are perceived as the guarantor of democratic institutions, in that they must refrain from interfering with or becoming a player in the political scene. Therefore, they must fulfill their assigned missions under the rule of law, especially under civilian control, in such a way that stimulates the trust and the esteem of their fellow citizens.

At the same time, it is important that civilian leaders provide the military with sufficient resources and capabilities to help them increase both their expertise and professionalism. IBK's government has not skimped on the means and efforts to strengthen the operational capabilities of the Malian armed forces, through a vast program of training and equipment acquisition. These efforts also involve the commitment of the government to implementing defense institution building by strengthening the management, oversight, and accountability of the security sector.

In terms of training, at the request of the Malian government and following Resolution 2085 of the UN Security Council, the European Union (EU) has launched a training program with the Malian armed forces. From September 2013 to now, the EU Training Mission in Mali (EUTM), has trained six Joint Tactical Battalions (known as GTIAs), each consisting of about 700 combatants.¹³⁹ These GTIAs, all operational, are currently deployed in the theaters of operations, mainly in Kidal, Gao, Mopti, and Ségou.

¹³⁷ Ibrahim Boubacar Keïta, "Ordonnance No. 2016-020/P-RM, Statut Général des Militaires," [Ordinance No. 2016-020/P-RM Regulating the General Statute of the Military], *Journal Officiel de la République du Mali*, no. 41 (October 7, 2016): 1602, <http://sgg-mali.ml/JO/2016/mali-jo-2016-41.pdf>.

¹³⁸ Keïta.

¹³⁹ French Republic, Minister of the Armed Forces; *EUTM Mali: Fin de Formation du GTIA Malien Elou*, September 17, 2013, <https://www.defense.gouv.fr/english/operations/operations/actualites/eutm-mali-fin-de-formation-du-gtia-malien-elou>.

The EUTM mission revolves around two pillars, as described by a press report: a training mission of the combat units of the Malian armed forces and a mission of expertise and advice, to support the reorganization of these forces.¹⁴⁰ Ultimately, it appears today that the support of the EUTM has allowed the Malian armed forces to focus primarily on their main mission of defense of the country, instead of being involved in politics.

IBK's government also has demonstrated its willingness to equip the Malian military with operational means in order to ensure its effectiveness. Thus, the adoption of Law No. 2015-008 on March 5, 2015—the so-called Law of Orientation and Military Programming (LOMP)—remains a telling illustration of the government's eagerness.¹⁴¹ LOMP is a five-year program law (2015-19), focused on three pillars of expenditures, namely equipment, functioning, and staff costs. The total amount of these expenses is estimated at CFA 1,230,563,972,347 (approximately US\$ 2,210,342,486). Accordingly, in the application of Law No. 2015-008, the Malian armed forces acquired new equipment, like a CASA 295 plane, two troop carrier airplanes (Y-12), a helicopter Super Puma, and two fighting helicopters MI35. The reception of this equipment took place on October 3, 2017, during a ceremony presided over by President IBK at Sénou airbase. Addressing the national press, IBK expressed his full pride, before declaring in a paternalistic tone: "We now have enough to protect our children [the military]." ¹⁴² He also announced the upcoming delivery of four other fighter jets. According to one foreign military expert, "For the first time in at least 15 years, in the sky, the Malian military has something to defend itself." ¹⁴³ Thus, by 2019 Malian military spending will peak at US\$ 768,054,147 as set up

¹⁴⁰ French Republic, Minister of the Armed Forces; *EUTM Mali: Fin de Formation du GTIA Malien Elou* (September 17, 2013), <https://www.defense.gouv.fr/english/operations/operations/actualites/eutm-mali-fin-de-formation-du-gtia-malien-elou>.

¹⁴¹ Ibrahim Boubacar Keïta, "Loi No. 2015-008/AN-RM Portant Loi d'Orientation et de Programmation Militaire pour les Années 2015 à 2019," [Law No. 2015-008/AN-RM: Orientation and Military Programming Act for 2015 to 2019], *Journal Officiel de la République du Mali*, no. 13 (March 20, 2015): 485, <http://sgg-mali.ml/JO/2015/mali-jo-2015-13.pdf>.

¹⁴² "Mali: Renforcement des Capacités Aériennes de l'Armée," [Mali: Strengthening the Air Capabilities of the Army], *Rfi Afrique*, October 4, 2017, <http://www.rfi.fr/afrique/20171004-mali-renforcement-capacites-aeriennes-armee>.

¹⁴³ *Rfi Afrique*.

by the LOMP.¹⁴⁴ In 2016, Mali spent about US\$ 201,012,356 (3.2 percent of its gross domestic product¹⁴⁵) for the purchase of military equipment.¹⁴⁶ Today, Mali ranks first among West African countries in terms of military spending, while it ranks tenth in all of Africa.¹⁴⁷

In addition, on August 18, 2016, the adoption of Ordinance No. 2016-020, regulating the general status of the army, was another manifestation of the efforts of the government of the IBK to improve the situation of the Malian soldier. Indeed, in addition to a wage increase of 15 percent granted to the armed forces, the sacrifice of the Malian soldier is now rewarded, even after his death. Article 51 (2) of Ordinance No. 2016-020 stipulates: “In recognition of the sacrifice made, a deceased soldier on duty or on official service is posthumously promoted to the next higher rank and may receive, in addition to this promotion, an honorific distinction.”¹⁴⁸ Also, within three months after the death, a lump-sum compensation corresponding to ten years of salary is granted to the beneficiaries of the deceased soldier. These financial benefits are intended to strengthen the morale of the troops, to show them the recognition of the nation, and to ensure their effectiveness in the accomplishment of their assigned missions. The former Minister of Defense, Tieman

¹⁴⁴ Keïta “Loi No. 2015-008/AN-RM Portant Loi d’Orientation et de Programmation Militaire pour les Années 2015 à 2019.”

¹⁴⁵ NM/ad, “Le Mali, Champion Ouest Africain des Dépenses Militaires,” [Mali, West African Champion of Military Expenditures], *Ouestaf*, April 24, 2018, <https://www.ouestaf.com/le-mali-champion-ouest-africain-des-depenses-militaires/>.

¹⁴⁶ Keïta, “Loi No. 2015-008/AN-RM, Loi d’Orientation et de Programmation Militaire pour les Années 2015 à 2019.”

¹⁴⁷ NM/ad, “Le Mali, Champion Ouest Africain des Dépenses Militaires,” [Mali, West African Champion of Military Expenditures], *Ouestaf*, April 24, 2018, <https://www.ouestaf.com/le-mali-champion-ouest-africain-des-depenses-militaires/>.

¹⁴⁸ Ibrahim Boubacar Keïta, “Ordonnance No. 2016-020/P-RM, Statut Général des Militaires,” “[Ordonnance No. 2016-020/P-RM: General Statute of the Military], *Journal Officiel de la République du Mali*, no. 41 (October 7, 2016): 1602, <http://sgg-mali.ml/JO/2016/mali-jo-2016-41.pdf>.

Huber Coulibaly, summarized the impact of these measures: “The happier the soldiers are, the better they obey.”¹⁴⁹

Moreover, as the fall of the northern regions under the control of Tuareg rebels and their terrorist allies on one hand, and the coup d’état of Captain Sanogo on the other, led to the aggravation of the security deficit and the de-legitimization of Malian public authorities that had failed in their mission of protecting citizens and democratic institutions, President-elect IBK’s commitment to improving the governance of the security sector by making it more effective led to Mali receiving U.S. support through the Security Governance Initiative (SGI), which President Obama introduced in August 2014. Mali, along with five other African countries—Ghana, Kenya, Niger, Nigeria, and Tunisia—is a recipient of SGI’s assistance, which seeks help to improve the capacity to meet the security needs of their citizens, as well as to strengthen the professionalism of the defense and security sectors. As Julie Chalfin and Linda Thomas-Greenfield point out, “SGI provides a blueprint for linking democracy and governance programs and objectives with security assistance to improve the management, accountability, and oversight of the security and justice sectors.”¹⁵⁰ Chalfin and Thomas-Greenfield further explain, “Through SGI, the United States partners with countries to undertake strategic and institutional reforms required for governments to tackle key security challenges, both in regard to the mission of protecting state institutions and assuring citizen security.”¹⁵¹

As IBK’s regime has identified defense institution capacity building as a priority,¹⁵² U.S. government assistance through the SGI has implemented a training program for a group of military officers and paramilitary and civilian officials (including a judge, the current writer) who are currently at the Naval Postgraduate School, pursuing

¹⁴⁹ “Armée Malienne de 2015 à 2019: 1230 Milliards de F CFA pour l’Achat de Matériel et Recrutement de 10 000 Hommes,” [Malian Military from 2015 to 2019: 1230 Billion CFA Francs for the Purchase of Equipment and Recruitment of 10,000 Men], Malinet, accessed on September 7, 2018, <http://www.malinet.net/alerte/armee-malienne-de-2015-a-2019-1230-milliards-de-f-cfa-pour-lachat-de-materiel-et-recrutement-de-10-000-hommes/>.

¹⁵⁰ Julie Chalfin and Linda Thomas-Greenfield, “The Security Governance Initiative,” *PRISM* 6, no. 4 (2017): 77.

¹⁵¹ Chalfin and Thomas-Greenfield, 69-70.

¹⁵² Chalfin and Thomas-Greenfield, 71.

master's degrees in strategic studies. This training, as praised by Matei, will allow these officials to improve their expertise and knowledge in defense and security matters.¹⁵³ The presence of a judge in this group is particularly noteworthy in that it reflects the desire of the Malian government to associate the judiciary with the management of the defense and security sector. As Chalfin and Thomas-Greenfield note: "Without effective, independent courts that are able to hold security actors accountable, there is nothing to assure citizens that the predatory acts will be punished."¹⁵⁴

C. CONCLUSION

The efforts made by the IBK government to promote the effectiveness of the armed forces and security are, of course, valuable. Nevertheless, it is important that these efforts be carried out within the framework of functional and accountability institutions, able to ensure control (MoD) and oversight (Parliament) over the defense and security sectors. In short, the role of the rule of law in the democratization of civil-military relations and the consolidation of democracy in Mali is crucial. The rule of law provides for the legal framework under which the civilian authorities and the military act and interact. This legal framework implies the existence of a democratic constitution and subsequent body of laws aimed at promoting the rise of democratic pluralism and the protection of rights and freedoms through the establishment of an independent judiciary, also tasked with the mission of fighting corruption and impunity. In addition, the role of the rule of law in the redemocratization of civil-military relations calls for the creation of a Truth, Justice, and Reconciliation Commission invested with the task to shed light on the armed forces' alleged exactions against civilians. The establishment of a system of democratic civilian control, involving the supremacy of civilian authorities over the armed and security forces, is indispensable. Once the democratic civilian control becomes effective, the civilian authorities must take adequate actions (training, equipment, support, etc.) to allow the military to meet the challenge of effectiveness, at the lowest cost.

¹⁵³ Florina Cristiana Matei, "The Case of Mali," in *Security Forces in African States: Cases and Assessments*, ed. Paul Shemella and Nicholas Tomb (Amherst, NY: Cambria Press, 2017), 115

¹⁵⁴ Chalfin and Thomas-Greenfield, "The Security Governance Initiative," 67.

As such, especially in a democracy, the military is perceived “as a necessary tool of statehood”¹⁵⁵ at the disposal of the civil elected government for the fulfilment of the collective defense issues. In fact, it is the democratic civilian control of the military, through institutions like the MoD or the parliament that legitimizes the use of violence by the soldiers. Describing the relations of subordination and accountability between the military and the state, Young argues that the management of violence by professional armed forces can be considered legitimate only in the context of service to the democratically elected civilians.¹⁵⁶ Young also points out:

As all professions have clients, the client of the military professional in the democratic state is the democratically elected government. This responsibility is formulated in today’s world by swearing an oath of allegiance to the constitution or basic institutions of these states.¹⁵⁷

Fortunately, such a mechanism does exist in Mali, through the constitution (enshrining the President of the Republic as Commander-in-Chief of the Armed Forces), the Defense Act (instituting a MoD under a current civilian control¹⁵⁸), and the parliament (in charge of voting on the national budget, with an oversight power over military spending). Yet, the challenge for Mali, which is luckily on track, remains to strengthen this mechanism in order to make it more effective, while at the same time endeavoring to reinforce its rule of law institutions.

¹⁵⁵ Young, “Military Professionalism in a Democracy,” 28.

¹⁵⁶ Young, 21.

¹⁵⁷ Young.

¹⁵⁸Article 21 (2) of the Malian Defense Act provides that the Minister of Defense has authority over all defense forces and services.

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III. CHILEAN ENDEAVORS TO INSTITUTIONALIZE THE RULE OF LAW, DEVELOP DEMOCRATIC CMR, AND DEMOCRATIC CONSOLIDATION

Mali can draw inspiration from the Chilean example, as the two countries have many similarities. In fact, like Mali in Africa, Chile was one of the few democracies in Latin America until September 11, 1973, when its path to democratic consolidation was abruptly interrupted by a military coup that brought General Augusto Pinochet to power.¹⁵⁹ Thereafter Chile went through a protracted democratic transition, and the organization of free and fair presidential elections, which took place in December 1989, after Pinochet's departure from the presidency. Under these circumstances, more than two decades later, the successive democratic governments of Chile have had to fight relentlessly to overcome the challenges of democratic consolidation and the democratization of CMR. As Florina Cristiana Matei and Marcos Robledo point out, "The process has been long and challenging: for many years not only did Chile's military carry a stigma associated with their Pinochet-era human rights violations, but they emerged from the dictatorship with the highest prerogatives among all Latin America neighbors, which raised doubts the country would democratize."¹⁶⁰

This chapter analyzes the endeavors of the Chilean government to promote the democratic transition process of the country. This analysis is based on the same framework that guides the other chapters of this thesis.

A. BACKGROUND ON THE CHILEAN MILITARY DICTATORSHIP UNDER PINOCHET

There is agreement among scholars that Chilean democracy was the most stable among its peers in Latin America until the military coup of September 11, 1973 that

¹⁵⁹ Matei and de Castro García, "Chilean Intelligence after Pinochet," 341.

¹⁶⁰ Florina Cristiana Matei and Marcos Robledo, "Democratic Civilian Control and Military Effectiveness," in *"The Routledge Handbook of Civil-Military Relations,"* ed. Thomas C. Bruneau and Matei Cristiana Matei (London: Routledge, 2012), 283.

brought Pinochet to power.¹⁶¹ The military regime used Chilean armed forces, as well as the military police, known as Carabineros to perpetrate several human rights violations, including assassinations and enforced disappearances. As pointed out by Matei and Robledo:

Pinochet's rule was characterized by grave human rights violations against real and imagined regime opponents, including serious limitations of the right of association and organization (e.g., banning political parties on grounds of ideology); lack of freedom of information and opinion, and severe censorship; and repression, such as illegal detention, torture, killings, disappearances, expelling citizens from Chile, and/or prohibiting their departure from entry into Chile.¹⁶²

Furthermore, describing the particularly brutal and abusive nature of the Pinochet regime, Paul W. Drake and Ivan Jaksic recount:

The [Chilean] armed forces killed, imprisoned, tortured, and exiled thousands of Chileans. The military suppressed, dismantled, and purged not only political parties but also publications, unions, schools, and other bastions of the democratic opposition.¹⁶³

The perpetration of these abuses was made possible by three terrifying structures that Pinochet had set up, namely the Directorate of National Intelligence (DINA),¹⁶⁴ the

¹⁶¹ Florina Cristiana Matei and Andrés de Castro Garcia, "Chilean Intelligence after Pinochet: Pains-taking Reform of an Inauspicious Legacy," *International Journal of Intelligence and Counterintelligence* 30 (2017): 341; J. Samuel Valenzuela and Arturo Valenzuela, "Introduction," in *Military Rule in Chile Dictatorship and Oppositions*, ed. J. Samuel Valenzuela and Arturo Valenzuela (Baltimore: Johns Hopkins University Press, 1986), 1; Paul W. Drake and Ivan Jaksic, "Introduction: Transformation and Transition in Chile, 1982-1990," in *The Struggle for Democracy in Chile, 1982-1990*, ed. Paul W. Drake and Ivan Jaksic (Lincoln: University of Nebraska Press, 1991), 1; Joaquin Fernando and Michael A. Morris, *Democracy in Chile: Transition and Consolidation 1987-2000* (London: Research Institute for the Study of Conflict and Terrorism, 1995), 20.

¹⁶² Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 284.

¹⁶³ Drake and Jaksic, "Introduction: Transformation and Transition in Chile, 1982-1990," 4.

¹⁶⁴ DINA became CNI (the National Information Center) in 1977.

so-called *caravan of death*, and the clandestine centers of detention and torture.¹⁶⁵ Led by Colonel Juan Manuel Contreras, DINA was the secret police of Pinochet that targeted opponents of the regime (real or even imaginary detractors).¹⁶⁶ DINA carried out a blind and bloody crackdown on regime opponents who were victims of arbitrary arrests, spying, and illegal wiretapping, torture, and even murder. Contreras had the absolute support of General Pinochet.¹⁶⁷

During his reign, Pinochet allowed for economic liberalism. As Joaquin Fernandois and Michael A. Morris note:

In ... Chile, the increasingly open economy promoted by the military government contrasted with the closed polity. ... The reforms imposed by the military government in pursuit of economic liberalism have resulted in sustained economic growth from the mid-1980s to the present.¹⁶⁸

This sustained economic growth accelerated thanks to the work and involvement of a coalition of neo-liberal technocrats to whom Pinochet had entrusted the management of the Chilean economy. As Paul W. Drake and Ivan Jaksic explain, “From 1997 to 1981, their neo-liberal model fostered dramatic growth, particularly of nontraditional exports, consumers’ imports, and foreign loans.”¹⁶⁹ Fernandois and Morris conclude:

In spite of two disastrous depressions (1975 and 1982, with a fall of about 14 percent of the GNP in each), they [the neo-liberal technocrats] succeed, thanks to the cold-blooded support of the strongman [Pinochet], in

¹⁶⁵ The caravan of death was a death squad that crisscrossed Chile from September 30 to October 22, 1973, just a few days after the coup, seeking political opponents or often ordinary citizens targeted for their opposition to the military dictatorship. In addition, the *Villa Grimaldi*, one of the most infamous centers of detention and torture, played an important role in the repression of civilians as well as military dissidents. For instance, the former President Michelle Bachelet (having served two terms: 2006-10; 2014-18) and her mother had been tortured there, just as her father (a former Air Force general) had been tortured for opposing the dictatorship. He had been tortured in 1973 before dying in custody from a heart attack a year later.

¹⁶⁶ Matei and de Castro Garcia, “Chilean Intelligence after Pinochet: Painstaking Reform of an Inauspicious Legacy,” 342.

¹⁶⁷ Kevin Ginter, “Latin American Intelligence Services and the Transition to Democracy,” *Journal of Intelligence History* 8, no.1 (2008): 84; Matei and de Castro Garcia, “Chilean Intelligence after Pinochet: Painstaking Reform of an Inauspicious Legacy,” 342.

¹⁶⁸ Fernandois and Morris, *Democracy in Chile: Transition and Consolidation 1987-2000* 3.

¹⁶⁹ Drake and Jaksic, “Introduction: Transformation and Transition in Chile, 1982-1990,” 5.

implementing a policy which ... came to be seen as a relevant economic model for the Third World and eventually even worldwide.¹⁷⁰

As a result, with the support of Pinochet and the military, the technocrats reinforced their economic hegemony—to the detriment of a large segment of the population left. In 1980 Pinochet organized a plebiscite, intended to provide his government a veneer of constitutional legitimacy. The plebiscite gave a major victory to Pinochet over his opponents, while helping him to consolidate his iron power. The plebiscite allowed him to govern as constitutional president at the head of a government of transition.¹⁷¹

Indeed, the examination of certain provisions of the constitution¹⁷² reveals the extent of Pinochet's delaying tactics to stay in power. First, the constitution stipulated that Pinochet would remain president until 1989, when another plebiscite would be called to vote on a single presidential candidate appointed by the military junta. If he won that plebiscite, he would remain president until 1997. Moreover, the new constitution, providing for a legislative vacuum from 1981 to 1989, guaranteed to the military some exorbitant influence, including the power to legislate pending the establishment of the Congress in 1990, the Upper House (the Senate), composed of less than nine senators, some appointed by the president. These appointees, although few in number, could constitute a *blocking minority* that would make impossible any decision that was not favorable to the military junta. In addition, the new constitution provided for the creation of a National Security Council (*Cosena*), chaired by Pinochet, and composed mainly of members of the junta, namely the heads of the three branches of the military (the Army, the Air Force, and Navy) and the Military Police (*Carabineros*). The *Cosena* members had their say and a veto over the decisions of appointment or dismissal of senior military officers, including the Chief of the *Carabineros*. Thus, Pinochet, as Chief of Staff of the Armed Forces, and, no less, the only active five-star general, could rely on the *Cosena* to maintain his position.

¹⁷⁰ Fernandois and Morris, "Democracy in Chile: Transition and Consolidation 1987-2000," 5.

¹⁷¹ Fernandois and Morris.

¹⁷² We do not pretend to review all the provisions of the 1980 constitution. For a deep insight into the Chilean constitution of 1980, see Lois Hecht Oppenheim, *Politics in Chile: Democracy, Authoritarianism, and the Search for Development* (Boulder, CO: Westview Press, 1993), 133-138.

Despite all these constitutional barriers, however, after the plebiscite held on October 5, 1988, Chile managed to terminate Pinochet's reign, thereby opening a new transition page toward the consolidation of its democratic institutions.¹⁷³

B. INSTITUTIONALIZATION OF RULE OF LAW AND CONSOLIDATION OF DEMOCRACY

The requirement of a legal framework and an independent judiciary are two important aspects that have been considered by the Chilean government in this area.

1. Legal Framework

A particular focus of the Chilean legal framework has been on the political pluralism and the toleration of the opposition. Under these circumstances, the Chilean democratic transition began when the democratic opposition of center-left forces (known as the *Concertación*) defeated Pinochet after the October 5, 1988 plebiscite that denied the dictator the right to remain in power for eight more years. It was the beginning of the end of the nightmare that Pinochet had imposed on his people. Thus, on December 14, 1989, Patricio Aylwin, the leader of the Christian Democrats, won the first post-Pinochet presidential election, to the detriment of the far-right candidate, Hernán Alberto Büchi,¹⁷⁴ who was supported by the junta. This election was held concurrently with the parliamentary elections, so that on March 11, 1990, President Aylwin and Congress had been invested together. Nonetheless, omnipresent on the political scene, the military continued to enjoy high prerogatives for a long time. For example, in the *Cosena* it continued to influence the decisions of promotion, appointment, or dismissal of the chiefs of the armed forces. Also, to conduct his reforms, the president did not have a working majority in the Senate because of the presence of nine unelected senators, close to the right-wing opposition. Indeed, President Aylwin seemed to have his hands tied, and struggled to strengthen his democratic

¹⁷³ For detailed information on the Chilean democratic transformation since the end of the Pinochet regime, see the following sources: Matei and Robledo, "Democratic Civilian Control and Military Effectiveness"; Matei and de Castro Garcia, "Chilean Intelligence after Pinochet: Painstaking Reform of an Inauspicious Legacy"; Fermandois and Morris, *Democracy in Chile: Transition and Consolidation 1987-2000*; and Ginter, "Latin American Intelligence Services and the Transition to Democracy."

¹⁷⁴ Oppenheim, *Politics in Chile*, 193.

authority. In this context, President Aylwin, along with his successors, have confronted challenges in consolidating democratic institutions and have embarked on efforts to reform the political institutions inherited from the Pinochet era. Central to these efforts were institutional and constitutional reforms, which have contributed to the consolidation of democracy and the democratization of CMR.

a. *Post-Pinochet Politico-Institutional Reforms*

The political institutions, including the constitution, that post-Pinochet democratic presidents inherited were virtually undemocratic, as they provided exorbitant prerogatives to the military. As a result, post-Pinochet institutional reforms were designed to curtail the military influence. President Aylwin (1990-94) had been the first to get involved, not without having aroused the disapproval of the military, who saw in this attempt a maneuver to reduce their sphere of influence by curtailing their prerogatives. Indeed, President Aylwin was concerned about the prerogatives granted to the military by the 1980 constitution. For example, under the provisions of that constitution, Pinochet was granted to remain chief of the military, whose command escaped President Aylwin. As a result, President Aylwin could not replace the chiefs of staff of the armed forces and the chief of the *Carabineros*. The dismissal of these officers was subject to the approval of the National Security Council, controlled by the military.

Nevertheless, President Aylwin did not give up, and pursued his efforts of asserting his status as Commander-in-Chief of the armed forces to the detriment of Pinochet, who brought the case before the Supreme Court, which dismissed it.¹⁷⁵ Also, eager to preserve the political stability of his regime (still fragile, since it had just emerged from chaos), President Aylwin developed a sense of consensus and political compromise that allowed him to defuse some political crises and consolidate the cohesion of the democratic institutions. In this context, in 1991, the signing of the national reconciliation agreement between the *Concertación* and the right-wing opposition was a perfect illustration of the political consensus that prevailed at that time, as pointed out by Fernandois and Morris:

¹⁷⁵ Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 285.

An important example of accommodation is the democratic agreements of March 1991, in which the Concertation and the conservative opposition agreed on principles of national reconciliation. This gave priority to compromise rather than confrontation on some issues.¹⁷⁶

Also, the process of redemocratization of political institutions continued to occupy a prominent place on the agenda of the successors of President Aylwin, including Presidents Frei and Lagos. For example, President Eduardo Frei Ruiz (1994-2000), willing to restore his presidential authority of nomination and dismissal of the military officers, submitted a bill to the Senate, but did not prevail.¹⁷⁷ He succeeded, however, in reforming the Supreme Court (increasing the number of judges and introducing a participatory appointment procedure concerning them), and the system of criminal procedure, formerly inquisitorial, that he made accusatory.¹⁷⁸ In 1999, he introduced gender equality reform, guaranteeing similar rights for men and women.¹⁷⁹ In 2002, the latter reform probably facilitated the appointment of Michelle Bachelet by President Ricardo Lagos (2000-05) as minister of defense, becoming the first woman in the history of Chile and Latin America to occupy this post.¹⁸⁰

Moreover, after several postponements from 1990 to 2010, when the coalition of the *Concertación* was in power,¹⁸¹ the reform and the publication of the copper law was finally adopted in December 2016, under the second term of Bachelet's administration (2014-18). Indeed, the publication of the law was made possible following the adoption of another law that revoked its secrecy.¹⁸² Thus, by revoking the secrecy surrounding the

¹⁷⁶ Fernandois and Morris, *Democracy in Chile*, 12.

¹⁷⁷ Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 286.

¹⁷⁸ J. Esteban Montes and Tomás Vial, "The Role of Constitution-Building Processes in Democratization: Case Study Chile," *International IDEA Democracy-building & Conflict Management* (May 2005): 20, http://www.constitutionnet.org/sites/default/files/cbp_chile.pdf.

¹⁷⁹ Montes and Vial, "The Role of Constitution-Building Processes in Democratization," 20.

¹⁸⁰ Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 286.

¹⁸¹ Rut Diamint, "Latin America and the Military Question Reexamined," in *Debating Civil-military Relations in Latin America*, ed. David R. Mares and Rafael Martínez (Brighton, UK: Sussex Academic Press, 2014), 110.

¹⁸² Juan Andres Abarca, "Chile's 'Secret' Copper Law Is out the Bag," *BNamericas*, December 22, 2016, <http://www.bnamericas.com/en/news/mining/chiles-secret-copper-law-is-out-the-bag>.

copper law (dating from 1958, and reinforced during the military dictatorship), the Chilean government increased its transparency and accountability to its citizens. In this connection, according to a press report, the Chairman of the Lower House, Osvaldo Andrade, declared that “it was important to have disclosed the details of the copper law because there is no point in having ‘secret enclaves in a democracy.’”¹⁸³ Thus, under this reform, the ten percent of national copper revenues, guaranteed to the military for the purchase of equipment, must be directly integrated into the national budget so as to allow the exercise of parliamentary control over military expenditures.¹⁸⁴

Furthermore, the Chilean government has passed successive laws aiming at consolidating the rule of law institutions and democracy. These are laws abolishing former institutions that did not comply with the rule of law, and others that creating more democratic institutions that respect the rule of law by promoting democratic consolidation and transparency. These efforts began in 1990 under Aylwin’s administration, which dissolved the National Information Center (CNI) in February of that same year. The CNI, as mentioned earlier, was the successor to the terrifying DINA, and had continued to perpetrate the same abuses by following the same *modus operandi* as its predecessor. The termination of the CNI led to the dismantling of one of the rare vestiges of the dictatorship. On April 30, 1993, more than three years after the dissolution of the CNI, Aylwin’s administration enacted Law No. 19212, which established the Public Security and Information Directorate (DISPI), held under the authority of the Minister of the Interior.¹⁸⁵

Thus, from the CMR perspective, the subordination of the DISPI to the Minister of the Interior was an encouraging and salutary sign, in that it allowed the exercise of civilian control over the intelligence services. As Matei and Garcia observe: “Admittedly, DISPI’s creation was a success in that of the DINA/CNI model, which had been abusive practices.”¹⁸⁶ In 2004, under the Lagos administration, the Congress promulgated Law No.

¹⁸³ Abarca.

¹⁸⁴ Matei and Robledo, “Democratic Civilian Control and Military Effectiveness,” 288.

¹⁸⁵ Matei and de Castro Garcia, “Chilean Intelligence after Pinochet,” 344.

¹⁸⁶ Matei and de Castro Garcia, 345.

19974, creating the National Intelligence Agency (ANI) to replace DISPI. The creation of the ANI was a Chilean government reaction to the attacks of September 11, so that the new structure was deemed to deal with the threat of Islamic terrorism.¹⁸⁷

In addition, the Chilean government has undertaken actions aimed at promoting the transparency of democratic governance and the consolidation of democracy. In this connection, in 2009 under the Bachelet administration, the country promulgated Law No. 20285, which allows citizens to hold the government accountable without the latter being able to allege secrecy to deny citizens' legitimate requests.¹⁸⁸ It is undeniable that the reform of the institutions involved in the rule of law has played a vital role in democratic consolidation in Chile. These reforms would have been ineffective, however, if they had not been supported by adequate constitutional changes.

b. Major Post-Pinochet Constitutional Changes

Among the fundamental reforms adopted during a joint session of the Chilean congress held on August 16, 2005, two are of primary interest: First, the 2005 constitutional reform removed the system of non-elected senators, including those who held a life-term seat, especially the former presidents of the republic.¹⁸⁹ The Chilean Senate was initially composed of 26 elected senators and two kinds of non-elected senators, including former presidents, and nine other nonelected senators, appointed for eight-year terms as follows: two former Supreme Court justices and one former comptroller, all appointed by the Supreme Court; one former commander in chief from each military branch, including the *Carabineros*, appointed by the Cosena; one former public university president and one former cabinet minister, both appointed by the president. The system of non-elected senators was particularly damaging to President Aylwin who did not have a working majority to implement his policies. For example, in 1990, Aylwin failed to pass the first

¹⁸⁷ Matei and de Castro Garcia.

¹⁸⁸ Matei and de Castro Garcia, 346-47.

¹⁸⁹ Claudia Heiss and Patricio Navia, "You Win Some, You Lose Some: Constitutional Reforms in Chile's Transition to Democracy," *Latin American Politics & Society* (September 2007): 178, <https://doi.org/10.1111/j.1548-2456.2007.tb00386.x>.

package of constitutional reforms on the municipal elections,¹⁹⁰ as many mayors were appointed by Pinochet before his departure. In fact, these senators, particularly those appointed by the Cosena (i.e., the National Security Council) and President Pinochet, before his resignation, formed a bloc with the right-wing opposition¹⁹¹ that was naturally hostile to the president's agenda. As a result of that reform, former President Frei, who served in the Senate after the term of his presidency, lost his seat. Nevertheless, one year later, he was democratically elected to the Senate, of which he even became the chairman.¹⁹² As for Pinochet, he resigned his seat in the 2000s long before the reform's entry into action.¹⁹³ Ultimately, the alteration in the composition of the Senate was a critical move in that it may allow each democratically elected Chilean president to implement his policies, if granted with a working majority resulting from an open and direct ballot.

Second, the constitutional reform restricted the role and the influence of the National Security Council, well known as the Cosena. As a reminder, chaired by the president, the Cosena was composed of both the presidents of the senate and the Supreme Court, and the commanders in chief of the army, navy, air force, and *Carabineros*. Aimed at curtailing the majority of the armed forces within that body, the reform introduced an eighth member, namely the national comptroller.¹⁹⁴ Therefore, the Cosena's decisions are now taken by an absolute majority of its eight members, consisting of four civilians and four members from the armed forces. As a result, the armed forces have lost their influence in the Cosena, especially their veto over the decisions of nomination and promotion of

¹⁹⁰ Aylwin eventually achieved a political success by having his reform adopted a year later, so that on June 28, 1992, the first post-Pinochet municipal elections were held in Chile. See Oppenheim, *Politics in Chile*, 213.

¹⁹¹ Oppenheim, 208.

¹⁹² *Encyclopedia of Latin American History and Culture*, s.v. "Frei Ruiz-Tagle, Eduardo (1942–)," accessed April 18, 2018, <http://www.encyclopedia.com/humanities/encyclopedias-almanacs-transcripts-and-maps/frei-ruiz-tagle-eduardo-1942>.

¹⁹³ *Encyclopedia of Latin American History and Culture*, s.v. "Pinochet Ugarte, Augusto (1915–2006)," accessed August 19, 2018, <http://www.encyclopedia.com/humanities/encyclopedias-almanacs-transcripts-and-maps/pinochet-ugarte-augusto-1915-2006>.

¹⁹⁴ Heiss and Navia, "You Win Some, You Lose Some," 178.

military officers. In this connection, J. Esteban Montes and Tomás Vial note that the Cosena has become a mere body that only provides advice to the president and which can be convened only by him or the presidents of the Senate or the Supreme Court.¹⁹⁵ This reform has curtailed the military's influence by minimizing their political involvement over the issues mentioned previously.

2. Independent Judiciary

Unlike Mali, which is struggling to bring the perpetrators of the March 2012 coup d'état to justice, post-Pinochet governments of Chile have succeeded in putting an end to the reign of impunity by fencing off the perpetrators of the abuses and corruption committed under the dictatorship. The task was not easy, however, because of the amnesty law passed in 1973 while Pinochet was still in power. In fact, under the amnesty law that granted impunity to the military for the abuses committed between 1973 and 1978, it was legally impossible to indict the perpetrators of these abuses. This impossibility was reinforced by a decision of the Supreme Court, which concluded that the amnesty law was legal, meaning that only the abuses committed after 1978 could be prosecuted by the courts. President Aylwin, however, disappointed by the decision of the Supreme Court, undertook to relieve the suffering of the families of the victims by granting them financial compensation.¹⁹⁶

Thus, pursuing the quest for justice of their predecessor Aylwin, Presidents Frei, Lagos, and Bachelet spared no effort to indict the perpetrators of human rights abuses. Therefore, in May 1995, the tireless efforts of President Eduardo Frei finally led to the conviction of two of Pinochet's close former collaborators, namely retired General Manuel Contreras (former head of DINA and CNI) and his deputy Pedro Espinoza. The former was sentenced to seven years' imprisonment, and the latter was convicted to six years' imprisonment. These convictions were linked to their involvement in the assassination of Orlando Letelier (former ambassador and minister), which occurred in Washington, DC,

¹⁹⁵ Montes and Vial, "The Role of Constitution-Building Processes in Democratization," 21.

¹⁹⁶ Oppenheim, *Politics in Chile*, 218.

in 1976, as mentioned earlier.¹⁹⁷ President Bachelet, very committed on the judicial front, undertook efforts to get convictions for both Pinochet and his allies, namely his family and former collaborators. As a result, in 2007, Pinochet and his family members were indicted for embezzling public funds.¹⁹⁸ In 2008 Sergio Arellana, commander of the death squad, was sentenced to six years in prison after the so-called trial of the caravan of death.¹⁹⁹ Also, that same year, General Contreras, already behind bars, was sentenced to two consecutive life terms of incarceration for his involvement in the assassination of General Carlos Prats and his wife, in 1974, while they were exiled to Argentina.²⁰⁰ In the end, these convictions demonstrated the Chilean government's determination to consolidate democracy by pushing against the reign of impunity and by boosting the people's trust in their democratic institutions, namely the judiciary.

C. DEVELOPMENT OF DEMOCRATIC CIVIL-MILITARY RELATIONS

A particular focus in respect to the development of democratic CMR is the implementation of the Truth, Justice, and Reconciliation Commission, along with the creation of control, oversight, and accountability institutions. The Chilean government has displayed its particular concern for the armed and security forces' effectiveness.

1. Truth, Justice, and Reconciliation Commission

The creation of such a commission, tasked with the mission to shed light on the abuses committed by the armed and security forces, is particularly important in that the military could use the commission's platform to offer its *mea culpa* and try to regain the trust and esteem of Chile's citizens. Also, as mentioned earlier, the commission's findings could help victims heal their wounds and speed up the process of reconciliation between them and the military. In this connection, President Aylwin quickly understood the need to investigate human rights violations committed from September 11, 1973, to March 11,

¹⁹⁷ Matei and de Castro Garcia, "Chilean Intelligence after Pinochet," 343.

¹⁹⁸ Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 288.

¹⁹⁹ Matei and Robledo.

²⁰⁰ Matei and Robledo.

1990, corresponding to the dictatorial reign of Pinochet. Therefore, in 1990, Aylwin decided to create the Truth, Justice, and Reconciliation Commission, nicknamed the Rettig commission in reference to its chairman, former Senator Raul Rettig, with the mission to investigate human rights violations and to make proposals to prevent these abuses from happening again.²⁰¹ Highlighting the importance of the Rettig commission, Michael Deloach skillfully explains:

By holding accountable those who perpetrated past abuses, truth commissions enable societies to distinguish reformed security forces from the institutions that carried out past abuses, helping restore society's trust. Moreover, by bringing to light the structures that allowed past abuses to be carried out, the finding of truth commissions can provide the impetus for constitutional reforms.²⁰²

As a result, the connection between the protection of human rights and the consolidation of CMR is obvious (even natural), because the former is an attribute of the rule of law, in that the punishment of the perpetrators of such violations builds citizens' trust in their democratic institutions; at the same time, it demonstrates the rejection of impunity and ensures equal protection under the law. In this connection, Matei and de Andrés de Castro Garcia point out investigations into human rights violations can accelerate the strengthening of democratic institutions and democratic consolidation, while at the same time boost public confidence in state institutions.²⁰³

Following the publication of the commission's report on February 9, 1991, the Chilean people, like the international community, discovered the extent of the atrocities committed by the Pinochet regime that resulted in the assassination or disappearance of about 3,000 persons.²⁰⁴ The commission, whose mandate was initially limited to cases of murder and disappearances, had been forced to broaden its jurisdiction to consider the cases

²⁰¹ Oppenheim, *Politics in Chile*, 216.

²⁰² Michael Deloach, "And the Truth Shall Set You Free. Truth Commissions and Civil-Military Relations," *Journal of Defense Resources Management* 6, no. 1 (April 2015): 10.

²⁰³ Matei and de Castro Garcia, "Chilean Intelligence after Pinochet" 346.

²⁰⁴ Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 285.

of torture of which it had been aware during its investigations.²⁰⁵ But, under the amnesty law (enacted in 1978 by the junta), the military was guaranteed impunity for the abuses committed between 1973 and 1978, and thus, it was impossible to indict the perpetrators of the abuses. This impossibility was reinforced by a decision of the Supreme Court, as mentioned earlier, which concluded that the amnesty law was legal, meaning that only the abuses committed after 1978 could be prosecuted by the courts.²⁰⁶

Nevertheless, Presidents Frei, Lagos, and Bachelet managed to bypass the amnesty law in order to get the culprits of human rights abuse prosecuted. Thus, their tireless efforts, as mentioned earlier, finally led to the conviction of three of Pinochet's close former collaborators, namely retired General Manuel Contreras (former head of DINA and CNI), his deputy Pedro Espinoza, and Sergio Arellana, commander of the death squad. Pinochet himself, along with his family members, were indicted over a case of money public funds embezzling, as mentioned earlier. Also, in 2003, President Ricardo Lagos' efforts led to the creation of the National Committee on Political Imprisonment and Torture (NCPIT), the report of which was published in 2004. This report shed light on the systematic practice of both torture and the imprisonment of political opponents.²⁰⁷ The conclusions of NCPIT, like that of the Rettig commission are important in that they reveal to the whole world a truth long kept hidden.²⁰⁸ The discovery of this truth, although shocking to the human conscience, is noteworthy because it allows people to recall that the atrocities committed by the Chilean junta were unacceptable and abominable and that the military must be watchful not to allow these abuses to take place in the future. That need for vigilance and self-restraint can be reinforced through the democratic institutions of control and oversight over the military.

²⁰⁵ Oppenheim, *Politics in Chile*, 217.

²⁰⁶ Oppenheim.

²⁰⁷ Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 287.

²⁰⁸ Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 287; Oppenheim, *Politics in Chile*, 217.

2. Control, Oversight, and Accountability Institutions

A particular focus on the creation of a functional and accountability institution, like a civilian-lead MoD, is important when dealing with the consolidation of civilian authority over the armed and security forces. In this connection, under the Bachelet administration, 20 years after the end of Augusto Pinochet's military regime, the Chilean congress unanimously approved on February 4, 2010, the law that reformed Chile's defense sector by restructuring the Ministry of Defense, which, henceforth, has become an institution under full civilian control. The implementation of that law, regulating the organization and functioning of the MoD, was a notable advance in CMR. As Tristan Dreisbach points out: "For years after Pinochet's fall, civilians were unable to muster the political will to overhaul the main institution at the heart of the civilian military divide: Chile's Ministry of National Defense."²⁰⁹

Also, the 2010 law reinforces the control of civilian leaders over the military, as the civilian-led MoD, is appointed by the president. In addition, the president, in his capacity as commander-in-chief of the armed forces, appoints and dismisses the Chief of General Staff of the Malian armed forces. Also, each branch of the armed forces has its own Chief of Staff who is proposed to the president and accepted by him (or her). Furthermore, the MoD has become a more open structure in the sense that civilians can work there and can enjoy the benefit of a stable career there.²¹⁰ Indeed, civilians with defense expertise can provide the structure with outside expertise, based on the premise that defense and security issues concern everybody, as pointed out by Matei and Robledo: "[Security] is everyone's business (civilians need to know—and want to know—about defense and security, while both civilians and military understand defense is not solely a military task)."²¹¹ For example a lawyer may help the MoD when dealing with issues related to humanitarian law, along with the rules of engagement. Also, a foreign affairs advisor may make his expertise

²⁰⁹ Tristan Dreisbach, "Civilians at the Helm: Chile Transforms Its Ministry of National Defense, 2010-2014," *Innovations for Successful Societies*, Princeton University, November 2015, 2, <http://successfulsocieties.princeton.edu/>.

²¹⁰ Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 289.

²¹¹ Matei and Robledo, 292.

available to the MoD when concluding defense agreements with a third country. Ultimately, the adoption of the 2010 law opens a new era in the history of the Chilean MoD. In dealing with defense policies, as Rodrigo Atria, a civilian who joined the ministry in 1995 as an adviser, cites the change: “What we had was a ministry that was organized to administer defense but not to conduct defense.”²¹²

Another particular focus of the democratic civilian control was Pinochet’s resignation as commander in chief. Indeed, in the aftermath of that resignation, President Frei was free to appoint General Ricardo Izurieta as the new Chief of the Armed Forces to replace Pinochet. The appointment of Izurieta had a major impact on the conduct of the trials in relation to human rights violations. First, General Izurieta collaborated with the judiciary in revealing the identity of the former soldiers involved in the perpetration of the crimes committed under the dictatorship.²¹³ Then he helped to create the national round table (1999-2000) that included not only military personalities, but also other personalities from civil society.²¹⁴ Later, the round table issued a declaration, in which the military expressed its desire not to oppose judicial investigations over human rights violations issue. In the end, by expressing their willingness to collaborate with the judiciary, the military had contributed to the consolidation of the rule of law in Chile,²¹⁵ freeing the judiciary from the military yoke under which it was constrained during the first years of the democratic transition.

The Chilean parliament’s role has been strengthened because of the adoption of the new Copper Act, as mentioned earlier. As a matter of fact, Chilean military funding comes from the budget proposed by the president, then discussed and approved by the parliament. That budget, under the control of the MoD, is mainly used to pay for personnel, operations, and maintenance. However, the acquisition of new equipment is financed by ten percent of the sales of Codelco (the state-owned Corporación Nacional del Cobre) and directly

²¹² Dreisbach, “Civilians at the Helm,” 2.

²¹³ Matei and Robledo, “Democratic Civilian Control and Military Effectiveness,” 286.

²¹⁴ Matei and Robledo, 286.

²¹⁵ Matei and Robledo, 287.

embedded in the national budget, which is then approved by the parliament. Thus, by having a say over the military expenditures that it approves or disapproves, the Chilean parliament strengthens its power of control over the activity of the armed forces. This parliamentary prerogative contributes to the consolidation of civilian authority over the military institution, which is a guarantee of the democratic governance. Also, one consequence of civilian control of the military is that the latter can easily achieve its effectiveness under such a control.

Media and civil society carry out an informal watchdog mission over the government actions.²¹⁶ In this connection, Chile's media and civil society have played a critical role in holding the government accountable. For example, the Chilean news magazine *APSI* distinguished itself by reporting on cases of human rights violations, including murders and disappearances, perpetrated by the Pinochet regime.²¹⁷ Also, as reported by Freedom House, "Chile's Law on Transparency of Public Functions and Access to Information, enacted by President Michelle Bachelet in 2008, continues to serve as a useful tool for investigative journalists, who report that government agencies generally respond to requests for information in a satisfactory manner."²¹⁸ In addition, from 2006 to 2011, Chilean civil society has been very dynamic by carrying out several civil protests against the government, as shown in Table 1. Unfortunately, these protests, in many cases, have resulted in either clashes with the police (Mapuche protesters and police clashed in 2010 and 2011) or thousands of students' arrests during the 2006 protest.²¹⁹

²¹⁶ Sallie Hughes and Claudia Mellado, "Protest and Accountability without the Press: The Press, Politicians, and Civil Society in Chile, *International Journal of Press/Politics* 21 (2016): 48-67, doi:10.1177/1940161215614565.

²¹⁷ Oppenheim, *Politics in Chile*, 217.

²¹⁸ "Chile: Freedom of Press 2015," Freedom House, <https://freedomhouse.org/report/freedom-press/2015/chile>.

²¹⁹ Hughes and Mellado, "Protest and Accountability without the Press," 48-67.

Table 1. 2006-2011: Major Protests in Chile²²⁰

Year	Protesters	Issue
2006	Students	Education Quality and Access
2007	Urban Services Users	Transantiago Cost and Delays
2007	Labor	Wages, Collective Bargaining
2008	Students	Education
2010	Students	Education
2010	Indigenous	Mapuche Land Rights and Police Violence
2011	Students	Education
2011	Environmentalists	Aysen Hydroelectric Dam
2011	Indigenous	Mapuche Land Rights, Autonomy

3. Effectiveness of the Military

Civilian control over the armed and security forces has been strengthened (e.g., the national police is now under the effective authority of the Minister of the Interior²²¹). In turn, the Chilean military has consolidated its professionalism and effectiveness. Two telling examples illustrate this assertion. First, Chile participated in United Nations peacekeeping operations in Haiti, with a staff of about 500 people.²²² The country also deployed troops to Bosnia, Cyprus, East Timor, Central America, Colombia, and Iraq. Secondly, the expertise that the Chilean armed forces acquired during these operations enabled them to demonstrate their effectiveness at the national scale. Indeed, in 2010, after the 8.8 magnitude earthquake that hit Chile, President Bachelet called for the military, which quickly took control of the situation by rescuing the victims, without using violence. That episode has demonstrated that the Chilean armed forces, under democratic civilian authority, have achieved effectiveness. Clearly, they can be involved in domestic affairs

²²⁰ Hughes and Mellado.

²²¹ Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 289.

²²² Matei and Robledo, 291.

by conducting relief efforts for the population rather than using brutal tactics as they once did under the dictatorship.²²³

D. CONCLUSION

Successive democratic governments in Chile have made efforts to consolidate rule of law institutions, especially those involved in the democratization of CMR and the consolidation of democracy. To this end, mainly with regard to the consolidation of democracy, in accordance with the rule of law, the Chilean government has adopted institutional reforms (including reform of the Supreme Court, dissolution of the CNI, and creation of the ANI) and constitutional reforms (such as reform of the system of unelected senators and reform of the Cosena) aimed at promoting democracy in that country. Also, the fight against impunity and corruption was conducted through the judiciary that had finally demonstrated and assumed its independence.

With regard to the role of the rule of law in promoting CMR, the establishment of the Truth, Justice, and Reconciliation Commission as well as that of a MoD under the leadership of civil leaders have helped to consolidate civil-military relations, just as they have allowed the Chilean military to achieve efficiency at a lower cost. But it is necessary to recognize that the arrest of Pinochet was a major event in the redemocratization of CMR, in that this arrest forced Pinochet to retire from the political scene. This retirement stimulated the freedom of action of Chilean leaders (including civilians and military ones) who could now act and carry out much-needed political reforms without fear of retribution from Pinochet, who was the only five-star general of the army, of which he was commander in chief.

²²³ Matei and Robledo, 291; *Encyclopedia Britannica*, s.v. “Michelle Bachelet,” accessed March 13, 2018, <https://www.britannica.com/biography/Michelle-Bachelet>.

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IV. COMPARATIVE STUDY BETWEEN THE MALIAN AND CHILEAN CASES

Drawing from the two case studies, this thesis seeks to find a causal relationship between the rule of law, democratization of CMR, and consolidation of democracy. In the last two chapters, I reviewed the efforts undertaken by Chile and Mali to achieve rule of law, democratization of CMR, and consolidation of democracy, based on the proposed conceptual framework. These efforts, however, have produced different outcomes from one country to the other. In this connection, this chapter attempts to test the hypotheses. It also analyzes the progress made by both Mali and Chile regarding the role of the rule of law in the issues of democratic consolidation and CMR. The framework I propose has five requirements: legal framework; independent judiciary; Truth, Justice, and Reconciliation Commission; military effectiveness; and control, oversight, and accountability institutions.

These are tools in assessing the role of the rule of law in democratic consolidation and CMR. In this context, each country is granted a score ranging from low to high, depending on its performance in addressing these requirements. Table 2 illustrates the level of progress achieved by each country in dealing with the five critical issues mentioned in my proposed conceptual framework.

Table 2. The Five Requirements and the Levels of Progress Achieved in Each Country

Country	Legal Framework	Independent Judiciary	Truth Commission	Effectiveness	COAB ²²⁴
Mali	Medium	Low	Low	Low	Low
Chile	High	Medium	High	High	High

²²⁴ Control, Oversight, and Accountability Bodies (COAB).

A. ASSESSING DEMOCRATIC CONSOLIDATION

This evaluation focuses on the progress achieved regarding the legal framework and the independence of the judiciary.

1. Progress Achieved in the Realm of the Legal Framework

In this category, while Chile scores high, Mali scores medium. Indeed, Chile has succeeded in reforming both its constitution and political institutions, including the termination of undemocratic institutions (the system of non-elected senators, along with DINA, for example) and the implementation of new institutions aimed at ensuring the government operates with openness and transparency. Enacted in 2008, Chile's Law on Transparency of Public Functions and Access to Information is a telling example in this regard. More importantly, Freedom House lists Chile as "free" in terms of political rights and civil liberties.²²⁵ In sharp contrast, the review of the Malian case reveals a lack of progress in the realm of political rights and civil liberties, because these rights are not fully protected. For example, while the political opposition is denied equal access to public media, activists and journalists often experience intimidation and attempted murder.²²⁶ Therefore, Freedom House has listed Mali as "partially free" in terms of political rights and civil liberties.²²⁷

Under these circumstances, it is obvious that Mali has failed where Chile has succeeded. First, while Chile has undertaken efforts to reform its intelligence sector, Mali remains static on this point. The General Directorate of State Security (DGSE), the Malian main intelligence service, often targets opponents and media outlets for fallacious reasons that have nothing to do with the state's security. The kidnapping of the editor-in-chief of the Malian newspaper *L'Indépendant*, Saouti Haidara, as previously mentioned, is just one of many other abuses attributable to the DGSE.

²²⁵ "Freedom in the World 2018, Chile Profile," Freedom House, <https://freedomhouse.org/report/freedom-world/2018/chile>.

²²⁶ "Freedom in the World 2018, Mali Profile," Freedom House, <https://freedomhouse.org/report/freedom-world/2018/mali>.

²²⁷ Freedom House.

Second, regarding government operation with openness and transparency, unlike Chile, Mali is still behind on that issue. There is a kind of opacity governing the country's operation. Indeed, the lack of a comprehensive freedom of information regime impedes the rise of transparency, as reported by Freedom House:

Government operations remain generally opaque. Mali does not have a comprehensive freedom of information regime, although numerous laws do provide for public access to some official documents and information. However, such laws are replete with extensive and vague exceptions, and journalists have faced obstacles when attempting to obtain information about the military in particular.²²⁸

Third, while post-transition governments in Chile succeeded in carrying out legitimate constitutional reforms, its Malian counterpart, especially IBK's regime, has been clumsily inspired by an attempt at constitutional tampering for the sole purpose of strengthening his power, according to his opponents.²²⁹ Among the most contentious points is the creation of a second chamber in parliament, notably the Senate, one-third of whose members will be appointed by the President of the Republic of Mali. Over the issue of reforming parliament, the paradox between Chile and Mali is obvious. Indeed, while Chile has abolished the undemocratic system of non-elected senators, Mali is trying to institutionalize the same system that has shown its limits elsewhere.

2. Judiciary Achievements

In this category, Chile scores medium, while Mali scores low. Indeed, Chile's judiciary, unlike its counterpart of Mali, succeeds in convicting individuals who committed human rights violations under the dictatorship. In addition, the Chilean judiciary has made progress on the front of the fight against corruption. The conviction of Pinochet and his relatives for embezzlement of public funds, as mentioned earlier, is an illustration. These condemnations, it must be remembered, also reflect the will of the Chilean government to

²²⁸ Freedom House.

²²⁹ Antoine Le Goff, "Mali: Les Enjeux d'une Révision Constitutionnelle qui Suscite l'Opposition," [Mali: The Stakes of a Constitutional Revision That Raises Opposition] *Le Monde Afrique*, June 16, 2017, http://www.lemonde.fr/afrique/article/2017/06/16/au-mali-les-enjeux-d-une-revision-constitutionnelle-qui-suscite-l-opposition_5145775_3212.html.

fight against impunity. In this connection, by having convicted former dignitaries of the Chilean regime, the judiciary exercises its independence from the executive branch, as duly acknowledged by Freedom House, which finds the Chilean judiciary free from political interference.²³⁰

Nevertheless, given the progress made, Chile's score, which is medium rather than high, could be surprising. The justification of this score is that Chilean justice is still struggling to minimize the spread of corruption within the state apparatus. Recent cases of corruption involving senior Chilean officials lend credence to this view. As Freedom House has reported, "In 2017, members of the militarized *carabineros* police force were implicated in an embezzlement scandal worth some \$40 million. ... One of the major right-wing parties, Independent Democratic Union, has also been involved in a campaign-finance scandal in recent years."²³¹

The Malian judiciary has failed to prosecute both high-ranking military officers and rank-and-file members involved in human rights abuses related to the 2012 coup. Not only has the judiciary failed to prosecute these individuals, but it has also failed to get convictions for senior officials over alleged cases of corruption. For example, in March 2017, in the aftermath of the release of the report of the General Auditor, 15 finance and equipment directors were dismissed from their posts within the Finance Ministry;²³² but it is not yet clear that these agents were sentenced by the courts for their financial wrongdoings. Furthermore, a particular area where the Malian judiciary failed in preventing impunity is the case of Sanogo, the former army captain who staged the 2012 military coup. Indeed, under judicial arrest since November 27, 2013, Sanogo is still waiting for his trial on charges related to human rights violations in connection with the abduction and killing of 21 soldiers, as mentioned earlier. Opened in late 2016, the trial was quickly adjourned until 2017 and has yet to reconvene.

²³⁰ Freedom House, "Freedom in the World 2018, Chile Profile"

²³¹ Freedom House.

²³² Freedom House, "Freedom in the World 2018, Mali Profile."

A 2017 Afro Barometer survey reported that the Malian judiciary, along with the police, is perceived to be the least reliable institution in the country. Even President IBK seems to be losing faith in the justice of his country. For example, at the formal opening of the new legal year in 2014, President IBK publicly blamed the judges for failing to prosecute more than 200 ongoing corruption cases he had transmitted to them, less than one year after he took office.²³³

On the other hand, Mali and Chile do share a common pattern regarding the fight against corruption: In both countries, the implementation of anti-corruption laws did not prevent the spread of the phenomenon, especially within the civil service.²³⁴ Nevertheless, the similarity between the two countries ends there, because Chilean justice has at least made progress in the fight against corruption, while its counterpart in Mali is still struggling to condemn individuals over alleged cases of corruption.

B. RULE OF LAW AND CMR IN MALI AND CHILE

In each category—truth and reconciliation commissions (by any name); military effectiveness; and control, oversight, and accountability institutions—Chile scores high, except the judiciary is assessed as medium. By contrast, Mali scores low, excluding the legal framework with a medium rating. Overall, Chile scores high, and Mali, low, as shown earlier in Table 2.

1. Truth, Justice, and Reconciliation Commission’s Achievements

Both Chile and Mali understood the necessity of creating such a truth and justice commission to investigate human rights violations perpetrated by the military. On the basis of achieving the assigned missions, however, it is obvious that the Chilean government has done better than its Malian counterpart, as shown in Table 2. First, in terms of speed in the execution of the mission, the Rettig commission was more efficient in that it was able to

²³³ Mohamed Naman Keïta, “Lutte Contre la Corruption: IBK Invite les Magistrats à Agir,” [“Fight Against Corruption: IBK Urges Magistrates to Act”] *NiarelaNet*, accessed on September 7, 2018, <https://niarela.net/societe/justice/lutte-contre-la-corruption-ibk-invite-les-magistrats-a-agir>.

²³⁴ Freedom House, “Freedom in the World 2018, Mali Profile”; Freedom House, “Freedom in the World 2018, Chile Profile.”

produce its report in February 1991, that is, only one year after its creation. On the other hand, created since January 15, 2014, its Malian counterpart has not yet produced its report; its publication is expected at the end of 2018. As reported by Freedom House, the rise of terrorist activities and inter-communal tensions within Mali's borders contribute to the delay of the report.²³⁵ Nevertheless, after receiving more funding in 2017, the commission, through its regional offices, was able to take thousands of witness statements relating to cases of potential human rights violation.²³⁶ It is highly desirable today that the collected testimonies will help the commission to move forward, so that it can publish its report by the due date.

Second, in terms of carrying out its assigned tasks, in particular shedding light on cases of human rights violations and bringing the perpetrators to justice, the Rettig commission fulfilled its contract. Indeed, its report, released on February 9, 1991, revealed cases of assassination or disappearance of about 3,000 persons.²³⁷ Going further, the commission, whose mandate was initially limited to cases of murder and disappearances, was forced to broaden its jurisdiction to consider the cases of torture of which it became aware during its investigations.²³⁸ In the end, the perpetrators of the violations, such as Manuel Contreras, Pedro Espinoza, and Sergio Arellano, were all sentenced by the courts, as mentioned earlier. In addition, the Chilean government, moving forward, took concrete action to provide the victims with financial compensation. Specifically, the National Corporation for Reparation and Reconciliation (NCR) gave \$7 billion Chilean pesos to more than 4,500 victims of human rights violations.²³⁹ As a result of the commission's findings, the then Chilean President Aylwin asked for forgiveness from the victims' families and encouraged the military to ask for forgiveness as well.²⁴⁰

²³⁵ Freedom House, "Freedom in the World 2018, Mali Profile."

²³⁶ Freedom House.

²³⁷ Matei and Robledo, "Democratic Civilian Control and Military Effectiveness," 285.

²³⁸ Oppenheim, *Politics in Chile*, 217.

²³⁹ Oppenheim, 218.

²⁴⁰ Oppenheim, 217.

In sharp contrast, almost none of these achievements have been realized in Mali, as the country is still waiting for the publication of its commission's findings on the alleged cases of human rights violations. Also, as mentioned earlier, the commission has adopted a Biennial Action Plan (2016-18), providing victims with financial compensation, in accordance with law No. 2012-025, enacted on July 12, 2012; this law provides compensation to the victims of rebellions and insurrectional movements in Mali. To implement these compensations, however, Mali must create an Evaluation, Census, and Compensation Commission (ECCC) whose institutionalization is not yet effective.²⁴¹ As a result, the process of financial remuneration for the victims of human rights abuses is likely to be delayed, pending the census and the identification of the victims. Also, it is worth mentioning that former Captain Sanogo, prior to his arrest and before the creation of the Truth, Justice, and Reconciliation Commission, publicly apologized and asked for forgiveness from the Malian people during an official ceremony of reconciliation between *Red Berets* and *Green Berets*, held on June 26, 2013, at the presidential palace. It is hoped that after the publication of the report of the commission, Sanogo will reiterate his decision by asking again for forgiveness from the families of all the victims who have to be identified in such a way that their families feel satisfied that justice had been done.

2. The Success and Failures of Control, Oversight, and Accountability Institutions

Both countries have succeeded in creating functional and accountable civilian-led MoDs. As such, in Chile as well as in Mali, the president is the commander in chief of the armed forces that are under the authority of a civilian-led MoD, which is also appointed by the head of state. The president appoints, promotes, and dismisses the commanders of the military, including the Chief of General of Staff of the armed forces. Furthermore, in both countries, the security forces are under the control of the ministry in charge of homeland

²⁴¹ Youssouf Diallo, "Indemnisation des Victimes de la Rébellion et du Mouvement Insurrectionnel de Mars 2012: A Quand la Mise en Place de la Commission d'Evaluation, de Recensement et d'Indemnisation ?," [Compensation for Victims of the Rebellion and the Insurrectional Movement of March 2012: When the Establishment of the Assessment, Census and Compensation Commission?], Maliweb.net, March 3, 2017, <https://www.maliweb.net/la-situation-politique-et-securitaire-au-nord/indemnisation-victimes-de-rebellion-mouvement-insurrectionnel-de-mars-2012-a-mise-place-de-commission-devaluation-de-recensement-dindemnisation-2090872.html>.

security, named the Ministry of the Interior and Public Security in Chile, and the Ministry of Security and Civil Protection in Mali. However, unlike in Chile, where this ministry is run by a civilian—Andrés Chadwick is the current occupant of the post—the democratic civilian control over the security forces is not effective in Mali. Indeed, in Mali the Ministry of Security has no genuine civilian-lead culture, because the occupants of the post are usually officers from the army or the national police, like General Salif Traore, current head of the department.

Another area in which the two countries have made progress is the parliamentary control of the activities of the armed forces and security. Indeed, in Chile as well as in Mali, military funding comes from the budget proposed by the executive arm of government, then discussed and approved by the parliament during the vote on the national budget in which military funding is embedded. Consequently, by having a say over the defense and security expenditures, Chilean parliament, along with its Malian counterpart, maintains the defense and security institutions under close observation and acts as a watchdog. As such, both parliaments have the constitutional right to challenge the MoD, as well as its counterpart in charge of security, during parliamentary inquiry sessions. Unfortunately, it is on this specific point that the Malian parliament has failed in its mission, despite the timid efforts undertaken by its Defense and Security Committee. These efforts consisted of the meeting held by the committee with the Minister of Defense, in the company of the General Chief of Staff of the Armed Forces, in connection with summary executions allegedly perpetrated by the army, as recalled earlier.

Indeed, as the army has not fulfilled its mission, despite the adoption by parliament of the Law of Orientation and Military Programming, parliamentarians are expected to challenge the Minister of Defense during a parliamentary hearing and hold him accountable; it is incomprehensible that the army fails after having been provided with the appropriate means and resources. This lack of parliamentary initiative has a twofold consequence. First, it undermines the exercise of democratic civil control over the armed forces. Second, it demonstrates the disinterest of parliamentarians in the proper use of the taxpayers' money, of which they are the representatives.

With regard to the role of the media and civil society as informal oversight bodies, the progress made by Chile is significantly greater than that of Mali. Indeed, the media and civil society enjoy more freedom of expression in Chile than in Mali. For example, Freedom House lists Chile as “free”²⁴² in terms of civil liberties, while it lists Mali as “partially free”²⁴³ over the same issue.

3. Effectiveness of the Armed and Security Forces

It emerges from the analysis of the respective situations of Chile and Mali that the first country seems to have won the challenge of effectiveness, while its counterpart is far behind, as seen in Table 2. Indeed, despite the considerable efforts undertaken by the Malian government in terms of training, equipment, and salary upgrading, the armed and security forces of the country have failed in their mission of defending and securing the fatherland, as insecurity still continues to plague the north and center of the country, in particular, and even in Bamako, the capital city.²⁴⁴ For example, the center of the country, where inter-communal violence has caused hundreds of deaths during this year,²⁴⁵ seems to be out of the government’s control. Also, according to a press report, in the past three years, terrorist attacks have tripled and violent deaths have doubled, as rebels have spread from the north to the center, and have even targeted Bamako.²⁴⁶ In 2015, gunmen killed 20 people in a raid on the Radisson Blu hotel.²⁴⁷ More recently, on June 29, 2018, in the city of Sévaré (in the central part of Mali) an unknown number of assailants, using rockets and a vehicle rigged with explosives, attacked the G5 Sahel taskforce—a security mission

²⁴² Freedom House, “Freedom in the World 2018, Chile Profile.”

²⁴³ Freedom House.

²⁴⁴ “Mali: Hundreds Killed in Inter-communal Violence this Year” *Al Jazeera*, July 17, 2018, <https://www.aljazeera.com/news/2018/07/mali-hundreds-killed-inter-communal-violence-year-180717165055888.html>; “Mali Votes in Presidential Polls Dominated by Security Concerns,” *Al Jazeera*, July 29, 2018, <https://www.aljazeera.com/news/2018/07/mali-votes-presidential-polls-dominated-security-concerns-180729091749445.html>; “Mali: G5 Force Headquarters Targeted in Deadly Attack,” *Al Jazeera*, June 29, 2018, <https://www.aljazeera.com/news/2018/06/mali-g5-force-headquarters-targeted-deadly-attack-180629175547728.html>.

²⁴⁵ *Al Jazeera*, “Mali: Hundreds Killed in Inter-communal Violence this Year.”

²⁴⁶ *Al Jazeera*, “Mali Votes in Presidential Polls Dominated by Security Concerns.”

²⁴⁷ *Al Jazeera*,

composed of Mali, Niger, Burkina Faso, Chad, and Mauritania.²⁴⁸ At least two soldiers were killed and several others wounded in this attack. Even worse, as Mali alone is unable to address its security issues, the country is still relying on the presence of foreign troops, namely the United Nations' mission in Mali and French troops, to help resolve the situation. The latest example of the failure of the Malian armed and security forces was their inability to secure the presidential election held on July 29, 2018. Indeed, despite the deployment of about 30,000 security personnel throughout the country, several incidents were reported, including the burning of polling stations and ballot boxes in the country's northern and central regions, leading to suspension of the vote in these areas.²⁴⁹ Similar incidents took place in Kidal, after the firing of about ten mortar shells, according to a press report.²⁵⁰ In the end, all these incidents reflect a single reality, namely the failure of the Malian forces to perform the missions assigned to them.

In stark contrast, Chilean armed and security forces, as is shown in Table 2, have achieved effectiveness. Indeed, as previously recalled, the participation of Chilean armed and security forces in United Nations peacekeeping missions has enabled them to acquire expertise in contact with foreign forces. Subsequently, they have been able to use this expertise to deal with internal security issues. For example, during the earthquake that shook the country in 2010, the army was called to help and brilliantly managed to control the situation by rescuing thousands of victims. In addition, unlike in Mali, the effectiveness of Chile's armed forces is obvious, given the absence of foreign troops on the territory, because the country's military forces alone are able to ensure the defense and security of the nation and the Chilean population.

C. CONCLUSION

As this thesis seeks to find a causal relationship between the rule of law, democratization of CMR, and consolidation of democracy, I have posited that the rule of law is essential in the successful democratization of CMR, as well as democratic

²⁴⁸ *Al Jazeera*, "Mali: G5 Force Headquarters Targeted in Deadly Attack."

²⁴⁹ *Al Jazeera*, "Mali Votes in Presidential Polls Dominated by Security Concerns."

²⁵⁰ *Al Jazeera*.

consolidation. In this context, if Mali is to succeed in redemocratizing its CMR and consolidating democracy, it must undertake reforms aimed at developing its rule of law institutions, listed in my conceptual framework, as critical requirements. My research shows that Mali, unlike Chile, is lagging far behind in the implementation of the five requirements. As a result, unlike its Chilean counterpart, which has become a consolidated democracy, Mali is still struggling to consolidate democracy and re-democratize its CMR. The development of the rule of law institutions is, therefore, a prime factor, without which Mali will not be able to achieve its objectives of democratic consolidation and democratization of the CMR. As such, the country's failure rests on the lack of promotion of the rule of law. Therefore, the role of the rule of law in the democratization of CMR and democratic consolidation is proven through this comparative analysis of the two countries. Consequently, Mali must urgently draw inspiration from the Chilean example, because as the study has shown, Chile, by successfully developing the rule of law, has finally managed to consolidate its democracy and ensure the democratization of CMR.

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V. FINDINGS AND RECOMMENDATIONS

This thesis has assessed the role of the rule of law in the democratization of CMR and democratic consolidation. There are two major findings drawn from the analysis of the Malian case: First, the failure of Malian government officials to comply with laws, and second, their lack of political will to enforce the rule of law. As their non-compliance with laws and their lack of political will impedes the Malian government's endeavors to deal with the democratization of CMR and democratic consolidation, this thesis recommends that government strengthen the separation of powers, close the gap of trust between leaders and citizens, and implement strong corruption-free institutions.

A. FAILURE IN THE APPLICATION OF THE LAWS

Mali has failed in the implementation of the rule of law institutions because the leaders do not comply with the pre-established rules. In other words, the laws in force are not respected. In spite of the existence of a legal framework, former Captain Sanogo is not yet convicted for having violated the Malian constitution. High-ranking officials did not comply with the obligation of financial disclosure. There is also the lack of governance transparency and the exclusion of the opposition from the public media. The corruption of the judiciary remains a serious concern, especially when it comes to judges to rule over corruption and other critical issues involving opposition and government, as concomitant litigants. It is therefore useless to have laws if they are not enforced.

B. LACK OF GENUINE POLITICAL WILL

This thesis also found a gap between the speeches of the Malian officials and the decisions they are prepared to implement. This gap is reflected in a lack of real political will to address such issues as human rights violations and the independence of the judiciary. For example, the Truth, Justice, and Reconciliation Commission, established in 2014, has yet to publish its report, just as the compensation of the victims of human rights violations has yet to begin; the government is still struggling to implement the Commission of Evaluation, Census, and Compensation. Today, no objective reason, other than the absence of political will, can justify such delays. In addition, the Malian government remains very

timid in the implementation of measures aimed at ensuring the independence of the judiciary from the executive power, to which it seems beholden, as recalled earlier. Also, decrying the dysfunction of the judiciary, the president of the Republic still has not made any decision to make judges more responsive on corruption files submitted to them.

Another critical focus in this area is the lack of political will to conduct genuine parliamentary oversight. Indeed, the Malian parliament has failed in carrying out its oversight mission over the military. Part of that failure is that the parliament has refrained from holding the government accountable for the ineffectiveness of the armed and security forces in carrying out their assigned missions. In fact, under the framework of the Orientation and Military Planning Act, the parliament voted to endow several billion CFA francs to the Malian army with resources aimed at enabling them to fulfill their missions. Unfortunately, it is clear today that since the adoption of this budget, the Malian armed and security forces have not yet succeeded in eradicating the threat of terrorism, just as they are incapable of providing security, including to the 2018 presidential election, which could not be held in some localities of the country for security reasons, as mentioned earlier. The Malian parliament does have the constitutional right to hold the government accountable over that issue, but it chose not to. Even though the lack of expertise of most parliamentarians on defense and security related issues is not questioned, that absence of expertise itself is not sufficient to justify the lack of parliamentary oversight of the military. This attitude of parliament raises a real concern about the effectiveness of the separation of powers. It seems, therefore, that the legislature, along with the judiciary, is not independent from the Malian executive power. Furthermore, the lack of expertise of most parliamentarians on defense and security related issues may impede the accomplishment of their oversight mission, especially when it comes to investigating alleged abuses committed by the armed forces.²⁵¹

Unlike Chile, where the defense and security ministries are run by civilians, in Mali, only the MoD is led by a civilian. The Ministry of Security is under the control of an appointed general of the army, in this case Major General Salif Traore who has under his

²⁵¹ Holshek, “Mali and the Primacy of Civil Authority.”

authority all the security forces, especially the counter-terrorist forces of the FORSAT. These forces consist of elements from the police, Gendarmerie, and National Guard. Consequently, the appointment of a military, instead of a civilian, to this position, reflects the Malian government's lack of political will to maintain the security forces under democratic civilian control.

C. RECOMMENDATIONS

The failure to compliance with laws and the lack of political will impedes the Malian government's endeavors in dealing with the democratization of CMR and democratic consolidation. Therefore, if Mali is to succeed in consolidating its democracy and democratizing its CMR, it must strengthen its rule of law by looking at three crucial areas, namely the separation of powers, the closing of the gap in trust between leaders and citizens, and the implementation of strong corruption-free institutions.

1. Reinforcement of the Separation of Powers

The judiciary must assert its full independence vis-à-vis the executive branch so that it can interpret and apply the law, regardless of any political considerations. It is only by being independent that judges will be able to fight against corruption and impunity, even when it comes to ruling on cases involving members or former dignitaries of the regime. As such, the independence of the judiciary is one of the most important criteria of the consolidation of democracy.

Furthermore, for the independence of the judiciary to be effective, there must be an abiding rule of law to ensure the governed and the rulers can be held equally accountable for their reprehensible behavior. In addition, the independence of the judiciary is a guarantee against the rule of force. Indeed, it is obvious that government officials and public servants are in a position of supremacy over the people in that they hold the monopoly on violence through the use of the armed and security forces at their disposal. This authority provides them with critical means of pressure and intimidation. Under these circumstances, abused citizens must have the right to rely on the judiciary to denounce and counterbalance the abuses of the government and its agents. Warning about this critical need for an independent judiciary, aimed at holding officers accountable, Diamond asserts:

Elected executives, state bureaucrats, soldiers, and police cannot be held accountable without a judicial system that has the constitutional and political autonomy to ensure a genuine rule of law. Neither can civil liberties be protected, nor the power of the state constrained without such an institutionalized judicial system.²⁵²

Furthermore, an independent judiciary, as a manifestation of the separation of powers, is vital with regard to the democratic process. Indeed, as discussed previously, the Malian Constitutional Court is invested with the prerogative of assessing and proclaiming the results of the presidential and legislative elections. Therefore, its independence and autonomy appear as a crucial issue on which the legitimacy and the acceptance of the results it proclaims depend. Certainly, the decisions of an impartial judge are easily accepted by the litigants, while those of a partisan judge will be open to challenge.

Regarding the legislative branch, its independence from the executive branch is also required. Only by being independent can the legislative branch challenge the executive and hold it accountable. In this context, the Malian legislature must assert its independence, so it will be able to fulfill its constitutional right to oversight over the activities of the armed and security forces, for which it approves funding and votes on the budget.

In addition to independence, parliamentarians must develop expertise on defense and security related matters, as well. As such, the independence of the legislature goes hand in hand with the development of defense and security expertise. Indeed, the more expertise the members of parliament on this issue, the more efficient their mission becomes.

2. Closing the Gap of Trust between Leaders and Citizens

The restoration of trust between leaders and citizens requires the implementation of genuine measures aimed at ensuring the transparency of democratic governance and the abolition of the uneven judicial system. With regard to the first point, it is important that citizens be able to hold the government accountable without the latter being able to allege secrecy to avoid accountability. Chile has succeeded in this regard since the adoption in 2009 of Law No. 20285, which authorizes Chilean citizens to hold the government directly

²⁵² Diamond, *Developing Democracy: Toward Consolidation*, 111.

accountable. In this context, Mali should be able to draw inspiration from the Chilean example and adopt, in turn, a Law on the Transparency of Government Action, which will allow the Malian citizens to hold the government accountable for the management of public affairs. This law must contain a provision carrying a sanction against any official who refuses to comply with citizens' requests for accountability.

Regarding the second point, it is necessary for the Malian authorities to stop treating citizens differently. All Malians must have the same rights, whether poor or rich. It is therefore inadmissible that while ordinary citizens are commonly tried and convicted for their crimes, others, in positions of authority or influence, appear to enjoy *de facto* immunity. For example, Captain Sanogo and his comrades had never been worried about the coup they committed against the democratic institutions of Mali. Rather, they benefited from an amnesty.²⁵³ Later, Captain Sanogo was promoted to lieutenant general, while his partner in crime, Colonel Moussa Sinko Coulibaly, was promoted to general, provoking outrage from Human Rights Watch, which denounced this “shameful” decision.²⁵⁴ One of the consequences of that decision, beyond the fact that it undermines the trust of citizens in state institutions, is the potential encouragement of the military to perpetrate a coup d'état, which could be a means of paving the way for a rapid promotion.

3. Implementation of Accountable, Corruption-Free Institutions

As the existing anticorruption laws are not enforced, especially when dealing with high-level corruption scandals involving high-ranking officials, Mali must reinvent a new legal framework, aimed at strengthening the current legal arsenal that has failed. The purpose of this reform is to hold accountable those who are entrusted with the mission of fighting against corruption, when they fail to fulfill their tasks. These include the actors of justice, the judicial police, and the administrative control bodies. In this connection, Mali needs to create a National Agency on Transparency, on one hand, and on the other, a Directorate of Inspector General on Corruption.

²⁵³ “Mali: Les Députés Votent une Loi d’Amnistie en Faveur de l’Ex-Junte” [Mali: Parliamentarians Pass Amnesty Law in Favor of Former Junta].

²⁵⁴ “Mali: Le Capitaine Sanogo Promu Général,” [Mali: Captain Sanogo Promoted General].

a. *National Agency on Transparency*

Implemented in Chile, since 2008, the Law on Transparency and Access to Public Information, along with its subsequent Council on Transparency, increases public access to information, as “failures to comply with the law or other measures designed to encourage transparent operations have been punished with fines.”²⁵⁵ In addition, this agency is a useful tool for investigative journalists, who are satisfied with the diligent responses given by the Chilean government to their requests. Therefore, the creation of a National Agency on Transparency is a requirement for Mali, if the country really wants to increase the transparency of government management, including the judicial rulings over corruption cases. In doing so, the future National Agency on Transparency, if created, will tear down the opacity surrounding the activities of the Malian government.

b. *Directorate of Inspector General on Corruption*

The implementation of a Directorate Inspector General on Corruption (DIGC) is essential in the fight against corruption. Indeed, if created, that directorate will be assigned the task of conducting investigations to uncover the root causes of the failure to fight corruption and, secondarily, economic and financial delinquency. The DIGC will be a kind of authority overseeing the work of the judicial actors of corruption (the judiciary, the judicial police, and the control bodies, such as the Auditor General). It will produce reports that could highlight political, social, and moral bias. It may then, in the event of the discovery of any bias or wrongdoing, suggest sanctions against the authors, including dismissal from their positions. In doing so, the DIGC will enhance the accountability and the professionalism of high-ranking officials tasked with the mission to fight against corruption.

All in all, the failure of Malian government officials to comply with laws and their lack of political will to enforce the rule of law explain the decay of democracy and CMRs. Therefore, if Mali is to succeed in redemocratizing its CMRs and consolidating democracy, it must strengthen the rule of law institutions dealing with these two issues. Although the

²⁵⁵ Freedom House, “Freedom in the World 2018, Chile Profile.”

process of redemocratization and the consolidation of democratic institutions may be challenging, people in charge of the process must not despair or give up the task because of the difficulties encountered. Indeed, these difficulties are real: redemocratization is a difficult task, while preventing the breakdown of democracy is another and even more challenging task. These tasks are primarily the responsibility of both civilians and military officials who should work hand in hand for the best interest of the nation, rather than engaging in mutual detestation and animosity.

Defense and security matters are cross-cutting issues. As such, the military alone will not be able to cope effectively. It needs external expertise that can be provided by skilled civilians. Furthermore, the actors of civil society and the media, in particular, have a role to play, especially as watchdogs. They must take this role very seriously. But for that, the government must create the conditions for the exercise of a free and independent press. Ultimately, whether it is civil-military relations, or the promotion of rights and freedoms, the government has the responsibility to create a legal framework, based on the rule of law, to take into account all those aspects that promote the redemocratization of civil-military relations and the consolidation of democracy.

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LIST OF REFERENCES

- Abarca, Juan Andres. "Chile's 'Secret' Copper Law Is Out the Bag." *BNamericas*. December 22, 2016. <http://www.bnamericas.com/en/news/mining/chiles-secret-copper-law-is-out-the-bag>.
- Africapresse*. Paris. "Moussa Mara. "Au Mali, Nous Avons Besoin de Rétablir une Gouvernance Responsable et Vertueuse." [In Mali, We Need to Restore Responsible and Virtuous Governance]. March 23, 2018. <https://www.africapresse.paris/Moussa-Mara-ancien-Premier-ministre-Au-Mali-nous-avons-besoin-de-retablir-une>.
- Al Jazeera*. "Mali: G5 Force Headquarters Targeted in Deadly Attack." June 29, 2018. <https://www.aljazeera.com/news/2018/06/mali-g5-force-headquarters-targeted-deadly-attack-180629175547728.html>.
- . "Mali: Hundreds Killed in Inter-communal Violence this Year." July 17, 2018. <https://www.aljazeera.com/news/2018/07/mali-hundreds-killed-inter-communal-violence-year-180717165055888.html>.
- . "Mali Votes in Presidential Polls Dominated by Security Concerns." July 29, 2018. <https://www.aljazeera.com/news/2018/07/mali-votes-presidential-polls-dominated-security-concerns-180729091749445.html>.
- Assiotis, Andreas, and Kevin Sylwester. "Does Democracy Promote the Rule of Law?." *Journal of Economic Development* 40, no. 1 (2015): 63-92.
- Berlin, Isaiah. *Two Concepts of Liberty*. Oxford: Clarendon Press, 1958.
- Boisvert, Marc-André. "2012: L'Etrange Défaite de l'Armée Malienne." [The Strange Defeat of Malian Army.] *Ultima Ratio*, January 18, 2017. <http://ultimaratio-blog.org/archives/8272>.
- Born, Hans. "Parliamentary and External Oversight of Intelligence Services." In *Democratic Control of Intelligence Services: Containing Rogue Elephants*, edited by Hans Born and Marina Caparini, 163-175. Farnham: Ashgate, 2009.
- Caparini, Marina. "Controlling and Overseeing Intelligence Services in Democratic States." In *Democratic Control of Intelligence Services: Containing Rogue Elephants*, edited by Hans Born and Marina Caparini, 3-24. Farnham: Ashgate, 2009.
- Chalfin, Julie, and Linda Thomas-Greenfield. "The Security Governance Initiative." *Prism: A Journal of the Center for Complex Operations* 6, no. 4 (December 2016). <http://search.proquest.com/docview/1929686291/>.

- Challenges. "Mali: Un Journaliste Malien Arrêté par les Services Secrets." ["Mali: A Malian Journalist Arrested by the Intelligence Services."] May 16, 2012. https://www.challenges.fr/media/mali-un-journaliste-malien-arrete-par-les-services-secrets-confreres_290206.
- Cissé, M. B. "Mali: Commission Défense et Sécurité de l'Assemblée Nationale : Une Visite Instructive en 7ème Région." [Mali: Defense and Security Committee of the National Assembly: An Informative Visit in the 7th Region.] Maliactu.net. April 8, 2016. <http://maliactu.net/mali-commission-defense-et-securite-de-lassemblee-nationale-une-visite-instructive-en-7e-region/>.
- Constitute Project. "Mali's Constitution of 1992." Accessed August 23, 2018. https://www.constituteproject.org/constitution/Mali_1992.pdf?lang=en.
- Deloach, Michael. "And the Truth Shall Set You Free. Truth Commissions and Civil-Military Relations." *Journal of Defense Resources Management* 6, no. 1 (2015): 7-13.
- Diallo, Youssouf. "Indemnisation des Victimes de la Rébellion et du Mouvement Insurrectionnel de Mars 2012 : A Quand la Mise en Place de la Commission d'Evaluation, de Recensement et d'Indemnisation ?" [Compensation for Victims of the Rebellion and the Insurrectional Movement of March 2012: When the Establishment of the Assessment, Census and Compensation Commission?] Maliweb.net. March 3, 2017. <https://www.maliweb.net/la-situation-politique-et-securitaire-au-nord/indemnisation-victimes-de-rebellion-mouvement-insurrectionnel-de-mars-2012-a-mise-place-de-commission-devaluation-de-recensement-dindemnisation-2090872.html>.
- Diamint, Rut. "Latin America and the Military Question Reexamined." In *Debating Civil-military Relations in Latin America*, edited by David R. Mares and Rafael Martínez, 101-27. Brighton, UK: Sussex Academic Press, 2014.
- Diamond, Larry. *Developing Democracy toward Consolidation*. Baltimore: Johns Hopkins University Press, 1999.
- . "Introduction: In Search of Consolidation." In *Consolidating the Third Wave Democracies Themes and Perspectives*, edited by Larry Diamond, Marc F. Plattner, Yun-han Chu, and Hund-mao Tien, xiii-xvii. Baltimore: Johns Hopkins University Press, 1997.
- Diamond, Larry, Seymour Martin Lipset, and Juan J. Linz. *Politics in Developing Countries: Comparing Experiences with Democracy*. Boulder, CO: Lynne Rienner, 1990.
- Drake, Paul W., and Ivan Jaksic. "Introduction: Transformation and Transition in Chile, 1982-1990." In *The Struggle for Democracy in Chile, 1982-1990*, edited by Paul W. Drake and Ivan Jaksic, 1-17. Lincoln: University of Nebraska Press, 1991.

- Dreisbach, Tristan. "Civilians at the Helm: Chile Transforms its Ministry of National Defense, 2010-2014." *Innovations for Successful Societies*. Princeton University, November 2015. https://successfulsocieties.princeton.edu/sites/successfulsocieties/files/TD_Military_Chile_20Nov15.pdf.
- Ebo, Adedeji. *Towards a Code of Conduct for Armed and Security Forces in Africa: Opportunities and Challenges*. Geneva: Centre for the Democratic Control of Armed Forces, 2005.
- Etzioni-Halevy, Eva. "Civil-Military Relations and Democracy: The Case of the Military-Political Elites' Connection in Israel." In *Military and Society Civil-Military Relations*, edited by Peter Karsten, 113-130. New York: Garland, 1998.
- . "Civil-Military Relations and Democracy: The Case of the Military-Political Elites' Connection in Israel." *Armed Forces & Society* 22, no. 3 (1996): 401-417.
- Fernandois, Joaquin, and Michael A. Morris. *Democracy in Chile: Transition and Consolidation, 1987-2000*. Report No. 279. London: Research Institute for the Study of Conflict and Terrorism, 1995.
- Freedom House. "Freedom in the World 2018, Chile Profile." Accessed August 24, 2018. <https://freedomhouse.org/report/freedom-world/2018/chile>.
- . "Freedom in the World 2018, Mali Profile." Accessed August 23, 2018. <https://freedomhouse.org/report/freedom-world/2018/mali>.
- . "Mali Freedom in the World 2013." Accessed August 24, 2018. <https://freedomhouse.org/report/freedom-world/2013/mali>.
- French Republic, Minister of the Armed Forces. "EUTM Mali: Fin de Formation du GTIA Malien Elou." [End of the Training of the Malian GTIA Elou.] Accessed on August 23, 2018. <https://www.defense.gouv.fr/english/operations/operations/actualites/eutm-mali-fin-de-formation-du-gtia-malien-elou>.
- Ginter, Kevin. "Latin American Intelligence Services and the Transition to Democracy." *Journal of Intelligence History* 8, no. 1 (2008): 69-93.
- Heiss, Claudia, and Patricio Navia. "You Win Some, You Lose Some: Constitutional Reforms in Chile's Transition to Democracy." *Latin American Politics and Society* 49, no. 3 (2007): 163-190.
- Holshek, Christopher. "Mali and the Primacy of Civil Authority." Huffpost (Blog). May 28, 2013. https://www.huffingtonpost.com/christopher-holshek/mali-and-the-primacy-of-c_b_3348797.html

- Houssouba, Mohomodou. "Le Nord-Mali aux Mains des Rebelles." [Northen Mali under Rebels' Control.] *Le Monde Diplomatique*, May 9, 2012. <https://blog.mondediplo.net/2012-05-09-Le-Nord-Mali-aux-mains-des-rebelles>.
- Hughes, Sallie, and Claudia Mellado. "Protest and Accountability without the Press: The Press, Politicians, and Civil Society in Chile." *The International Journal of Press/Politics* 21, no. 1 (2016): 48-67.
- Keïta, Ibrahim Boubacar. "Decret No. 0576/P-RM, Fixant l'Organisation et les Modalités de Fonctionnement de l'Etat-Major Général des Armées." [Decree No. 0576/P-RM Regulating the Organization and Operating Procedures of the General Staff of the Armed Forces.] *Journal Officiel de la République du Mali*, no. 32 (August 11, 2017). <http://sgg-mali.ml/JO/2017/mali-jo-2017-32.pdf>.
- . "Loi No. 2014-015/AN-RM Portant Prévention et Répression de l'Enrichissement Illicite." [Law No. 2014-015/AN-RM Regulating the Prevention and the Repression of Illicit Enrichment.] *Journal Officiel de la République du Mali*, no. 26 (June 27, 2014). <http://sgg-mali.ml/JO/2014/mali-jo-2014-26.pdf>.
- . "Loi No. 2015-008/AN-RM, Portant Loi d'Orientation et de Programmation Militaire pour les Années 2015 à 2019." [Loi No. 2015-008/AN-RM: Orientation and Military Programming Act for 2015 to 2019.] *Journal Officiel de la République du Mali*, no. 13 (March 20, 2015). <http://sgg-mali.ml/JO/2015/mali-jo-2015-13.pdf>.
- . "Loi No. 2015-007/ AN-RM Portant Statut de l'Opposition Politique." [Loi No. 2015-007/ AN-RM Regulating the Statute of the Political Opposition]. *Journal Officiel de la République du Mali*, no. 13 (March 20, 2015). <http://sgg-mali.ml/JO/2015/mali-jo-2015-13.pdf>.
- . "Ordonnance No. 2014-003/P-RM, Portant Création de la Commission Vérité, Justice et Réconciliation." [Ordinance No. 2014-003/P-RM Creating Truth, Justice, and Reconciliation Commission.] *Journal Officiel de la République du Mali*, no. 3 (January 17, 2014). <http://sgg-mali.ml/JO/2014/mali-jo-2014-03.pdf>.
- . "Ordonnance No. 2016-020/P-RM Portant Statut Général des Militaires." [Ordinance No. 2016-020/P-RM on the General Statute of the Military.] *Journal Officiel de la République du Mali*, no. 41 (October 7, 2016). <http://sgg-mali.ml/JO/2016/mali-jo-2016-41.pdf>.
- Keïta, Mohamed Naman. "Lutte Contre la Corruption : IBK Invite les Magistrats à Agir," [Fighting Corruption : IBK Invites Magistrates to Act.] NiarelaNet. Accessed August 23, 2018. <https://niarela.net/societe/justice/lutte-contre-la-corruption-ibk-invite-les-magistrats-a-agir>.

- Kohn, Richard H. "How Democracies Control the Military." *Journal of Democracy* 8, no. 4 (1997): 140-153.
- Konaré, Alpha Oumar. "Loi No. 01-79/AN-RM Portant Code Pénal." [Loi No. 01-79/AN-RM Regulating the Penal Code.] Secrétariat Général du Gouvernement. August 20, 2001. <http://sgg-mali.ml/codes/mali-code-2001-penal-maj-2016.pdf>.
- Le Goff, Antoine. "Mali: Les Enjeux d'une Révision Constitutionnelle qui Suscite l'Opposition." [Mali: The Stakes of a Constitutional Revision That Stimulates the Opposition.] *Le Monde Afrique*, June 16, 2017. http://www.lemonde.fr/afrique/article/2017/06/16/au-mali-les-enjeux-d-une-revision-constitutionnelle-qui-suscite-l-opposition_5145775_3212.html.
- Linz, Juan J., and Alfred Stepan. *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-communist Europe*. Baltimore: Johns Hopkins University Press, 1998.
- . "Toward Consolidated Democracies." In *Consolidating the Third Wave Democracies: Themes and Perspectives*, edited by Larry Diamond, Marc F. Plattner, Yun-han Chu, and Hund-mao Tien, 14-33. Baltimore: Johns Hopkins University Press, 1997.
- Malizine.com. "Échange Entre la Commission de la Défense de l'Assemblée Nationale et le Ministre Tiéna Coulibaly." [Exchange between the Defense Committee of the National Assembly and Minister Tiéna Coulibaly.] April 15, 2018. <http://malizine.com/2018/04/15/echange-entre-la-commission-de-la-defense-de-lassemblee-nationale-et-le-ministre-tiena-coulibaly/>.
- Matei, Florina Cristiana. "A New Conceptualization of Civil-Military Relations." In *The Routledge Handbook of Civil-Military Relations*, edited by Thomas C. Bruneau and Florina Cristiana Matei, 26-38. London: Routledge, 2015.
- . "The Case of Mali." In *Security Forces in African States: Cases and Assessment*, edited by Paul Shemella and Nicholas Tomb, 103-122. Amherst, NY: Cambria Press, 2017.
- Matei, Florina Cristiana, and Andres de Castro Garcia. "Chilean Intelligence after Pinochet: Painstaking Reform of an Inauspicious Legacy." *International Journal of Intelligence and Counter Intelligence* 30, no. 2 (February 2007): 340-367.
- Matei, Florina Cristiana, and Marcos Robledo. "Democratic Civilian Control and Military Effectiveness: Chile." In *The Routledge Handbook of Civil-Military Relations*, edited by Thomas C. Bruneau and Florina Cristiana Matei, 283-295. London: Routledge, 2012.

- Montes, J. Esteban, and Tomás Vial. "The Role of Constitution-Building Processes in Democratization: Case Study Chile" *International IDEA Democracy-building & Conflict Management* (May 2005). http://www.constitutionnet.org/sites/default/files/cbp_chile.pdf
- Niarela.net. "Mali: Echange Entre la Commission de la Défense de l'Assemblée Nationale et le Ministre Tiéna Coulibaly." [Mali: Exchange between the Defense Committee of the National Assembly and Minister Tiéna Coulibaly.] Accessed on August 23, 2018. <https://niarela.net/societe/mali-echange-entre-la-commission-de-la-defense-de-lassemblee-nationale-et-le-ministre-tiena-coulibaly>.
- Olmeda, José A. "Escape from Huntington's Labyrinth: Civil-Military Relations and Comparative Politics." In *The Routledge Handbook of Civil-Military Relations*, edited by Thomas C. Bruneau and Florina Cristiana Matei, 61-76. London: Routledge, 2015.
- Oppenheim, Lois Hecht. *Politics in Chile: Democracy, Authoritarianism, and the Search for Development*. Boulder, CO: Westview Press, 1993.
- Ouestaf. "Le Mali, Champion Ouest Africain des Dépenses Militaires." [Mali, West African Champion of Military Expenditures] April 24, 2018. <https://www.ouestaf.com/le-mali-champion-ouest-africain-des-depenses-militaires/>.
- Le Pays*. "Descente Musclée des Eléments de la SE Dans les Locaux de l'Agence de Communication Smart: Des Matériels de Production Saisis et des Agents Arrêtés Puis Relaxés." [Muscular Raid of the Elements of SE in the Premises of Smart Communication Agency: Production Equipment seized, Agents Arrested and then Relaxed.] August 13, 2018. <https://www.maliweb.net/politique/descente-musclée-des-elements-de-la-se-dans-les-locaux-de-lagence-de-communication-smart-des-materiels-de-production-saisis-et-des-agents-arretes-puis-relaxes-2772223.html>.
- Przeworski, Adam. *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America*. New York: Cambridge University Press, 1999.
- RFI Afrique*. "Mali: Le Capitaine Sanogo Promu Général." [Mali: Captain Sanogo Promoted General]. August 14, 2013. <http://www.rfi.fr/afrique/20130814-mali-le-capitaine-sanogo-promu-general>.
- . "Mali: Les Députés Votent une Loi d'Amnistie en Faveur de l'Ex-Junte." [Mali: Parliamentarians Pass Amnesty Law in Favor of Former Junta] May 19, 2012. <http://www.rfi.fr/afrique/20120519-mali-deputes-votent-une-loi-amnistie-faveur-ex-junte>.

- . “Mali: IBK Fait de La lutte Contre la Corruption Une Priorité pour 2014.” [Mali: IBK’s Fight Against Corruption, A Priority for 2014.] January 2nd, 2014. <http://www.rfi.fr/afrique/20140102-mali-ibk-fait-lutte-contre-corruption-une-priorite-2014>.
- . “Mali: Renforcement des Capacités Aériennes de l’Armée.” [Mali: Strengthening the Army Aerial Capabilities.] October, 4, 2017. <http://www.rfi.fr/afrique/20171004-mali-renforcement-capacites-aeriennes-armee>.
- . “Mali: Soupçons d’Exécutions Sommaires par des Fama Près de Mopti.” [Mali: Suspicions of Summary Execution by Fama near Mopti.] March 27, 2018. <http://www.rfi.fr/afrique/20180327-mali-soupcons-executions-sommaires-fama-pres-mopti>.
- Sahelien.com*. “Mali : L’Opposition Proteste Contre la Nouvelle Loi Electorale.” [Mali: Opposition Protests Against the New Electoral Law.] October 1, 2016. <http://sahelien.com/mali-lopposition-proteste-contre-la-nouvelle-loi-electorale/>.
- Schedler, Andreas. “What is Democratic Consolidation?.” In *The Global Divergence of Democracies*, edited by Larry Diamond and Marc F. Plattner, 149-164. Baltimore: Johns Hopkins University Press, 2001.
- Schmitter, Philippe. “The Consolidation of Political Democracies: Processes, Rhythms, Sequences, and Types.” In *Transitions to Democracy: Comparative perspectives from Southern Europe, Latin America and Eastern Europe*, edited by Geoffrey Pridham, 536-660. Aldershot, UK: Dartmouth, 1995.
- Segbedji, Bruno D. “Mali: Adoption de la Loi de Finances 2018 par l’Assemblée Nationale: Plus de 300 Milliards FCFA de Déficit Budgétaire à Combler.” [Mali: Adoption of the 2018 Finance Act by the National Assembly: More than 300 billion CFA Francs of Budget Deficit to Be Met.] Maliactu.net. December, 19, 2017. <http://maliactu.net/mali-adoption-de-la-loi-de-finances-2018-par-lassemblee-nationale-plus-de-300-milliards-f-cfa-de-deficit-budgetaire-a-combler/>.
- Sejersted, Francis. “Democracy and ‘the Rule of Law’. Some Historical Experiences of Contradictions in the Striving for Good Government.” *Social Science Information* 18, no. 6 (December 1979): 945-966.
- Sissoko, A. D. “Mali : Commission Vérité, Justice et Réconciliation: A Pied d’Œuvre.” [Mali: Truth, Justice and Reconciliation Commission: At Work.] Maliactu.net. April 22, 2016. <http://maliactu.net/mali-commission-verite-justice-et-reconciliation-a-pied-doeuvre/>.

- Sissoko, Sambou. "Mali: La Corruption : Une Pathologie Sociale ou un Mal Culturel dans Notre Pays?." [Mali: Corruption: A Social Pathology or Cultural Evil in Our Country ?.] Maliactu.net. August 30, 2017. <http://maliactu.net/mali-la-corruption-une-pathologie-sociale-ou-un-mal-culturel-dans-notre-pays/>.
- Sogodogo, Bréhima. "Mali: Aide Publique aux Partis Politiques: 22 Partis Politiques se Partagent Près de 2 Milliards de FCFA." [Mali: Public Aid to Political Parties: 22 Political Parties Are Providing Nearly 2 Billion FCFA.] Maliactu.net. June 2, 2017. <http://maliactu.net/mali-aide-publique-aux-partis-politiques-22-partis-politiques-se-partagent-pres-de-2-milliards-de-f-cfa/>.
- Sørensen, Georg. *Democracy and Democratization: Processes and Prospects in a Changing World*. Boulder, CO: Westview, 1998.
- Tiékorobani. "Leader de l'Opposition: Un Budget de 500 Millions de Francs CFA pour l'Année 2016." [Official Leader of the Opposition: 500 Million Francs CFA Budget Granted for the Year 2016.] *MaliJet*, December 15, 2015. <http://malijet.com/actualite-politique-au-mali/142275-leader-de-l-opposition-un-budget-de-500-millions-de-francs-cfa-p.html>.
- Toure, Amadou Toumani. "Loi No. 04-051/AN-RM, Portant Organisation Générale de la Défense Nationale." [Law No. 04-051/AN-RM on General Organization of National Defense.] Présidence de la République. November 23, 2004.
- . "Loi No. 05-047/ AN-RM, Portant Charte des Partis Politiques." [Loi No. 05-047/ AN-RM Regulating the Charter of Political Parties.] *Journal Officiel de la République du Mali*, no. 30 (October 31, 2005). <http://sgg-mali.ml/JO/2005/mali-jo-2005-30.pdf>.
- Traoré, Salif, Colonel-Major. "Arrêté No. 2016-0592/MSPC-SG, Portant Création et Composition d'Une Force Spéciale Anti-Terroriste de Sécurité," [Arrêté No. 2016-0592/MSPC-SG, Creation and Composition of a Special Anti-Terrorist Security Force.] *Journal Officiel de la République du Mali* 9 (March 3, 2017). <http://sgg-mali.ml/JO/2017/mali-jo-2017-09.pdf>.
- Truth, Justice, and Reconciliation Commission of Mali. "Les Antennes Régionales de la Commission Vérité Justice et Réconciliation." [Regional Antennae of the Truth, Justice, and Reconciliation Commission.] *Commission Vérité, Justice et Réconciliation (C.V.J.R.)*. Accessed August 23, 2018. <http://cvjrmali.com/commission/antennes-regionales/>.
- . "Plan d'actions de la Commission Vérité, Justice et Réconciliation (2016-2018)." [Action Plan of the Truth, Justice and Reconciliation Commission (2016-2018).] *Commission Vérité, Justice et Réconciliation (C.V.J.R.)*. Access on 23 August, 2018. <http://cvjrmali.com/data/documents/Plan-daction-2016-2018-FINAL.pdf>.

- U.S. Department of State, Bureau of Democracy, Human Rights, and Labor. "2016 Country Reports on Human Rights Practices: Mali." March 3, 2017. <https://www.state.gov/j/drl/rls/hrrpt/2016/af/265276.htm>.
- Valenzuela, J. Samuel, and Arturo Valenzuela. "Introduction." In *Military Rule in Chile Dictatorship and Oppositions*, edited by J. Samuel Valenzuela and Arturo Valenzuela, 1. Baltimore: Johns Hopkins University Press, 1986.
- VOA Africa. "Vingt-Cinq Corps Retrouvés à la Suite d'Arrestations de l'Armée au Mali." [Twenty-Five Dead Bodies Found Following Arrests made by The Malian Army.] June 18, 2018. <https://www.voaafrique.com/a/vingt-cinq-corps-retrouv%C3%A9s-%C3%A0-la-suite-d-arrestations-de-l-arm%C3%A9e-au-mali/4443519.html>.
- Welch, Claude E., and Arthur K. Smith. *Military Role and Rule: Perspectives on Civil-Military Relations*. North Scituate, MA: Duxbury Press, 1974.
- Wikipedia. s.v. "Justice delayed is justice denied." Accessed August 23, 2018. https://en.wikipedia.org/wiki/Justice_delayed_is_justice_denied.
- Young, Thomas-Durell. "Military Professionalism in a Democracy." In *Who Guards the Guardians and How: Democratic Civil-Military Relations*, edited by Thomas C. Bruneau and Scott D. Tollefson, 17-33. Austin: University of Texas Press, 2006.

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