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Latin America Erupts

RE-FOUNDING CHILE

Claudia Heiss

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In May 2021, Chileans voters chose a 155-member Constitutional Convention to completely rewrite the basic law devised four decades ago by the late military dictator, General Augusto Pinochet. The election was part of a constitution-making process that is the most important political event to happen in Chile since its return to democracy three decades ago. Lists of independents, with no partisan affiliation, were the biggest winners, taking 48 seats. The right-wing list *Vamos por Chile* obtained 37, while the center-left *Lista del Apruebo* won 25 and the left-wing *Apruebo Dignidad* garnered 28 seats. The remaining seventeen seats were reserved for representatives of Chile's indigenous peoples. The result was thus a fragmented body where no group controls enough votes to either approve or block proposals by itself.

The vote had been mandated by an October 2020 national plebiscite in which voters had opted overwhelmingly for rewriting the constitution and giving the task entirely to a newly elected constituent assembly. Both proposals, the full rewrite and the special body, drew 78 percent support. The plebiscite capped a period of nationwide protests wider and more intense than any seen since the Pinochet era ended in 1990.

The historic importance of this constitutional moment can hardly be exaggerated. In writing a new fundamental law for the Republic of Chile, the Convention has an opportunity to deepen and rejuvenate a democracy from which Chileans had come to feel increasingly detached. Will the process be able to undo the discord between social norms and formal institutions¹ and bring them into tune, or will the result be a more polarized politics and a deeper crisis of institutions, as some fear?

It is important to review the political context that led to the demand for a new constitution, the link between social discontent and the fundamental law, the nature of the 2019 uprising, the political-party agree-

ment to respond to the crisis, and the surprising results of the May 2021 elections. Chile's re-foundational moment appears as a great challenge, but also as an opportunity to democratically and peacefully resolve a long-running political conflict.

Comparative politics has often seen Chile, together with Costa Rica and Uruguay, as regional outliers that have been spared the institutional weakness so characteristic of postcolonial polities in Latin America. Instead of internal strife and populist *caudillismo*, Chile after winning independence from Spain in the first decades of the nineteenth century experienced early state institutionalization. A stable and programmatic political-party system emerged, albeit within a context of social and economic inequality that was typical for the region. When the Cold War brought a wave of military dictatorships in the 1970s, however, Chile was not immune. Pinochet seized power in a 1973 coup, ushering in seventeen years of dictatorship and human-rights abuses. With democracy's peaceful return in 1990, Chile seemed once again a regional model of stability. Over the next two decades, the center-left coalition known as the Concertación de Partidos por la Democracia governed effectively. Social spending to support vulnerable groups rose, and poverty fell sharply from more than 40 percent to less than 10 percent. This was made possible by high economic growth: Chile's GDP grew an average of 7.4 percent a year between 1990 and 1998.

The four Concertación governments were led by two Christian Democrats during the 1990s (presidents Patricio Aylwin and Eduardo Frei), and two Socialists from 2000 to 2010 (presidents Ricardo Lagos and Michelle Bachelet). The Bachelet government marked the beginning of the end of the Concertación, and in January 2010 Chileans made Sebastián Piñera the first right-wing president to be elected since 1958. The next cycle did not bring new leaders to power. Instead, Bachelet defeated Piñera's labor minister (immediate presidential reelection has been banned by Chilean constitutions since 1871) to win a second term, and Piñera succeeded her to win his own nonconsecutive second term, which began in March 2018. On the surface, Chile's democracy looked steady and, to judge from its Freedom House scores, consistently liberal.

To say that the massive social uprising touched off by the students' transit-fare protest of 18 October 2019 took many by surprise would be a huge understatement. One could go nowhere in political or media circles without hearing the refrain, "We didn't see it coming." Yet the signs had been there for years—political elites simply chose to ignore them. Reports by the UN Development Programme (UNDP) had for at least a decade warned that plummeting voter turnout was a peril to democracy. Several studies described an increasing gap between citizens and elites, and a worrying inability of institutions to channel social demands. A 2011 scholarly paper cautioned that Chile's political system was "uprooted but stable,"² signaling that while political parties may

have seemed healthy on the surface, they had lost their ties to citizens and therefore the grounds for truly democratic and legitimate decision making. Polls showed sagging trust in political and social institutions including parties, Congress, the Catholic Church, and the police.³

A nationwide mobilization as massive as the one that began in October 2019 no doubt must have many causes. An economic downturn had intensified discontents over low wages and scanty pensions, as well as healthcare, schooling, and housing that were often hard to come by, expensive, and of doubtful quality. According to the World Bank, the Chilean economy had grown an average of 2 percent a year from 2014 through 2018, half what the rate had been from 2008 through 2013, when prices were high for Chile's main export, copper (in a given year, Chile mines more than a third of the world's supply of this key metal). As the economy slowed, household indebtedness spiked, going from 58 percent of annual income in 2013 to a staggering 73 percent in 2018, according to data from the Central Bank. In particular, lower-income Chileans were finding themselves forced to borrow to obtain basic goods such as food, education, and clothing. Faulty oversight and regulation left the poor exposed to abusive credit practices.⁴

Why a Whole New Constitution?

Democratic theory has been much occupied lately with the growing loss of trust that is plaguing the institutions of representative democracy the world over. Chile fits this pattern, with its own unique circumstances traceable to the particular way in which it made the transition back to democracy 31 years ago. While the democratic political process has allowed some changes—the late legalization of divorce, civil unions for unmarried couples, and the antidiscrimination law to protect sexual minorities, for example—there are other policy areas where the system has been more rigid. These include the relationship between the state and markets, and the conception of citizenship and rights that is enshrined in public institutions.

Institutional rigidity, inherited from the period of Pinochet's authoritarian rule, is key to understanding the current crisis of Chilean democracy. The 1980 Constitution was designed to entrench the primacy of the market in the provision of social services such as education, healthcare, and pensions. It was also meant to create a "protected democracy," meaning a political system insulated against social pressures that the outgoing military regime and its political allies thought could destroy economic freedom. The regime's preference for minimal public intervention in the economy was embodied in the concept of a "subsidiary state" that entrenched a preference for market solutions to public problems, with freedom to choose between public and private services preferred over the right to social protection. The declared goal of avoiding

state monopolies turned into guaranteeing private enterprise a preferential role in any public activity. According to the constitution, only where market players fail to act may the state intervene.

Even after more than a decade of intense social mobilization, President Piñera in an interview called Chile an oasis of stability in Latin America.

As Pinochet himself said, the 1980 Constitution was also meant to give the armed forces a permanent political role as the “securing power” of the nation; to limit pluralism by forbidding doctrines, groups, and persons of totalitarian inspiration; to replace universal suffrage with a “mixed” Congress that included some military-appointed senators; and to dispense with political parties as much as possible.⁵ While sharing with Chile’s constitutions of 1833 and 1925 a marked

preference for presidentialism and the unitary state, the new text was a departure in giving the military a political role, in blocking majority rule in more cases, and in distancing political parties from civil society.

The 1980 Constitution’s legitimacy has always been in doubt. It was crafted by Pinochet’s handpicked legal experts, and the referendum campaign that resulted in its approval (by an official 66 percent) was one-sided, with the seven-year-old Pinochet dictatorship (it still had a decade to run) weighing in heavily in favor of a yes vote while restricting opponents. Numerous amendments since then have not cured all the democratic deficits in this authoritarian-forged basic law.

The transition to democracy started in 1990, after Pinochet lost an October 1988 plebiscite asking whether he should stay in power for another eight years. The transition proceeded by a process of filtering through various nooks and crannies left open amid the dictatorship’s “enclaves.”⁶ This meant keeping Pinochet as top military commander until 1998 and then as senator-for-life until his arrest in London in October of that year for crimes against humanity. Appointed senators and four military-service chiefs beyond the president’s unilateral dismissal authority remained in place until the constitutional reform of 2005, fifteen years after the restoration of civilian rule. An amendment to abolish the military’s tutelary role required right-wing votes. The price for these was a strengthening of the Constitutional Tribunal that heightened the countermajoritarian and change-resistant aspects of the system. The 2005 reform even allowed the Constitutional Tribunal to overturn a law approved by Congress—a type of judicial review previously unknown in Chile. In 2018, the Tribunal annulled a law granting the National Consumer Protection Service the ability to punish violations of consumers’ rights. The ruling caused public outrage in light of recent cases of collusion and abusive practices by the retail sector.

The Tribunal’s standing suffered from a perception that political al-

ligiance played too large a role in appointments to it, and from occasions when it blocked laws that enjoyed strong public support, as if it were a “third chamber” of Congress.⁷ The Tribunal functioned as one of the old constitution’s “traps” or “locks.”⁸ Another locking device was the extreme difficulty of amending the 1980 Constitution—requiring three-fifths or even two-thirds of each house of Congress. In January 2020, for example, a bill seeking to declare water a constitutional public good failed in the Senate even though it had 24-to-12 support—it was five senators short of the two-thirds majority it needed in that 43-member body. The supermajority requirement existed because the Pinochet dictatorship had put private water rights in the special category of “entrenched” constitutional provisions. Too often, rules such as this have meant that a minority has had veto power to bar changes to constitutional norms which were handed down during the authoritarian era.

Extending the countermajoritarian principle beyond the constitution and into legislation were the Organic Constitutional Laws. Unknown before the 1980 Constitution, these can only be modified by a four-sevenths vote of each house of Congress. Some of these laws were written in a rush during early 1990, just weeks before Pinochet stepped down, with the evident goal of tying the hands of the incoming civilian administration.

The popular legitimacy of the constitution was also undermined by the binomial electoral system, which used a proportional rule to elect two representatives from each district. This applied to all districts for seats in both the Senate and the Chamber of Deputies. The leading beneficiary of this system was the largest minority, or in other words, the rightist coalition. To win one of the two seats in a district, the right needed a third of the votes plus one. This guaranteed the right-wing minority a share of congressional seats close in size to the majority’s, but based on as little as a third of the vote. It also boosted the right’s representation in Congress above the three-sevenths needed for a veto on any change to the Organic Constitutional Laws.⁹

For three decades, the binomial system created incentives for candidates to run in two broad coalitions, one center-left and the other right-wing. The outsized representation of the rightist minority in Congress prevented the Concertación from passing meaningful political reforms.¹⁰ In addition, the system made it almost impossible for third forces to compete, leaving new political actors feeling shut out and frustrated.

The binomial system fed popular disaffection with electoral politics. The system drained the uncertainty and competitiveness from congressional elections, as the real politicking occurred beforehand within each coalition (since a spot on the list was what mattered) rather than between rival parties and candidates vying publicly for the support of general-election voters. This distorting system was only abandoned in 2015, a quarter-century after the return of democratic rule. It was replaced by a

proportional system with gender quotas for candidacies, which was applied for the first time in the 2017 election.

The binomial electoral formula came to symbolize a political system locked in ice. Rather than channeling social demands, the elites of the center-left and the right—people came to call them the “duopoly”—were making decisions among themselves. Even outside elections, a “binomial” political culture required both sides to agree on a host of matters. The right and some on the center-left viewed this situation as typifying a consensual democracy of the sort that Arend Lijphart had identified in his 1984 study of Belgium and the Netherlands. This argument is disingenuous, however. In Chile, the supposed consensus was in truth the result of veto power applied by the right-wing minority to maintain a status quo imposed by force, not (as in Lijphart’s conception) the fruit of a democratic negotiation aimed at integrating different social views.¹¹

“It’s Not 30 Pesos, It’s 30 Years”

The post-transitional immobilism that some had mislabeled consensus had since the mid-2000s increasingly become exposed as untenable. During this period, Chile witnessed a growing contradiction between the conservative institutional biases built into the 1980 Constitution and the progressive demands of a frustrated and highly mobilized civil society. The 2006 student protests, led by teenagers who demanded the end of schools that were publicly funded but run for profit, started an era of contentious politics that persists today. The 2006 movement strongly contributed to a growing awareness of a link between social demands and criticism of archaic political rules. Massive protests started again in 2011 with university students demanding better-quality and free education, in a system highly unregulated and funded mainly through private debt in the financial market.

Social movements’ agendas included protection of the environment and bans on polluting energy projects; demands for recognition of the rights of indigenous peoples and sexual minorities; a strong feminist movement; rejection of the private pension system; demands for a better provision of public health and housing; and protests in different jurisdictions demanding the decentralization of political decisions.¹² Even after more than a decade of intense social mobilization, President Piñera in an interview called Chile an oasis of stability in Latin America.¹³ Just a day after the *Financial Times* printed those words, they became a symbol of the political elite’s disconnect from the ferment that had been going on in society.

The uprising of 18 October 2019 was triggered by a hike of 30 pesos (less than a nickel in U.S. terms) in the fare to ride the Santiago subway system. Students jumped turnstiles. There were pot-banging demonstrations and massive marches throughout the country. On October 25, more

than a million people gathered peacefully in downtown Santiago, with another two million around the country—about a sixth of the total population of around eighteen million. No particular organization claimed responsibility for organizing these marches, and political-party banners were conspicuously absent. Unlike the social movements of the previous decade, this time there was not one particular demand but a general call for “dignity.” Protesters said that they were not marching on account of thirty pesos, but rather to protest thirty years of abuse and a dearth of effective social rights.

Along with peaceful protests there were still-murky episodes of violence, including looting and burning of public and private property. On October 19, President Piñera declared a state of emergency. Over the next two days, nineteen such decrees were issued in different areas throughout Chile. In each instance, the decree put a senior military officer in charge of keeping order within a geographic area defined by the declaration.

Confrontations between protesters and authorities led to serious human-rights violations. Thirty-four people died, five of them at the hands of law enforcement. The National Institute of Human Rights lodged close to three-thousand judicial complaints against state agents for homicide, torture, cruelty, sexual violence, and excessive use of force. Nearly all the complaints (94 percent) named the Carabineros, Chile’s uniformed national police force.¹⁴

The social demands behind the uprising are inseparable from the demands for political change. On the one hand, there was a perception of abuse by a system where the market reigns supreme and (despite the country’s relative wealth) the state performs poorly in providing social services and preventing market-distorting practices such as collusion. On the other hand, the traps and locks of the 1980 Constitution made electoral politics seem irrelevant, leading to boiling frustration at the futility of seeking change through institutional means. For years, voter turnout, political-party membership, and the legitimacy of institutions had been falling; in 2019, the political energy that might have gone into party politics and election campaigns found expression in the streets. Between 1989 and 2017, voter turnout at legislative elections dropped from 87 to 47 percent.¹⁵ The highest level of political trust, right after the return of democracy in 1990, was slightly under 60 points on a 100-point scale. Between 1995 and 2010 political trust remained relatively stable around 30 to 40 points. After 2011, however, a drop in confidence brought this figure to historic lows of around 20 points.¹⁶

The social uprising and the demand for institutional change bespoke rejection of both the ruling groups and political representation. Several studies have shown a massive gap between the perceptions and preferences of political, social, and economic elites and those of ordinary citizens. In 2015, the UNDP found just 25 percent elite approval of stronger state intervention in healthcare, education, pensions, and copper mining,

while citizens outside elite circles approved these ideas at rates about fifty points higher.¹⁷ Similarly, a 2021 study concluded that the social role of the state seemed irrelevant to economic elites, with only 28 percent in favor of increasing state responsibility to guarantee the livelihood of all. In contrast, the idea had the support of 54 percent of the public as a whole. Economic elites ran 62 percent in favor of increasing the number of companies and industries in private hands, while only 19 percent of the public felt the same way.¹⁸ Distrust of politicians was fueled by several political-funding scandals and proof of corporate involvement in legislation.¹⁹

Criticism of elite detachment from the reality experienced by the majority of Chileans was clearly a triggering factor of the October 2019 uprising. Piñera's finance minister responded to reports of inflation by jokingly calling on "romantics" to buy flowers, which had dropped in price. The economy minister suggested that people could avoid peak transit fares by getting up earlier.²⁰ In late May 2020, amid criticism of the government's covid-19 response, the health minister admitted that he had not realized how poor and overcrowded parts of Santiago are.²¹

At least two factors help to explain the chasm between society and politics. The first is the decision that center-left political parties made early in the transition to demobilize civil society for the sake of stability. The second is the difficulty of generating a truly representative political system in a context of acute socioeconomic inequality.²² With a Gini coefficient of 0.46 as of 2017, Chile has one of the most unequal income distributions in the 38-member OECD.²³ Chile's reduction of inequality resulting from taxes and transfers, moreover, is the lowest in the group, reaching only 5 percent compared to an OECD average of about 25 percent.²⁴ The perception that the elites who run the country live cut off from the reality that most Chileans must deal with has caused a serious governance problem and ended the so-called consensus politics left over from the 1990s.

As noted, the Concertación opted early after taking office to demobilize the social forces that had been protesting the dictatorship since 1983. Centrist and leftist politicians emphasized elite-level dealmaking and let grassroots ties lapse. Rising disaffection and falling turnout flowed at least in part from this decision to make Chile a "low-intensity democracy."²⁵ Elite-centered politics and the market-centered economic model left many Chileans feeling excluded from access to what they deemed basic social rights. As Juan Pablo Luna wrote in 2016 using terms first laid out by Guillermo O'Donnell, post-transition Chile built a political system of solid horizontal accountability but weak vertical accountability,²⁶ resulting in serious democratic deficits.

The rejection of a system of elections and representation that seemed exclusionary, as well as demands for enhanced citizen participation, reached presidential politics in 2005, with Michelle Bachelet's first campaign. Seeking to distinguish herself from her smoke-filled-room predecessors, Bachelet vowed that if elected, she would give parties

a lesser role in order to promote a participatory government centered around citizens. Her administration, the fourth (and as it turned out, the last) of the Concertación, did focus on a social-protection agenda that featured pension reform and free preschool. Bachelet was popular but could not immediately succeed herself. The Concertación's next standard-bearer, Christian Democrat and former president Eduardo Frei, lost the January 2010 runoff to Piñera, 51.6 to 48.4 percent. In 2013, as it prepared for another run at the presidency, the Concertación coalition began to fall apart. The Communists and other smaller parties to the left joined, and under the name New Majority the alliance began stressing internal programmatic cohesion. By 2017, this proved too much for the Christian Democrats, and they put forward their own presidential candidate outside the pact.

The 2015 reforms that diluted the binomial system brought new incentives for electoral fragmentation. To the left of the New Majority, the Broad Front (FA) emerged to contest the 2016 municipal elections, while new conglomerations such as Political Evolution (Evopoli) and Amplitud appeared on the right.

The Christian Democrats' exit from New Majority marked the end of the coalition that had defeated Pinochet in the 1988 plebiscite. Some mourned the Concertación's demise and feared that its absence would make coherent governance harder. Others felt that the pact had always been mostly a matter of electoral convenience without much of a substantive platform or many real achievements to offer. As far back as 1997, the Chilean sociologist Tomás Moulian had accused the Concertación of merely giving the dictatorship's harsh social and economic model a "human face" to hide behind.²⁷

The Parties and the Crisis

To resume the story of 2019, after a month of upheaval, and following a particularly violent day of protests, almost all the political parties represented in Congress signed an agreement in the early hours of November 15 to open a path to replacing the 1980 Constitution. In addition to establishing the main procedures for the process, this accord said that all the articles of the new constitution would require approval by two-thirds of the constitution-drafting body. The accord also held that in the absence of agreement, no rule would apply by default, a provision known as the "blank slate." In December, Congress approved a plan to hold an initial referendum to decide whether the document should be replaced, and if so, how (either by a body comprising Congress plus specially elected delegates, or by a wholly new body elected for the sole purpose of writing a new basic law). There would be a second referendum (assuming the first passed) to give voters the final say on adopting or rejecting the new document.

The first referendum was to be held in April 2020, but the pandemic forced two postponements and it went forward in late October. That vote drew 51 percent of the electorate to the polls—a significant showing given the low turnout that has become a feature of political life in Chile. As noted above, the verdict was clear, with slightly more than 78 percent calling for both a new constitution and the full election of a special assembly (rather than the one that would have included Congress) to draft it. The defeat of the mixed-assembly option was seen as a rejection of political parties. Turnout was lower than usual in wealthy districts, perhaps because the “no” option on the constitution-making process had come to be seen as a lost cause. By contrast, young voters and those with lower incomes—segments of the electorate often missing at the polls—upped their participation significantly.

According to the agreed calendar, the 155 members of the Constitutional Convention, elected by open-list proportional representation,²⁸ will convene at the beginning of July 2021. The Convention will then elect its president and vice-president and approve its internal rules or “reglamento.” The Convention may meet for up to a year, after which the constitutional draft must be submitted to the second plebiscite for popular ratification.

In an effort to overcome skepticism in the face of a political system perceived as elitist and exclusionary, the electoral law was modified for the Convention elections. The new law took systematic steps to ensure the inclusion of women, indigenous peoples, independents, and persons with disabilities. As a result, the Constitutional Convention of 2021 will be the first institution in Chile, and the first national constitutional convention in the world, with a gender-parity norm that guarantees an almost even balance between men and women. It will also have seventeen seats reserved for representatives of indigenous peoples, giving them a share of the Convention (11 percent) that equals their share of the national population. Independent candidates were allowed to form their own lists,²⁹ a prerogative normally reserved for political parties, and a 5 percent quota for candidates with disabilities was established. All these provisions were subjected to heated debate in Congress. The electoral rule for the Convention was, after all, designed by the same political parties that had won their seats in Congress through the existing electoral law. Modifications were the result of antiparty social pressure and public opinion sympathetic to the feminist movement and to the idea of a more inclusive representative system generally.

The May Elections: Independents Irrupt

The May 15 and 16 elections came as a shock. Held over two days to avoid crowds during the pandemic, the voting yielded results that left pollsters, pundits, and party politicians alike wide-eyed. This time around, it was true that nobody saw it coming. The greatest surprise was

the irruption of independent candidates, persons without formal partisan affiliation. Blowing past all estimates, 48 full independents gained Convention seats, and to them were added another 56 candidates nominally chosen from lists who are nonetheless *de facto* independents. All told, 67 percent of the Constitutional Convention has no party affiliation.

From almost eighty independent lists that competed throughout the country, the most organized at the national level obtained the best results: 24 seats for the People's List, 11 for Non-Neutral Independents, and 8 for Social Movements. These lists lean left and denounce political parties. The Non-Neutrals feature professionals—some of them quite well known—from the center-left, while the other two are more grassroots and local and reflect environmental, feminist, and water-rights concerns.

The unexpected success of independents sparked an intense debate about how to make the system more representative without sacrificing programmatic and national projects to personalistic or spasmodic electoral adventures. Left-wing deputies introduced a bill in Congress to allow independent lists to run in the upcoming (November 2021) congressional election. Even if this seems unlikely to pass before November, there is broad citizen support for the idea, and it raises the related questions of how best to democratize political participation, and whether political parties can be rescued from their current state of almost nonexistent (2 percent) public support. Can parties, in other words, be made more democratic without also being made to disappear? Chilean parties may have much to answer for, but complete and total de-institutionalization could prove a political remedy worse than the disease.

A second surprise was the right's poor showing. Rightist parties ran as a united list bringing together three traditional right-of-center allies with one party farther to the right. Leftist parties were spread across three lists. Since the proportional electoral rules favor unified lists, the unified right was guaranteed a seat bonus in the Convention. Moreover, turnout was down from October to May and in the latter balloting skewed toward wealthier areas, while many of the poorer and younger urban voters who turned out in the first vote stayed home seven months later. Despite all these favorable circumstances, however, the right badly underperformed expectations, ending up with just 21 percent of the vote and only 37 seats—far short of the one-third (52 votes) needed to block proposals in the Convention.

There may have been a protest vote at work here, as conservative citizens had signaled disapproval of Piñera's handling of the 2019 uprising as well as his sluggishness in extending economic aid to families that were suffering from unemployment due to the covid lockdown. The authorities took more than a year to give in to pressure to grant emergency income, and this only after Congress voted to let people withdraw some of their private pension funds to cope with the worst economic dislocations Chile has seen in decades.

A third surprise was the performance of center-left parties. Including a host of independents on their rosters, they won only 16 percent of the Convention, or twenty-five seats all told. Fifteen of those went to the Socialists. The punishment of the center-left seems to be the consequence of a rejection of traditional parties, not to say a critical evaluation of those who, after decades in power, failed to achieve much in the way of structural transformation. Since the return to democracy, and under the binomial electoral system, the center-left shared power with the right in a tacit governance pact that excluded much of the center-left's own base. Now the center-left parties are paying the price.

The fourth and final unexpected result was the success of the left. It did well not only in the Convention races, but also in the elections for governors, mayors, and local councilors. Central Santiago (population about two-hundred thousand) now has a Communist mayor. The leftist Democratic Revolution party won four other important mayoralties.

The May elections drew only 43 percent turnout, down eight points from the October level, as a million fewer votes were cast. Such a figure may seem uninspiring, but it is not out of the range of the figures seen since voluntary voting was established in 2012. These have gone as low as just under 35 percent in the 2016 municipal elections. The decline in participation may be due to the difference between a regular representative election and a plebiscite. It seems easier, amid a crisis of representation, to vote a whole political model down than it is to place one's confidence in a specific candidate. Then too, the sheer complexity of the May balloting could not have helped turnout either. Voters faced, in effect, four elections rolled into one. There was the 155-member Constitutional Convention to be chosen as well as 16 regional governors, 345 mayors, and 2,252 local councilors. There were four separate ballots with large numbers of lists and candidates, demanding a significant level of information. Although greater participation would have been desirable, the legitimacy of the Convention does not rest exclusively on this election. The October 2020 plebiscite was an important signal of citizen support, there will be channels for citizen consultation and input during the Convention's deliberations, and there will be the legitimacy test of the 2022 plebiscite.

The gender-parity electoral rule for the Convention showed that women can achieve excellent electoral performance. They outperformed men, so that the mechanism to generate parity ended up helping men rather than women. The final result is a Convention of 77 women and 78 men. Had the parity correction not been applied, the Convention would have been composed of 84 women and 71 men. The rule on equal integration of the constituent body led to many able women running in competitive districts.

The filling of the seventeen seats reserved for indigenous peoples—the Mapuche, Aymara, Diaguita, Likan Antay, Colla, Quechua, Rapa

Nui, Chango, Kawashkar, and Yagan—was handled through the use of separate electoral rolls (Congress did not approve giving a reserved seat to the Afro-descendant tribal people). Out of a total indigenous electorate of more than 1.2 million, only 23 percent voted for these reserved seats. The low turnout could be due to mistrust of the Chilean state's political processes, lack of information on the part of both voters and those responsible for conducting the voting, and the difficulty of travel in rural areas. Despite the low participation, the indigenous presence in the Convention is an unprecedented sign of inclusion.

The even presence of men and women, the seventeen indigenous representatives, and a Convention member representing persons living with disabilities generate a level of inclusion never before seen in a representative body in the country. Furthermore, the victories of social leaders who were helped by the proportional system add up to a new type of political representative in Chile, one with little media presence but strong local roots. The Constitutional Convention's unprecedented social, age, ethnic, and gender composition has further highlighted how elitist and exclusive the Chilean political system had become in recent decades.

Expectations may currently be too high regarding what will be gained (in the short run at least) by replacing the 1980 Constitution, with its extreme biases in favor of private markets and against participation. The new constitution by itself will not establish political or social programs to meet the demands implicit in the mobilization. The charter can, however, encourage or at least permit policies that address the country's extreme economic inequality and elitist decision making. It may thus help to make electoral politics more inclusive and legitimate, and hence democracy more stable. It may also empower new forms of deliberative citizen participation. With regard to social and economic rights, the new constitution could send a powerful message to the political system, including Congress and the courts, that these are a matter of collective responsibility instead of exclusively private concerns.

The political movement that triggered the process was not orchestrated by any particular political sector or party, nor by a specific social movement or leader. This is good news for those who fear it may simply seek the replacement of one elite by another, or create room for authoritarian populism. On the contrary, it seems clear that the forces behind the uprising are varied and plural, with different demands converging on the need for a truly democratic basic social agreement.

The debates of this constituent moment are taking place in an unusual atmosphere shaped by a covid lockdown that came close on the heels of deep social ferment and unrest. There is no doubt that the pandemic has deeply affected the protests and the nature of public participation, which was very intense in 2019, and has replaced local neighborhood meetings with Zoom gatherings and social-media broadcasts since March 2020.

The pandemic has also diverted the intense interest in political debates to more urgent health and economic concerns.

Throughout history, new constitutions have often come as the result of revolutionary crises or authoritarian ruptures. The constitution-making process in Chile today is not of that ilk. Instead, it is an attempt to channel a constituent moment that may improve the democratic character of the polity in a democratic way, while preserving civil peace and avoiding institutional rupture. Amid politics and institutions that stand discredited as having dwelt too far and for too long inside authoritarianism's long historical shadow, to walk this line will require an extraordinary effort of dialogue and an openness to bringing long-excluded people and groups to the table.

NOTES

1. María Victoria Murillo, Steven Levitsky, and Daniel Brinks use the example of Chile to show a case where institutional strength can be detrimental to democracy. See Daniel M. Brinks, Steven Levitsky, and María Victoria Murillo, *Understanding Institutional Weaknesses: Power and Design in Latin American Institutions* (Cambridge: Cambridge University Press, 2019).

2. Juan Pablo Luna and David Altman, "Uprooted but Stable: Chilean Parties and the Concept of Party System Institutionalization," *Latin American Politics and Society* 53 (Summer 2011): 1–28.

3. See, for example, "Encuesta especial CEP, Abril 2021," www.cepchile.cl/encuesta-CEP.

4. Lorena Pérez-Roa and Matías Gómez, "Endeudamiento desigual en Chile: cuánto debemos, en qué lo gastamos y cómo está parado cada uno para la crisis," *CIPER Académico*, 2 July 2020.

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28. The election used the same 28 multimember districts (of three to eight members apiece) that have been used to elect the Chamber of Deputies since the binomial system was ended in 2015.

29. This was crucial because candidates add up their votes by list. An independent running outside a list would have almost no chance to get elected.