

IS THE CONSTITUTION A HOUSE? HOW IS ITS ARCHITECTURE?

On Sunday, November 10, 2019, twenty-four days after the social outbreak began in Chile - and after a meeting at the President's house - the Prime Minister declared that "the constitution is the most important law,

Constitutional architecture

ALFREDO JOCELYN-HOLT

Profesor, facultades de Derecho,
Filosofía y Humanidades e Ingeniería,
Universidad de Chile, Santiago, Chile

It seems curious that the Interior Minister turned to architecture when referring to our constitution, although in fairness, Patricio Zapata, a well-known Socialist-Christian constitutionalist, had already entitled his book on the ongoing constitutional process using the same image: the 'house for all.' The term, however, remains equivocal, sibylline even.

If one thinks about the meaning of this expression, a secular temple comes to mind (not, precisely, the 'House of the Lord'). And in no case a home, a 'solar house,' a mansion linked to a noble lineage ('royal house,' 'big house' or manor house); let alone a place of fun (public house or tavern, 'recreational' or 'dating' house), nor a grave - as a 'last dwelling.' Doubtful as well to think of an equivalent to the *tambarán* of the New Guinea tribes or the Iroquois 'longhouse' (too anthropological); although who knows, today everything is possible (so they say). It is not unlikely, however, that something like a relief site, protection or asylum provider, a church, or a Masonic lodge is being conjured. Freemasonry is especially prone to postulate norms and believe that the universe can be recreated using rulers, squares, and compasses. It vibrates with auras and radiations of some spirit considered common, even cosmic and, indeed, the fact that Gonzalo Blumel descends from Enrique Mac-Iver, great master, and a Mapuche *lonko*, or that he summons

it is everyone's house and It has to be ratified by the citizens so that it can be the new body, the new house that shelters us for the next few years.”

The fact that the second government authority has used an architectural analogy to explain the meaning of a constitution allows us to think about the architecture of this new constitution. What are the foundations of such “everyone's house”? How big should it be? Do we need a new house or just a remodel? In short, how is its architecture? With those questions, we open the debate of this issue of ARQ on Laws.

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in the city of Constitución with his family, may influence his choice of metaphor.

Unsettling, at the same time, since such pseudo-sacralization encounters grounded, powerful objections, typical of our secular constitutional tradition. Of course, the influence that comes to us from Montesquieu, in addition to that which emphasizes the medieval regional heritage (Iberian in our case), both distrustful of an essentialist monism. Certainly, there is an idea of the 'spirit of the laws,' but referred to multiple moods behind different regimes (monarchist, republican, and despotic) and the valuation of parliaments or courts of the kingdom, called to take assessments, persists until today. Its object, being none other than balancing and moderating real power. This, because liberalism, all the more irreproachable in its eagerness to set limits, distrusts sovereignty as supreme power (eventually the popular one, not just the absolutist or charismatic personalist royal variant). Hence, its suspicion in direct and majority participation – democratic – preferring morally conscious, solid citizens – and not anyone – duly empowered to govern and represent, and, likewise, distrusting of planning, a tool of almighty states (totalizing inasmuch as we move from Jacobin Rousseauism to the 20th century). This parliamentarianism is closer to institutional and legal practices with an oligarchic social bias than to a constructivist leadership eager to make a *tabula rasa*, preferring 'blank pages' and pretending to start from scratch.

Our Spanish-American republics are established after absolutism collapsed and there is a tremendous void. Who, therefore, if not patrician oligarchies, suspicious of both state bureaucracies and possible majorities with no experience of power, could have taken charge of the situation once the monarchy and ministerial apparatus vanished? One could hardly have opted for a revolutionary line. Consequently, it was accepted to function in parliamentary hemicycles, sitting on the right or left of the political spectrum, according to their local, religious, increasingly ideological, adhesions, and that constitutions be admitted to justify conflicts between elites; otherwise, despotic Caesarisms could be generated accompanied by insurgent groups, traditionally deprived of participation. These constitutions have never been considered a permanent solution; we have 250 to date in Latin America.

Are we dealing, then, with houses of cards, ephemeral constructions, 'air republics' not representative enough? In Chile, definitely not. On the contrary, our most successful experiment – the Constitution of 1833 – lasted for two-thirds of its 92 years thanks to the fact that its original text was left behind, reforms were admitted, it gradually incorporated more politically organized sectors, it marginalized the military from power, and avoided plebiscitary dilemmas such as those that hit the two later constitutions – of 1925 and 1980 – at critical junctures (1964, 1970, 1973, 1980, 1988, and again now in 2020). Did this successful trajectory mean we became more

sovereign and democratic, turning our Magna Carta into a supposed 'house for all'? Not at all. Rather, perfecting a growing institutionalization accompanied by a favorable spirit to channel conflicts through political means, understood as engineering and anti-seismic architectural design, betting on pluralism and negotiation between parties. Montesquieu would surely have approved of our 19th century historical record, having prevailed the spirit of the laws, rather than laws themselves.

The architectural simile is not valid in any other way. There is no model of a building that congregates the entire community. Vicuña Mackenna described colonial Santiago as a city of temples, using the plural to speak of convents and congregations that were at each other's throats, even burning each other; there was no single temple such as Jerusalem or Mecca. Our cathedral has never been equivalent to Chartres or Notre Dame. None of our public buildings have been 'for all.' It is the palace of the Governor, of the Audience, of La Moneda (of the Executive), of the Congress. So there is no tradition that anticipates such a progressive, participatory universal brotherhood, as the one Blumel imagines.

"We shape our buildings and then our buildings shape us," said Winston Churchill, when he advocated rebuilding the Hall of Commons destroyed during the Blitz (and not to make another semicircular). Given the Chilean constitutional logic, it is possible that Churchill would have no objection to what we have achieved to date, the result of trial and error, correcting us, with pragmatism if willing, along the way. In that sense, political history is not so different from that of architecture. Even the most notable works become ruins, useless buildings, acquire other uses than those originally intended, or become anachronistic. But there they are, admirable, serving as models, and have they been surpassed? **ARQ**

Alfredo Jocelyn-Holt
<alfredo.jocelynholt@gmail.com>

Historian, PhD. in Philosophy, Oxford University, UK; B. A. in Art History, and M. A. in Humanistic Studies, Johns Hopkins University, USA. He is the author of *Una historia general de Chile* (three of six volumes to date) and *La casa del museo: la casa Yarur Bascuñán de Vitacura y Museo de la Moda* (2018). He is a Professor at the faculties of Law, Philosophy and Humanities, and Engineering, of Universidad de Chile.