

Barriers to Chilean Constitutional Change: The Politics of Neoliberal Discontent and Reform

By: Daniel Bomberger

The 2022 draft of the Chilean Constitution was meant to overhaul many of the neoliberal policies enshrined by the old constitution that had governed Chile for decades. The old constitution, created in 1980 during the Pinochet regime, significantly limited government influence in the economy to promote free markets.¹ In 2019, after several years of making amendments to the 1980 Constitution, widespread economic insecurity prompted protests across Chile that opposed the constitution and its neoliberal principles in their entirety.² These protests created pressure on the government, eventually prompting them to hold a referendum in which 78% of Chileans voted to draft a new constitution.³ Chileans also decided that this new constitution should be drafted by the elected members of a constitutional convention.⁴ The members of the constitutional convention were elected in May of 2021, and by July of 2022, they had drafted a new Chilean Constitution.⁵ Despite the high levels of support for a new constitution in 2019, when Chileans voted on the ratification of the 2022 draft of the document, they overwhelmingly voted to reject it.⁶ To understand why Chileans rejected the 2022 Constitution, we must examine how public debates around the constitution shaped public opinion. Leading up to the referendum, instead of focusing on the structural economic changes made by the constitution, debates about the 2022 Constitution centered around the most progressive elements of the constitution. As a result, many Chileans felt their economic interests were sidelined in favor of progressive policies and became distrustful of the liberal representatives within the constitutional convention, leading them to vote against the 2022 constitution.

When examining how public debates around the 2022 Chilean Constitution developed, it

¹ Schmidt, Samantha. "Chilean Voters Decisively Reject Leftist Constitution." The Washington Post, September 4, 2022, <https://www.washingtonpost.com/world/2022/09/04/chilevotes-constitution-referendum/>.

² Edwards, Sebastian. The Chile Project: the Story of the Chicago Boys and the Downfall of Neoliberalism. Princeton University Press, 2023, pp. 218-219.

³ Gay, Arlette, et al. "The Moment of Truth for Chile's New Constitution." NACLA, July 13, 2022, <https://nacla.org/moment-truth-chiles-new-constitution>.

⁴ *ibid.*

⁵ *ibid.*

⁶ Rojas, René. "Chile's Vote Was a Rebuke of the 21st-Century Left. Will We Listen?" Jacobin, December 12, 2022, <https://jacobin.com/2022/12/chiles-vote-was-a-rebuke-of-the-21st-century-left-will-we-listen>.

is important to understand the issues that were facing Chileans in 2019. The 2019 protests that sparked support for a new constitution were primarily driven by unequal access to goods and widespread economic insecurity.⁷ While neoliberal policies had significantly lessened income inequality and reduced poverty throughout Chile by 2019, the country still suffered from worse social inequalities than many of its neighbors.⁸ Throughout Chile, there continued to be large discrepancies between social classes in access to basic necessities such as work, education, and housing.⁹ Furthermore, widespread collusion among companies and politicians, which oftentimes went unpunished, indicated to many Chileans that the neoliberal constitution primarily served the interests of the wealthy elites.¹⁰ The 2022 Constitution attempted to rectify the inequalities that neoliberal policies created by increasing the punishments for abuses of power and allowing sanctions for activities that are “contrary to the social interest,” enabling the government to more effectively combat collusion and elitism.¹¹

Economic insecurity was another issue that prompted dissatisfaction with the 1980 constitution among Chileans. For many years, neoliberal welfare policies in Chile solely focused on addressing poverty by allocating resources to the “deserving poor.”¹² The unforgiving restrictions on eligibility for receiving aid meant that many families who were slightly above the poverty line received no support from the government, leaving them particularly vulnerable to any economic shock.¹³ Additionally, flaws within Chile’s privatized pension system meant that many people received significantly less than they expected from their pensions.¹⁴ These low payments jeopardized the economic security of retired Chileans, as they could no longer afford the same standard of living that they had when they were employed.¹⁵ Economic insecurity in Chile was worsened by the emergence of the COVID-19 pandemic in 2020, which reduced

⁷ Edwards, Sebastian. *The Chile Project: the Story of the Chicago Boys and the Downfall of Neoliberalism*. Princeton University Press, 2023, pp. 213-232.

⁸ *ibid.*

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ Gay, Arlette, et al. “The Moment of Truth for Chile’s New Constitution.” NACLA, July 13, 2022, <https://nacla.org/moment-truth-chiles-new-constitution>.

¹² Edwards, Sebastian. *The Chile Project: the Story of the Chicago Boys and the Downfall of Neoliberalism*. Princeton University Press, 2023, pp. 226 and 243.

¹³ *ibid.*

¹⁴ *ibid.*

¹⁵ *ibid.*

employment by over 20% in the first year¹⁶ and subjected Chileans to increased crime and violence, creating widespread economic and political insecurity.¹⁷ The 2022 Constitution attempted to mitigate this widespread insecurity by affirming a new set of social rights, including the right to housing, education, and health, in order to ensure that everyone could rely on the government to support them even when they were unable to support themselves.¹⁸

Of the Chilean voters who wanted to ratify the 2022 Constitution, the vast majority cited these structural economic changes that targeted insecurity and inequality as their primary motivation.¹⁹ Comparatively, less than 14% of those who voted against the new constitution cited these structural changes as the reason they were rejecting the constitution, arguing that it would infringe on neoliberal ideals of individual freedoms and strong property rights.²⁰ Many of these objections to the 2022 Constitution stemmed from Chile's history of neoliberal policies. For instance, reforming the pension system was a heavily debated topic in 2022 because many Chileans didn't want the government to increase its control over money in their pension, which they have historically owned and controlled.²¹ These Chileans believed that the current neoliberal constitution promoted freedom and that an influx of new social rights would jeopardize that.²² Similarly, many argued that the neoliberal history of free market policies had greatly benefited Chile and that these changes could destroy the economy.²³ Despite these criticisms, the poll results indicate that the structural economic reforms at the center of the 2022 Constitution were popular among Chilean voters, the majority of whom were no longer concerned with protecting or pursuing neoliberal ideals of property rights and economic freedom.

In addition to combating economic inequality and insecurity, the elected constitutional

¹⁶ Organization for Economic Cooperation and Development. "OECD Economic Surveys: Chile 2021." OECDiLibrary, 2021, <https://www.oecd-ilibrary.org/sites/e5a68274-en/index.html?itemId=/content/component/e5a68274-en>.

¹⁷ Rojas, René. "Chile's Vote Was a Rebuke of the 21st-Century Left. Will We Listen?" Jacobin, December 12, 2022, <https://jacobin.com/2022/12/chiles-vote-was-a-rebuke-of-the-21st-century-left-will-we-listen>.

¹⁸ Gay, Arlette, et al. "The Moment of Truth for Chile's New Constitution." NACLA, July 13, 2022, <https://nacla.org/moment-truth-chiles-new-constitution>.

¹⁹ Rojas, René. "Chile's Vote Was a Rebuke of the 21st-Century Left. Will We Listen?" Jacobin, December 12, 2022, <https://jacobin.com/2022/12/chiles-vote-was-a-rebuke-of-the-21st-century-left-will-we-listen>.

²⁰ *ibid.*

²¹ Edwards, Sebastian. *The Chile Project: the Story of the Chicago Boys and the Downfall of Neoliberalism*. Princeton University Press, 2023, pp. 252.

²² Schmidt, Samantha. "Chilean Voters Decisively Reject Leftist Constitution." The Washington Post, September 4, 2022, <https://www.washingtonpost.com/world/2022/09/04/chilevotes-constitution-referendum/>.

²³ *ibid.*

convention also sought to address issues raised by different social organizations that participated in the 2019 protests. During the election of representatives for the constitutional convention, Chileans voted primarily for representatives who were affiliated with leftist social movements instead of politicians from established political parties.²⁴ This led to the inclusion of a number of socially progressive provisions within the 2022 Constitution, often reflecting the narrowly defined interests of various activist groups represented within the convention.²⁵ Many of these provisions were focused on the specific concerns of marginalized groups in Chile, meaning they lacked the broad appeal of structural economic reforms.²⁶ These provisions generated controversy among moderate Chileans because they were viewed as being too new and radical to include within the 2022 Constitution.²⁷

One provision within the 2022 constitution that was particularly controversial was the acknowledgment that Chile was a “plurinational” state. This acknowledgment involved granting special rights to indigenous groups and increasing the political power that these groups had.²⁸ Many Chileans disagreed with this provision, leveraging the neoliberal argument that granting positive social rights to a particular group in Chile would give benefits to those who don’t deserve them, ultimately reifying and worsening inequality.²⁹ Others argued that this provision would jeopardize national unity by recognizing indigenous Chileans as separate from the rest of the Chilean population.³⁰ Ultimately, when polled, only 4% of Chileans responded that they supported the 2022 Constitution because of the benefits it gave to indigenous peoples, while a large segment of Chileans who voted to reject the constitution stated that indigenous rights were the reason for their decision.³¹ In fact, the areas in Chile with the largest indigenous populations voted overwhelmingly to reject the new constitution, illustrating that these policies were not

²⁴ Gay, Arlette, et al. “The Moment of Truth for Chile’s New Constitution.” NACLA, July 13, 2022, <https://nacla.org/moment-truth-chiles-new-constitution>.

²⁵ *ibid.*

²⁶ Rojas, René. “Chile’s Vote Was a Rebuke of the 21st-Century Left. Will We Listen?” Jacobin, December 12, 2022, <https://jacobin.com/2022/12/chiles-vote-was-a-rebuke-of-the-21st-century-left-will-we-listen>.

²⁷ *ibid.*

²⁸ Gay, Arlette, et al. “The Moment of Truth for Chile’s New Constitution.” NACLA, July 13, 2022, <https://nacla.org/moment-truth-chiles-new-constitution>.

²⁹ *ibid.*

³⁰ Schmidt, Samantha. “Chilean Voters Decisively Reject Leftist Constitution.” The Washington Post, September 4, 2022, <https://www.washingtonpost.com/world/2022/09/04/chile-votes-constitution-referendum/>.

³¹ Rojas, René. “Chile’s Vote Was a Rebuke of the 21st-Century Left. Will We Listen?” Jacobin, December 12, 2022, <https://jacobin.com/2022/12/chiles-vote-was-a-rebuke-of-the-21st-century-left-will-we-listen>.

popular even among the minority groups that they sought to benefit.³²

Another provision of the 2022 Constitution that created significant controversy was the requirement for gender parity. The new constitution would require gender parity in positions of popular representation across all levels of government, public companies, and autonomous bodies, which was something that no other constitution had ever done.³³ Like the acknowledgment of plurinationality, the requirement for gender parity faced criticism for granting benefits based on identity rather than merit. It also suffered from the same issue of sacrificing broad appeal to elevate the rights of a particular vote.³⁴ As a result, it received a similarly low level of support, with only 10% of Chileans citing feminist values as the reason they voted for the new constitution.³⁵ In contrast, the vast majority of Chileans believed that the 2022 Constitution focused too much on feminism, with many citing it as the reason they voted against the constitution.³⁶ While the constitution included other progressive activist concerns, such as environmental rights and abortion rights, these ideas were not as radical or novel as the requirements for gender parity and plurinationality.³⁷ Despite these provisions being comparatively tame, they were still widely cited as reasons why Chilean voters rejected the 2022 constitution.³⁸

While the provisions within the 2022 Constitution created controversy, there was also a lack of confidence in the constitutional convention that drafted the document. Since many members of the constitutional convention were activists, Chileans began to believe that they were politically incompetent due to their lack of experience in positions of political power.³⁹ Furthermore, the moralizing lens through which many of these members made their demands cast

³² *ibid.*

³³ Gay, Arlette, et al. “The Moment of Truth for Chile’s New Constitution.” NACLA, July 13, 2022, <https://nacla.org/moment-truth-chiles-new-constitution>.

³⁴ Rojas, René. “Chile’s Vote Was a Rebuke of the 21st-Century Left. Will We Listen?” Jacobin, December 12, 2022, <https://jacobin.com/2022/12/chiles-vote-was-a-rebuke-of-the-21st-century-left-will-we-listen>.

³⁵ *ibid.*

³⁶ *ibid.*

³⁷ Gay, Arlette, et al. “The Moment of Truth for Chile’s New Constitution.” NACLA, July 13, 2022, <https://nacla.org/moment-truth-chiles-new-constitution>.

³⁸ Rojas, René. “Chile’s Vote Was a Rebuke of the 21st-Century Left. Will We Listen?” Jacobin, December 12, 2022, <https://jacobin.com/2022/12/chiles-vote-was-a-rebuke-of-the-21st-century-left-will-we-listen>.

³⁹ Gay, Arlette, et al. “The Moment of Truth for Chile’s New Constitution.” NACLA, July 13, 2022, <https://nacla.org/moment-truth-chiles-new-constitution>.

doubt on whether they had the interests of the Chilean people at heart, leading many to distrust their authority.⁴⁰ This skepticism was worsened by many public scandals involving the convention, such as one member pretending to have cancer in order to get elected.⁴¹ Importantly, the concerns with the constitutional convention came at a time when record inflation, increased crime, and widespread violence had exacerbated economic insecurity and weakened the legitimacy of the leftist government in Chile, leading many people to question the effectiveness of leftist policies, including the ones promoted by the constitutional convention.⁴² This substantially worsened the impact of the controversies surrounding the constitutional convention and led a significant number of Chileans to reject the new constitution, with over 40% of those who rejected it citing distrust of the constitutional convention as their reason for voting.⁴³

While the widespread controversies surrounding the progressive elements of the 2022 Constitution provide a compelling explanation for its rejection, people of diverse political stances have offered alternative explanations that are worth considering.⁴⁴ Many on the left claim that the Chilean people were manipulated into distrusting the constitution by wealthy donors who funded conservative media campaigns.⁴⁵ They argue that these campaigns spread misinformation and placed undue emphasis on unpopular elements of the new constitution, influencing the views of many Chileans.⁴⁶ While the disinformation in these media campaigns was likely a contributing factor, these campaigns relied on already-existing concerns that moderate Chileans had about the 2022 Constitution. Despite these genuine apprehensions about the 2022 Constitution, members of the constitutional convention oftentimes doubled down on their more progressive views rather than amending them to increase their appeal toward moderate Chileans.⁴⁷ Importantly, these concerns should not be interpreted to mean that the Chilean population was too conservative to

⁴⁰ Rojas, René. “Chile’s Vote Was a Rebuke of the 21st-Century Left. Will We Listen?” Jacobin, December 12, 2022, <https://jacobin.com/2022/12/chiles-vote-was-a-rebuke-of-the-21st-century-left-will-we-listen>.

⁴¹ Schmidt, Samantha. “Chilean Voters Decisively Reject Leftist Constitution.” The Washington Post, September 4, 2022, <https://www.washingtonpost.com/world/2022/09/04/chilevotes-constitution-referendum/>.

⁴² Rojas, René. “Chile’s Vote Was a Rebuke of the 21st-Century Left. Will We Listen?” Jacobin, December 12, 2022, <https://jacobin.com/2022/12/chiles-vote-was-a-rebuke-of-the-21st-century-left-will-we-listen>.

⁴³ *ibid.*

⁴⁴ *ibid.*

⁴⁵ *ibid.*

⁴⁶ *ibid.*

⁴⁷ *ibid.*

accept this “populist” doctrine, as those on the right have alleged.⁴⁸ In fact, as evidenced by poll numbers, the structural economic changes were the most well-liked elements of the 2022 Constitution.⁴⁹ It is more likely that conservative media campaigns, combined with the stubbornness of those at the constitutional convention, centered the debates about the 2022 Constitution on the more progressive and controversial elements of the document. In the end, Chilean voters heard more about the controversial elements of the constitution and less about the structural changes that they actually desired.

From this evidence, it is clear that the controversies surrounding the creation of the new constitution, as well as the new and radical provisions within it, were the reason Chileans ultimately rejected it. Despite Chile’s history of neoliberal policies creating a strong demand for structural economic changes, this demand alone was not enough to overcome the controversies and skepticism surrounding the new constitution. Chileans were afraid that the radical changes proposed by the new constitution, such as indigenous rights and gender parity, would jeopardize national unity and defer the structural changes that they supported. Furthermore, scandals surrounding the constitutional convention and increased economic insecurity led many Chileans to doubt the effectiveness of liberal policies, leading them to question the benefits of the 2022 Constitution. In the end, the controversies surrounding the changes made by the new Chilean constitution, when combined with the distrust for liberal policymakers, led Chileans to reject the new Chilean Constitution in 2022.

⁴⁸ Schmidt, Samantha. “Chilean Voters Decisively Reject Leftist Constitution.” The Washington Post, September 4, 2022, <https://www.washingtonpost.com/world/2022/09/04/chilevotes-constitution-referendum/>.

⁴⁹ Rojas, René. “Chile’s Vote Was a Rebuke of the 21st-Century Left. Will We Listen?” Jacobin, December 12, 2022, <https://jacobin.com/2022/12/chiles-vote-was-a-rebuke-of-the-21st-century-left-will-we-listen>.