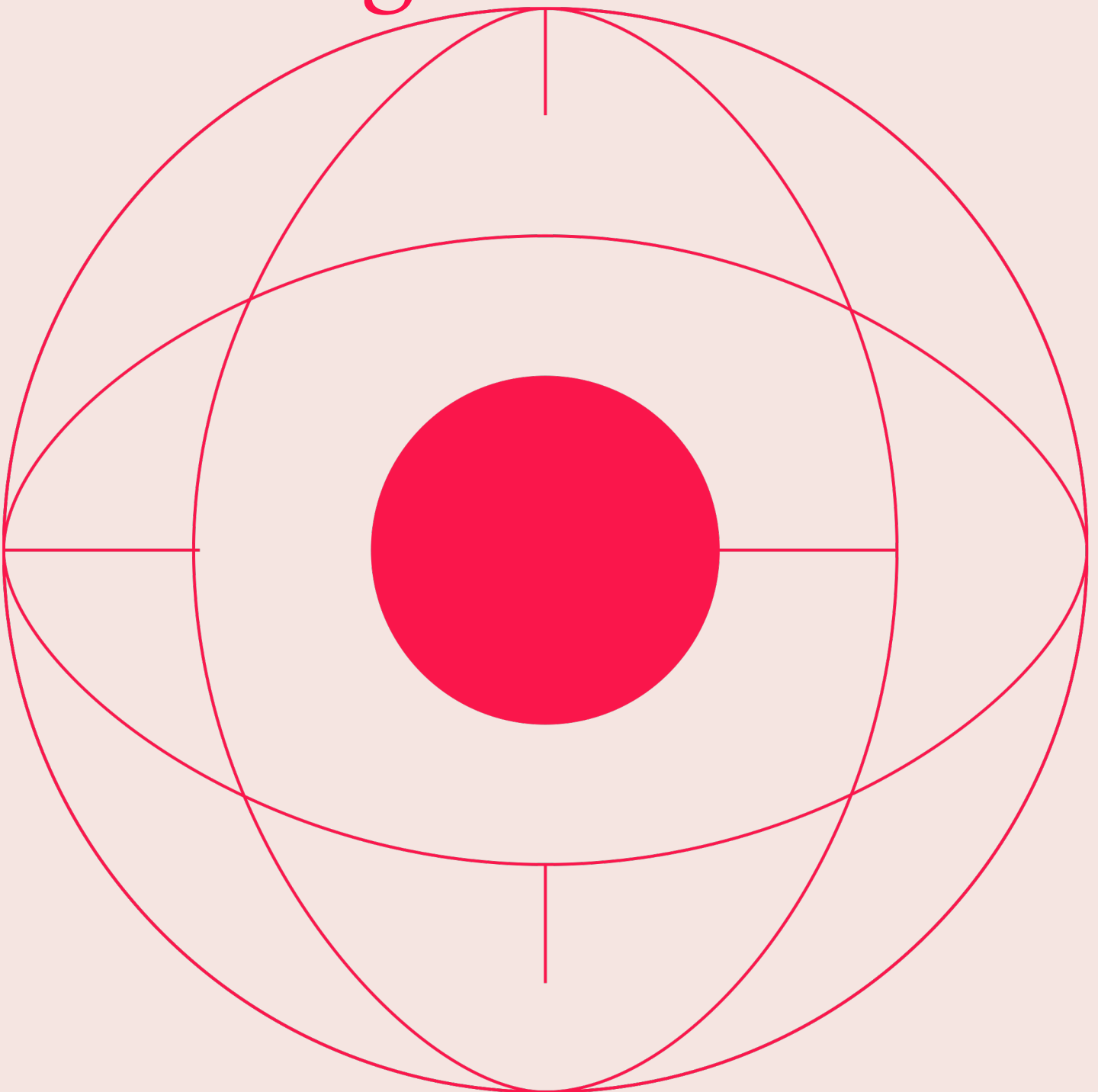




Observatory

A New Constitution in Chile

Briefing



Introduction

“From this moment, we found a new Chile:
plural, multilingual, with women, with territories.
This is the dream of our ancestors come true.”

Elisa Loncón, Mapuche

Former President of the Chilean
Constitutional Convention

On 4 September 2022, the Republic of Chile will hold a national plebiscite that calls on citizens to make a momentous choice: Default to dictator Augusto Pinochet’s 1980 Constitution, or replace it with a new one drafted by a diverse and democratically elected Constitutional Convention of workers, peasants, and Indigenous representatives.

This document sets out (i) the background, the stakes, and the present political context of the September plebiscite — (ii) the key planks of the draft Constitution now presented to the Chilean people — and (iii) a call to action to legislators around the world to stand with Chile’s democratic forces as they campaign for the refoundation of their country.

For more information, please write to David Adler, General Coordinator of the Progressive International, at david.adler@progressive.international.



Background

Chile's current constitution was written by the military junta of Augusto Pinochet in 1980. The document enshrined the institutional framework developed by the so-called 'Chicago Boys', who pushed privatization and liberalization into the Chilean economy. The document also gave dictatorial powers to Pinochet for an 8 year "transitional period" at which point a plebiscite would be held to see if he would continue. Pinochet lost this election — but his military-drafted constitution remained.

Forty years later, in 2019, the people of Chile rose up against the neoliberal model enshrined by the Pinochet constitution in what became known as the country's "social explosion." In the course of this uprising, a new constitution became one of the protestors' principal demands. And after months of mass mobilization, they won the right to a plebiscite to address this very question.

In October 2020, the Chilean people held this plebiscite with a two-part question: (i) to rewrite their constitution, and if so, (ii) whether the constitution should be rewritten by a constituent assembly directly elected by the people. Both parts of the plebiscite were approved in a landslide.

In May 2021, this Constitutional Convention was elected — the first such assembly convened with gender parity in the history of the world. The progressive Mapuche leader and scholar Elisa Loncón was elected the first President of the Constitution.

In an initial attempt to stymie the Constitutional Convention's progress, then-President Sebastián Piñera tried to starve the Convention of resources. Money was withheld for basic functions to facilitate dialogue and debate on constitutional principles. Even the delegates' offices lacked wifi for an extended period of time.

The presidential campaign proceeded as delegates began drafting the constitutional draft. It quickly became clear that the election between former student leader Gabriel Boric and former Pinochet supporter José Antonio Kast was not only a choice between ideological rivals — it was a

choice to determine if the executive office would support or fight the Constitutional Convention.

With Boric's victory, and his vigorous support of the Constitutional Convention, their fates are tied together in the plebiscite on 4 September. If the popular vote approves the new Constitution, drafted by a progressive majority to bury the legacy of Pinochet, Boric will proceed over the transition to a democratic, feminist, and social Chilean republic. But should they lose, many will feel that the long process of political upheaval — from the protests of 2019 to the plebiscite of 2020 to the constituent assembly and the election of President Boric in 2021 — will have been in vain.

These are the stakes Chile will face at the polls on 4 September.



Reject

The Campaign for Delegitimation

The campaign to delegitimize Chile's Constitutional convention is underway. The coalition of far-right political forces and Chile's entrenched economic elite — who together own and operate the country's highly concentrated media industry — attack the new draft Constitution as “woke”, radical, and dangerous. Their tactics are a mix of fear, mockery, and distrust.

But this campaign long predates the drafting of the new Constitution. Since the start of the 2019 uprising, these same political forces have belittled protestors and decried their efforts to institutionalize democratic reforms. The campaign to ‘Reject’ is just the latest effort to defend a status quo and deter Chileans from demands for transformation.

Their first targets are the rights of women, Indigenous nations, and the environment. Provisions for a plurinational State with Indigenous rights are claimed to “divide” Chilean unity.

The explicit inclusion of reproductive rights, namely abortion, is highlighted as a poison pill for the religious right.

Rights for Nature and substantive equality for all, especially for “sexual and gender diversities and dissidences,” are mocked by the right-wing media as “[bombastic](#)” oversteps.

The attacks are working. Regular polling shows between 50-66% of voters plan to reject the new document. After voters had previously endorsed the Constitutional Convention by similar margins, the damage of the campaign for delegitimation is apparent.



Approve

The Fight for Refoundation

But democratic forces in Chile are fighting back — and gaining ground. Roughly two months from the plebiscite, the ‘Apruebo’ coalition is moving out of the convention hall and back into the streets to defend the achievements of the draft Constitution.

They are urgently requesting support from allies around the world to support, endorse, and celebrate the model for feminist, progressive, and democratic refoundation that the Chilean Constitutional Convention represents.

Endorsements have already come from even the unlikeliest of sources. Bloomberg wrote: “Chile can be proud. The political system has so far successfully channeled the explosion of social unrest that threatened to tear the country apart in late 2019 into a peaceful process to reshape a system designed during the dictatorship of Augusto Pinochet 40 years ago.”

Now, they are calling on parliamentarians and public leaders around the world to beat back the campaign of delegitimation — and help win this historic victory for Chile, for Latin America, and for the world.



Call to Action

The Progressive International is coordinating international solidarity with Chile's Constitutional Convention and the September plebiscite to approve its draft Constitution.

You can join this global campaign by:

1. Traveling to Santiago, Chile from 31 August - 4 September with the Progressive International's delegation in support of the new Constitution, including MPs, experts, and activists from around the world;

OR

2. Showing your support for the "Apruebo" (Approval) plebiscite vote in September with any of the following:
 1. A brief 2 minute video, expressing your support for one component of the draft Constitution (see highlights below),
 2. An 500-750 word article or open letter endorsing the new Constitution,
 3. A short quote of endorsement for the Constitution to be circulated to allies and the media in Chile.

You can reach out with any queries about this call to action to PI General Coordinator David Adler at david.adler@progressive.international.



Key Planks of the Constitution

This section sets out highlights of the draft Constitution. A full English-language translation is now underway. You can find the Spanish-language version in full [here](#).

A “social and democratic State”:

The shift from a subsidiary State to “social and democratic State” represents the critical change in the foundation of the Chilean Constitution. The Constitution transforms the State into a guarantor of social, economic, environmental, Indigenous and basic human rights — both collective and individual — rather than simple political rights.

Gender Parity and Women’s Rights:

This new document is by far the most progressive and feminist constitution on earth with respect to gender and women’s rights. Gender parity is required in the institutions created by the Constitution, both elected and appointed bodies.

The Constitution not only defends reproductive rights, including the explicit right to abortion, but also guarantees substantive (rather than formal) gender equality: “The State recognizes and promotes a society in which women, men, gender diverse or gender non-conforming people participate in conditions of substantive equality, recognizing that their effective representation in the democratic process as a whole is a principle and a minimum condition for the full and substantive exercise of democracy and citizenship.”

Plurinationalism:

Chile is defined explicitly as a plurinational and intercultural State that “recognizes the coexistence of diverse nations and peoples within the framework of the unity of the State.”

Plurinational popular sovereignty is also made explicit: “Sovereignty is vested in the People of Chile, made up of different nations” specifically enumerating the Mapuche, Aymara, Rapa Nui, Lickanantay, Quechua, Colla, Diaguita, Chango, Kawésqar, Yagán, and Selk’nam nations.

The establishment of a plurinational State not only means recognizing coexisting judicial systems and territorial autonomy, but also support for Indigenous languages (co-official in autonomous Indigenous territories), culture, self-determination and self-governance, and the exercise of collective rights such as prior consultation.

The Constitution provides for reserved seats for Indigenous peoples and nations in the “bodies of popular representation at the national, regional and local levels, where appropriate and in proportion to the Indigenous population within the respective electoral territory.”

Separation of Powers

Changes in this respect are hardly radical. Presidentialism is maintained, as is the bicameral legislative system.

The President is elected by majority vote to a 4 year term, with one opportunity for reelection. The President is the Commander-in-Chief of the police and armed forces. The President also appoints ministers, submit an annual budget proposal to Congress, and can declare a temporary State of Emergency.

In asymmetric bicameralism, one legislative house holds more power than the other. The 155 member minimum Congress of Deputies, becomes the primary legislative body. All laws must originate in the Congress of Deputies. Deputies are elected to 4 year terms, concurrent with presidential elections.

The Senate is replaced by the weaker Chamber of Regions (each of Chile’s 16 regions are proportioned at least 3 elected members), which must approve issues affecting regions, but also has power over laws affecting the budget, social issues, and the Constitution. It remains unclear how much of a counterweight this body will be against the Congress of Deputies, but certainly, it will be substantially less powerful than the existing Senate.

Representatives in the Chamber of Regions are elected to 4 year terms, on off years from other national elections. Joint sessions of both houses have some powers such as the ability to appoint the Central Bank committee and the Attorney General, among other positions. Decisions in both houses are approved by simple majority vote.

Citizen Initiative and Referendum

Both citizen initiative and Indigenous initiative can initiate a law in the Congress of Deputies. A minimum of 3% of the electoral roll is sufficient to introduce a law in Congress while 5% of the electoral roll can call a national referendum to repeal a law.

Justice

The Council of Justice — elected by judges, Indigenous peoples, and Congress —oversees the national judicial system. Members of the Supreme Court are appointed in separate tracks by the President, joint session of Congress, and the Council of Justice. Co-existing systems of Indigenous justice are also explicitly recognized.

“The Justice System shall adopt measures to prevent, punish and eradicate violence against women, dissidents and sexual diversities. The courts, regardless of their jurisdiction, must rule with a gender perspective. Constant education and training must be ensured for all civil servants, officials and assistants in order to eliminate gender stereotypes and incorporate this perspective in the judicial system.”

Right to Health

The Constitution recognizes the right to “health and well-being, both physical and mental.” To ensure this full realization of this right, a “universal, public and integrated” National Health System will be established. This in effect guarantees universal, public health care to be funded by national tax revenue.

Right to Education

The Constitution declares education is the “primordial and inescapable duty of the State” and explicitly guarantees universal and virtually free access, including to university education. This represents a major advance that many of the protestors fought for in 2019.

Workers’ Rights

Workers have the right to join a union, to collective bargaining, and to strike. Through their unions, workers also have the specific right to “participate in the decisions of a company”. The Constitution recognizes domestic work and care work as “socially necessary and indispensable for the sustaining of life and the development of society.” Additionally, the Constitution provides for the rights both to “decent work” and to “leisure, rest, and the enjoyment of free time”.

Right to a Life Free of Gender Violence

“The State shall have the obligation to guarantee and promote the right of women, girls, diversities and sexual dissidences to a life free of violence. To this end, it shall carry out the necessary actions to eradicate all types of gender violence.”

Right to Identity

“Every person shall have the right to identity, in all its dimensions and manifestations, including sexual characteristics, gender expressions, name and sex-affective orientations. The State shall guarantee the full exercise of this right through affirmative actions, procedures and corresponding laws.”

Buen Vivir

The Indigenous principle of Buen Vivir, of “living well” in socio-environmental harmony, is enshrined in the Constitution. “The State recognizes and promotes a relationship of harmonious balance between people, nature and the organization of society.”

Regional and Local Autonomy

In a shift from the previous unitary state, this document provides some decentralization to local conditions which vary greatly across the 4,300 km long country. The Senate is replaced with the Chamber of Regions, and the unitary State becomes a “regional State”.

Rights to regional and Indigenous territorial autonomy are protected, as are their rights to local governance. This fulfills a demand from across the political spectrum, to decentralize power currently firmly controlled from Santiago, thousands of kilometers away for many Chileans.

Water As a Common Good

In a country that famously privatized Chile’s freshwater, the new Constitution asserts that a new National Water Agency will administer water as a decommodified common good with decentralized and participatory water policy.

Right to Food Sovereignty

The State has the specific duty to guarantee not only food security, but ecologically-responsible food sovereignty.

Nature and the Climate Crisis

An entire constitutional chapter is devoted to “The Environment and the Climate Crisis,” charging the State with preventing the climate crisis and adapting to its consequences. “Nature has the right to...protection of its existence, regeneration, maintenance and restoration of its functions and dynamic equilibrium” the Constitution reads. The document creates a

national Defensoría de la Naturaleza along with regional offices to defend Nature as a right-bearing entity.

“The natural commons are elements or components of Nature over which the State has a special Nature over which the State has a special duty of custody in order to ensure the rights of Nature and the interest of present and future generations.”

Elements specifically enumerated as part of the “natural commons” include: “the sea and its seabed; beaches; waters, glaciers and wetlands; geothermal fields; the air and atmosphere; high mountains, protected areas and native forests; subsoil, and all others as declared by the Constitution or by law.”

Right to Digital Connectivity

“All people, individually and collectively, have the right to universal access to digital connectivity and to information and communication technologies, with full respect for the rights and guarantees established in this Constitution and the laws.”

Right to the Protection of Personal Data

“The right to the protection of personal data, to know, decide and control the use of information concerning them shall be guaranteed.”



About us

The Progressive International launched in May 2020 with a mission to unite, organize and mobilize the world's progressive forces.

Since then, it has grown to include over a hundred organizations representing millions of people on all inhabited continents — and organized campaigns and actions involving millions more.

WEBSITE

progressive.international