

CHILE

Constitutional shipwreck for the far right in Chile

Sunday 21 January 2024, by [NOHALES Karina](#) (Date first published: 9 January 2024).

On 17 December 2023, Chile voted against the proposed new constitution drafted by the conservative forces of the right and ultra-right. Thus, for the second time in fourteen months, two opposing alternatives to replace the country's existing constitution which had its origin in the Pinochet dictatorship have been shipwrecked.



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It should be remembered that between October 2020 and September 2022, the first constitutional process took place, which originally dates back to the agreement signed in November 2019 by the political parties with parliamentary representation - with the exception of the Communist Party - as an institutional solution agreed as a response to the gigantic social revolt that was taking place at that time in Chile and which challenged the entire political system and party representations of the last three decades.

In this first process, there was an initial plebiscite to consult the population on whether or not they wanted a new constitution and, if so, what kind of body should draft it. With about 80% of the votes, the “Apruebo” (a new constitution) and the choice of a 100% elected body to write it prevailed. This body, elected a few months later, was integrated in a parity and plurinational manner and with the participation of popular representatives of historically excluded social sectors; who for the first time participated in the drafting of a proposed constitution, imbuing it with a marked anti-neoliberal orientation. This proposal was rejected in the plebiscite on 4 September 2022, with an overwhelming vote of 62% against.

In a context of electoral defeat, post-pandemic pandemic and demoralization of organized social contingents, the country's president, Gabriel Boric, decided to convene a new constitutional process, this time of a mixed nature: the proposal for a new constitution would be drafted by a small committee of experts appointed by Congress, and an elected body could modify and sanction it. This second process was, in every possible sense, a negation of the previous process. The elected body was made up mostly of right-wing parties, with hegemony of the far right, who made the proposal a sort of return to the original version of Pinochet's 1980 constitution, stripping it of various modifications that it has undergone since 1990 to date, during the so-called democratic transition.

The process took place in a climate of general popular disaffection, reinforced both by a thematic

saturation – which various analysts have called “constitutional fatigue” – and by a strong feeling of discredit with respect to “politicians” in general. This state of mind was as decisive, if not more so, than the actual content of the proposed new constitution. However, the content of course also played a part. Although the text contained a host of alarmingly regressive norms, such as granting infra-constitutional hierarchy to international human rights treaties, the social debate focused on some more or less limited norms, with those relating to feminist demands occupying a central place.

Among them, the norm that enshrined the protection of the life of the unborn, and that which enshrined the inextinguishability of individual pension savings by the state, were disseminated with a special sense of alarm. If the proposed constitution is approved, the first of these norms would entail the certain risk that abortion would be declared unconstitutional on three grounds, repealed in 1989 by the Pinochet dictatorship and reconquered only in 2017 in Chile. The approval of the second of these norms entailed the certain risk that the 2022 alimony payment law, which empowers family courts to order the payment of alimony owed from the debtor’s individual pension savings, would be unconstitutional.

Both profoundly patriarchal norms, which constituted a frontal attack on the economic, bodily and life project autonomy of women and the pregnant, were decisive for the failure of the extreme right’s proposal. In fact, the vote against the new constitution, which won with 55.7% of the votes, reached 70% among women voters under 34 years of age. This is a social segment whose experience of politicization occurred in the heat of the mass feminist cycle since 2016 in Chile and whose power continues to radiate at these junctures.

The institutional forces have recently put forward their own interpretations of the result. On the one hand, President Gabriel Boric closed any new attempt at constitutional change in the two years remaining in his term, saying that, with the failure of the two constitutional proposals – one anti-neoliberal and one neo-Pinochet – the citizenry has rejected polarization and division. A dangerous reading, which tends to equate both constitutional proposals as expressions of “two extremes,” in circumstances where one of them conformed to the elementary parameter of the international human rights framework, while the other dispensed with it. Incidentally, a reading that suppresses the class nature that fundamentally differentiated both processes and both constitutional proposals, in the name of an alleged and fallacious impartiality.

On the other hand, the parties of the right and the extreme right were the big losers. The far right because it was their proposal, drafted by their majority. The traditional right, because it made it its own and once again stood behind the far right. Together, they had all the economic resources and all the communicational hegemony to win. They ran alone and came in second. In their attempt to conceal the defeat, they have outlined the narrative that, in this latest plebiscite, the citizenry has ratified Pinochet’s constitution for the second time, grossly omitting the fact that Chile has already voted against the current constitution, thereby renewing its illegitimacy of origin as well as popular adherence. This result hurts them. In the immediate, the calculations of electoral alliances are tense within them and the presidential chances that the leader of the ultra-right, José Antonio Kast, was counting on have suffered a blow.

In the 17 December vote, the popular layers did not have a project to defend, but they did have the task of resisting the right-wing onslaught at an institutional level that compromised lasting and structural magnitudes. It was vital to make them lose, and this was achieved. Within the social field, feminism once again played a key role. This fact alone serves to discredit those sectors that, on the left and the right, tried to attribute the defeat of the plebiscite of 4 September 2022 to the alleged “identity excesses” of feminism due to norms such as the constitutional enshrinement of abortion on demand. On the right, fearful, all sectors had to lie publicly and declare that their proposed constitution did not intend to repeal abortion on three grounds. On the left, with the exception of

feminist organizations and sexual and gender dissident organizations, very few social sectors had the capacity to deploy and sustain a campaign with issues that impacted more or less broad segments.

However, the closure of the constitutional cycle decreed by the government does not in any way close the cycle of political crisis opened with the social revolt of 2019. None of the urgent and heartfelt demands of diverse and broad layers of the population have so far been resolved and met. The scenario of instability established remains open.

9 January 2024

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P.S.

- Fourth International. Thursday 18 January 2024:
<https://fourth.international/en>
- Translated by International Viewpoint from Punto de Vista Internacional.