

What Chile's Failed New Constitution Can Teach Us about Democratic Processes and Failed Expectations

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ABSTRACT

In September 2022, a large majority of 62% of Chile's voters rejected the new proposal for their constitution that was drafted over the course of more than a year and limited basic elements of liberal democracy such as separation of powers with the highest participation in recent history. In light of a new referendum, set to be held in November 2023, as well as many other countries considering changes to their respective constitutions, this paper aims to answer the following two questions. First: What lessons can be drawn from the rise and fall of this constitutional process? And second: What are the main reasons for its dramatic rejection? To answer those questions, this text first provides an overview of the narratives shared by the public. In the second part, the author conducts a thorough analysis of the reasons behind the failure of the proposal, namely poor communication, loss of public trust, as well as failed expectations towards the final text.

On September 4, 2022, 62% of Chilean voters—with the highest participation in recent history, both within country and abroad—rejected the new constitutional proposal that had been drafted over the course of more than a year by 155 elected representatives (less a few, by the end). The results didn't come as a surprise, but the gap between the two options—which was not foreseen by the [polls](#)—does pose a question for the future of the country and other democracies that are also going through generational, institutional, and political changes.

But the story of the Chilean constitution did not end with this rejection. The current and recently signed [proposal](#) to replace the constitution limits the basic elements of a liberal democracy (such as separation of powers or abiding by international norms) and puts constitutional experts at the core of the initial process, limiting also input from extreme positions in the new legal procedure. This process will be put to the vote in a new referendum in November 2023.

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To answer those questions, this text provides an overview of the narratives shared by the public, measured through polls and by analyses in Chile and abroad, such as a recent editorial in [The Economist](#). On top of that, conversations with two former members of the *First Constitutional Convention* were held in the span of a week. One supported approval of the final text: Miguel Angel Botto (Independent, center-left), and one its rejection: Ricardo Neumann (Independent, center-right). Their diagnoses of the results have several points in common with the overall interpretation from the sources named above.

Upon this analysis, this text argues that the case of Chile serves as an experiment and example of social unrest, elite dissociation, polarization, economic disparity, and one-sided diagnoses leading to uncertainty and the inability to reach the promised expectations. Moreover, this process was also meant to change Chile's relation with the world, aiming at a more protectionist nation.

Moreover, reviewing a constitution is not something unique to Chile. Countries like [Japan](#) have long discussed constitutional reforms, and recent security-related issues have re-ignited those discussions. And in 2022, countries like Finland and Sweden shifted their principle of neutrality to join NATO. Some of the

many countries that will be reviewing their constitutions are: Seychelles, Armenia, Belize, Guyana, Uzbekistan, Jamaica, and Australia.

A short historical review: A project born from the ashes and disappointment with technocrats and democracy.

After returning to democracy in 1990, Chile built an institutional framework that positioned it among the “[most free](#)” countries in the region, and by some standards, in the world. However, this institutional strength did not reflect on the country’s satisfaction with the system. Chileans were among the [least supportive](#) of representative democracy, and trust in the system and politicians was on the floor, with parties having as low as 2–6% trust and Congress 3–6% according to the [CEP Public Study](#).

That, combined with structural issues that had been ignored by the elites (such as household debt, access to health, and cost of living) generated the unrest that eventually broke out in the October protests of 2019, followed by a harsh response from the Piñera government, escalating violence and unmanageable polarization. As an “[agreement for peace](#),” congressmen from all ideological sectors signed an open document to launch a political process to establish a new constitution. Even though this topic was not among the measures that were demanded on the streets—mainly related to health costs, low pensions, inequality, the indifference of elites, or lack of opportunities due to the economic stagnation—the narrative was that the current system, embodied in the 1980 constitution by the Pinochet dictatorship, could be changed when replacing the legal document. The constitution had been reformed several times since the return to democracy, with the largest changes being implemented in 2005 under the Lagos administration; but among critics, the regime had left locks and unreformable chapters to ensure their legacy.



2019 Protests in Chile. Wikipedia Creative commons.

The idea was embraced by anti-establishment movements, and [155 constitutionalists](#)—many related to the protests—were elected and worked to deliver a proposal aimed at replacing the existing text, which would have to be voted on by the totality of the country.

The main reasons for failure? High expectations and insufficient results.

How could an idea with the support of almost 80% of the country, end up in such a definitive rejection of the proposal? There are three main reasons that have been shared among analysts during the weeks following the referendum. First, poor communication; second, loss of public trust; and third, failed expectations on a text that ended up having a lot of inconsistencies and some illiberal proposals. All of these in a process that was shadowed by the Covid-19 pandemic and the effects of inflation and economic stagnation.

Poor communication and “roteo” of low-income sectors.

Communication was poorly managed from early on until the last day of the campaign. While some individuals used the opportunity to attack and create narratives around the proposal (and even spread fake news in the case of some far-right movements), the constitutional representatives themselves did a poor job of defending the text and the process. Some used their public image to publish demeaning comments about their counterparts and civil institutions, while others used said visibility to attack national symbols and side with movements that were openly re-foundational and sometimes extremist.

When engaging with the public, a handful of members were not able to quote basic elements from the [text](#) or chose to appeal to the most extreme positions by saying things such as [“expropriate without compensation”](#) or [“rather than expropriation, taking back.”](#)

On top of everything else, there was no self-introspection or attempt to correct these mistakes. Instead, [members](#) would call out conspiracies from far-right movements to discredit their work, fake news spread by the press, or misunderstanding among the public. Even though it is true that there was [disinformation](#) spreading across social media, this is not enough to explain the public’s reaction to the proposal, or the reaction from decision makers and constitutionalists.

For many, these accusations came across as arrogant, as they even called people who didn’t agree with the text [“ignorants”](#) and [“fascists.”](#) In Chile, the word “roteo” means to look down on someone because of their low income or because they have less cultural capital or education, and was often used against those who rejected the proposal. Further, the term “Facho probe” or poor fascist was used to attack people from low-income sectors who rejected the proposal. For some, this was interpreted as [“progressive classism.”](#)

But, at the same time there were violent encounters from both sides of the election—[for example](#), between rural “Huasos” (who could be described as Chilean Gauchos or rural traditionalists) and pro-approval urban cyclists, with people ending up injured in an incident involving a horse-drawn carriage.

For a rural lower-income Chilean population, the focus on conflict and dismissal of the issues coming from the country’s capital pushed this group to have the highest [rejection rates](#) in the country. This was only [acknowledged](#) by some sectors after the elections.

Loss of trust from the public and disappointment with elected constitutionalists.

The second issue is the population’s disappointment with the “constitution representatives.” Closely related to communications issues, many of the people writing the constitution were involved in scandals during the process. One of the most infamous cases is Rodrigo Rojas Vade, an activist for better healthcare who admitted to having faked terminal cancer both during the protests and during his campaign to be elected, and who was forced to resign. Other cases involved parties during quarantine, members appearing in costume—such as a dinosaur or a Pikachu—members voting on Zoom while shouting from the shower, and the list just continues. This of course caused a preconditioned skepticism concerning the quality of the text. Even though constitutionalists tried to cover up some of these issues, one of the members, writer Jorge



Rodrigo Rojas Vade faked having cancer during his campaign videos.

Baradit, wrote a whole book on these misbehaviors which was recently published.

A final issue related to the loss of trust is the figure of current president Gabriel Boric. The 36-year-old executive figure was part of the original agreement for peace and had openly supported the constitutional project since its inception. Nevertheless, his government falls short on the approval polls because of poor performance results in issues such as safety ([30% increase in homicides](#) and violent crimes, despite a [reduction in overall crime](#)), migration, inflation ([12.8% increase](#)), and overall economic development. On the week of the election, his approval rate was as low as [38%](#), the same percentage as voted for the new constitution.



Constitutional members using costumes. TVN Chile.

Failed expectations over the final text.

Despite the more “scandalous” elements, the most notorious and consistently repeated reason that both voters and analysts give when understanding the results, is the failed expectations concerning the final text. A *new constitution* was a promise from the political elite to the people, to correct structural issues that, allegedly, caused inequalities and lessened quality of life.

On top of that, controversial aspects of the constitution gained notoriety during the final referendum campaign, such as contradictory chapters or grammar mistakes. A notable example was [article 116](#), which

mentioned that nationality could be revoked in certain cases “**except** if the person obtained their nationality with a false declaration or fraud,” which legally meant that those who obtained a fake nationality letter could keep their status (in the Spanish interpretation).

The text also presented conceptual issues within the content of the constitution itself, which formulated a more protectionist form of government with fewer “checks and balances”—eliminating the senate, for example—and accorded more power to the state, as well as limiting some freedoms such as expression or intellectual property, and even creating parallel forms of justice. Most of the text’s proposals to tackle inequality and low quality of life were based on more ideological and even extremist ideas, because the veto-power group was composed of far-left and former protest figures, who also articulated social movements and included some indigenous representatives. As a result, few of the “people’s proposals,” a mechanism whereby citizens could vote and propose ideas for the new constitution, were incorporated. These rejected ideas included the citizens’ right to keep their [retirement funds](#) to avoid an [“Argentine” scenario](#), as well as freedom of education and entrepreneurship.

Finally, the project incorporated articles in which Chile would stop looking outwards, and focused only on the South American region with trade and political links, following the rather ideological position based on the “Bolivarian” dream. If approved and implemented, this would have been a step backwards for the centuries’ worth of history, efforts, and lives that have been invested in establishing a wide relationship with the Asia Pacific Region and becoming Latam’s door for international trade in the Pacific. Considering this, a new project or reform should better understand international trends, which will even help the country anticipate international crises. Chile can no longer act as if it were an isolated island.

A future for young democracies and lessons to take into account.

Post-election analysis shows interesting facts about the composition of the Chilean population and its politics. The first issue—which has long been demonstrated—is that despite polarization, most Chileans consider themselves *apolitical* and “centrist,” rather than left or right wing. This can explain low

participation rates when elections turn polarized, but also the outcome of this referendum in which voting was mandatory. As a result, a large section of the population that often remains out of the polls participated this time. A new process should attempt to gain large agreements, with experts providing guidelines instead of a more polarized and politicized view.

A second issue to take into account for the next steps is that the elections revealed the demographic disparity in Chile. Urban and wealthier young people were more inclined to accept the new constitution, while rural working-class citizens were the ones who rejected it the most strongly. This shows differences in expectations and world perceptions based on the realities of each citizen. For example, even though the rejection option won in all regions of the country, urban centers had tighter outcomes than rural areas and towns outside of the capital. For example, regions with more rural population like [Maule or El Ñuble](#) had a 72% and 74% rate of rejection, whereas Santiago had only a 55% rejection rate. Contrary to common belief, regions in which indigenous people compose a larger share of the population tended to have a larger percentage rejecting the new constitution. La Araucanía, home region of the Mapuche people, had a 74% rejection rate according to Servel, but this has always been (counter intuitively) a rather conservative region.

These results come even though constitutionalists had promised more representation for regional administrations and independence from Santiago de Chile. This issue raises an alert for the current government and Congress concerning the urban elites' focus on issues that are rather sectorial and post-material, to which common people do not respond as well. This makes it more difficult for global movements such as environmental advocacy to resonate outside of the urban and wealthier areas. Younger generations have a great responsibility when it comes to national unity. As they are more sensitive to the changes that the country will go through, they should try to avoid polarization and instead use their power to create consensus.

Conclusions:

Since the rejection of the original draft, a series of paths have been discussed as to what the next steps will be. At one point the idea of keeping the current constitution was pushed, as was initially discussed in 2019, but the overwhelming 80% support for a new constitution (just not the recent draft) began to overtake the debate. As a result, an [agreement](#) was reached among most of the political parties in the country to write a new constitution under conditions that would prevent a recurrence of the same issues. Perhaps the most interesting part of this agreement is the call back to a more technocratic approach to policy making. In this version, 24 experts chosen by the parliament (in proportion to the existing power distribution) will work alongside 50 elected citizens to prepare a new draft.

Chile's experience can also be addressed by other countries expecting to change their constitution, as it shows how important this process is, and how fragile it can be—but also, how institutional uncertainty can impact a country's international position and its future.

For other nations, especially Asia Pacific countries that have a close relationship with Chile, this is a turning point for their relations with South America, as among the rejected changes, there was the issue of looking back to a more protectionist strategy.

It should also be a humble reminder for policy makers that—in countries with political values—favorable elections are not a blank check to do as they please; that ideologies are still an issue for the elites and more radical actors; that expert advice could improve some policies or provide more trust from the population; and that the actions of politicians should always be taken into consideration, as it seems that many do vote for policy makers because of their character and performance rather than their ideology.

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Sascha Hannig Núñez is a Chilean analyst of international relations, with experience as a financial reporter. She currently consults for several organizations, collaborates as an associate researcher at the Instituto Desafíos de la Democracia, and supports the Institute for Global Governance Research at Hitotsubashi University, Japan, as an assistant. Her main fields of study are China's global influence and the implications of science and technology in society. Hannig has a master's degree from the Adolfo Ibáñez University and is pursuing a master's degree in Global Governance at Hitotsubashi University, Tokyo as a JICA scholarship student for the SDG Global Leaders program. In addition to her academic interests, she is a fiction novelist with five novels and works published in three languages and has co-hosted the En el Fin del Mundo podcast.