



Chile's Constitutional Rewrite

A Global Americans Explainer



December 2023
Global Americans

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Acknowledgments

This report was prepared by Global Americans. The report was written by **Scott Brasesco** (Program Associate), **Jackson Mihm** (Research Associate), **Alejandro Trenchi** (Research Associate), and **Tulio Vera** (Interim President & CEO). The authors thank Caio Pereira (Program Coordinator) and Salomé Valdivieso (Newsletter and Research Intern) for their assistance.

The analysis and views expressed herein are those of the authors.

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Introduction



This explainer provides a comprehensive analysis of the December 17 constitutional referendum in Chile. It explores the background events and grievances that have brought Chile to this point, the proposed constitution that will be voted on in the upcoming election, and the likely results and aftermath of the election, regardless of whether the proposal passes or not. The explainer is organized in a question-and-answer format to provide quick and accessible information on the variety of questions that readers may have as the referendum approaches.

This latest constitutional draft comes four years after the outbreak of protests, violence, debate, and dialogue set off by Chile's *Estallido Social* (Social Explosion) and the resultant attempt to replace the constitution of 1980—drafted under the 16-year military dictatorship of General Augusto Pinochet—with a more modern and democratic document. The current administration of President Gabriel Boric rode to office on promises of a new constitution, and the stated intention of attenuating the “neoliberal” economic model in place since the Pinochet era. The first constitutional Convention was largely left-wing, and the progressive constitution it proposed was soundly rejected in 2022 by voters who felt it was a step too far.

The current proposal, on the other hand, was written by a new Constitutional Council made up primarily of right-wing lawmakers, dominated by the far-right *Partido Republicano* (PLR). Analysts have described the new proposal as more right-wing than even Pinochet's 1980 constitution, with regressions in several social rights and little to no change to the economic order.

Predictably, this draft has split the polarized Chilean political system, with right-wing former President Sebastián Piñera (2010-2014, 2018-2022) as a major supporter and left-wing former President Michelle Bachelet (2006-2010, 2014-2018) as an important detractor. An approval would be a further electoral defeat for Boric, whose political fortunes have already stagnated after the first failed proposal, and a victory for José Antonio Kast, PLR leader and likely presidential front-runner for 2025. A rejection would see Chile arrive politically at the same place that it was in 2019 and uneager to begin a third constitutional endeavor.

This report explores in depth the economic and social crises that caused Chile's constitutional rewrite process, such as the deep-rooted inequalities and a growing migrant crisis. Furthermore, it explains the political circumstances that have led from Boric's ascent to his current weakened status, and the rise of the far-right as important decision makers in Chile. It describes in detail the changes between the 1980 constitution and the right-wing proposal that seeks to replace it in the December 17 referendum. Lastly, it details how a popular approval or rejection of the latest proposal will impact Chile, its politics, and its people, and where the political system might go from here in the event of a seemingly likely rejection.

Overall, this report provides expert insights into the upcoming December 17 constitutional referendum and the outlook for the next several years of Chilean politics, no matter the result.

What is Chile’s operative constitution, and why have citizens called to change it?

Chile’s December 17 referendum is its second attempt in two years to approve a constitutional rewrite.¹ Given current expectations, this new draft will likely be rejected by the Chilean population, implying that the country will have gone full circle politically over the past four years and, in the process, left many of the underlying issues that brought the country to this point unaddressed.

The present-day operative constitution dates from 1980 and was drafted under the 16-year Pinochet dictatorship. The original document gave precedence to the private sector over major economic activities and posed limitations on many political rights. For instance, there was a prohibition against strikes by public sector workers and the constitution established a semi-democratic system for electing members of Congress, with some senators appointed rather than elected.²

Although the 1980 constitution went through an important reform in 2005, when 58 amendments (including the introduction of a system of proportional representation) were introduced to dampen its more extreme aspects,³ by 2019 it was widely perceived as out of step with the shifting political mood in the country and illegitimate given its authoritarian genesis.⁴

What were the 2019 social protests about, and what did they accomplish?

Over the decade-plus prior to the breakout of the 2019 protests (the “*Estallido Social*” or “Social Explosion”), there were several rounds of public protests; these protests initially centered around education, but over time broadened to include demands health care and pension reform, as well as gender equality and indigenous rights. These episodes gradually underscored an emergent feeling of social malaise and the feeling that something was not totally right with the chosen economic and political model. Despite this, the scale of the unrest in 2019 still managed to catch most people by surprise.

The outburst of violent protests that started on October 18, 2019 is now understood to have been the culmination of a growing sentiment that the economic playing field in Chile is not level—that despite decades of structural economic progress, improvements in income distribution, as well as the admiration of Chile’s economic model by many outside observers, there remain lingering deep-rooted inequalities in Chilean society having to do with endemic classism and segregation.⁵ In

¹ Porzecanski, A. C. (2023, December 11). Chile: What the Upcoming Referendum Will Not Resolve. *Americas Quarterly*. <https://www.americasquarterly.org/article/chile-what-the-upcoming-referendum-will-not-resolve/>

² *Chile Constitution 1980 (rev. 2015)*. (2015). https://www.constituteproject.org/constitution/Chile_2015

³ Nolte, D. (2022). Chile’s Constitutional Reform Process Rebooted. *German Institute for Global and Area Studies*. <https://www.giga-hamburg.de/en/publications/giga-focus/chile-s-constitutional-reform-process-rebooted>

⁴ Rasp, L. C. (2022, November 25). “It’s not 30 pesos, it’s 30 years”: Chile’s Fight for a More Equal Society. Australian Institute of International Affairs. <https://www.internationalaffairs.org.au/australianoutlook/its-not-30-pesos-its-30-years-chiles-fight-for-a-more-equal-society/>

⁵ Edwards, S. (2023). *The Chile Project*. Princeton University Press.

addition, the fact that—after almost a quarter century of solid economic growth⁶—the economy had entered a period of declining returns in the preceding years contributed to a widening sense of unhappiness and may have proven to be the catalyst for the unrest.

Just 28 days after the initial protests, as the violence and unrest spread, the Piñera government, along with a cross section of the major political parties, put forward a broad agreement for a national referendum on whether to begin drafting a new constitution.⁷ In October 2020, 78 percent of Chileans voted to move forward with the constitutional reform process and for a Constitutional Convention to be convened to draft a new constitution, to be ratified in a national plebiscite set for September 2022.⁸

What happened in the September 2022 referendum on the first constitutional rewrite?

The first constitutional proposal—the product of a single directly elected Constitutional Convention—went to a national referendum on September 4, 2022. The Convention that drafted the new document had been primarily made up of single-issue activists from the center-left to the far-left with few links to traditional political parties; the resulting document was inspired by identity politics, loaded with new individual and collective social rights, and granted the public sector much more ascendancy in the economy than the 1980 constitution.⁹ However, by the time the document went to a vote, the combination of three years of social unrest, persistent violence, and the negative economic effects of the pandemic had caused the Chilean political pendulum to swing to the right. The Chilean population soundly rejected the proposal: 62 percent to 38 percent.¹⁰ In short, the document was viewed as too sweeping a revamping of the Chilean economic and political system.

The rejection of that first draft not only led to a redrafting of the constitutional proposal, but also dealt a major political setback to Boric, who had based much of his 2021 presidential campaign and subsequent presidency on support for the constitutional-reform process as the cure-all for many of Chile’s social and economic problems.¹¹

⁶ *GDP growth (annual %)—Chile*. (n.d.). World Bank Open Data. Retrieved December 11, 2023, from <https://data.worldbank.org>

⁷ Figueroa, P. (2019, November 15). *El “Acuerdo por la Paz y la Nueva Constitución” en Chile*. Agenda Pública. <https://agendapublica.elpais.com/noticia/13907/acuerdo-paz-nueva-constitucion-chile>; *Acuerdo Por la Paz Social y la Nueva Constitución*. (2019).

https://obtienearchivo.bcn.cl/obtienearchivo?id=documentos/10221.1/76280/1/Acuerdo_por_la_Paz.pdf

⁸ *Jubilation as Chile votes to rewrite constitution*. (2020, October 26). <https://www.bbc.com/news/world-latin-america-54687090>

⁹ Barry, E. (2022, September 5). Why Chileans Rejected a New, Progressive Constitution. *Time*. <https://time.com/6210924/chile-rejects-new-constitution-referendum/>

¹⁰ *Ibid.*,

¹¹ Otis, J. (2022, September 5). Chileans have rejected a new, progressive constitution. *NPR*. <https://www.npr.org/2022/09/04/1121065756/chile-constitution-referendum>

How did the 2023 Chilean Constitutional Council elections affect the current draft?

To avoid the pitfalls of the first constitutional process, the Chilean Congress put forward a new roadmap creating three bodies that would draft the new constitution under a set of rules and principles called the “Agreement for Chile”.¹²

This roadmap included (1) an appointed Expert Commission charged with drafting a preliminary document; (2) a directly elected Constitutional Council tasked with finalizing the text; and (3) a Technical Admissibility Commission, whose mission was to make sure that the draft constitution did not contravene the Agreement for Chile.

However, by the time the Constitutional Council was elected in May 2023, its members reflected not just the shift to the right in the country’s political mood, but a shift to the far-right that did not reflect the political reality. Of the 51 members of the Council, 22 came from the far-right PLR which had lost the 2021 presidential election and ironically had been born into existence as a party opposing constitutional change.¹³ Adding several other elected members from the traditional right brought the total right-of-center members in the Council to a three-fifths supermajority. The governing coalition only managed to garner 17 members, a number that fell short of any veto power for constitutional amendments.¹⁴

Predictably, the ensuing document is a constitutional proposal that reflects not only the wishes of the current far-right political order but is perceived by specialists to be even further to the right than the 1980 constitution.¹⁵ On matters of social rights, for instance, including the areas of immigration, crime and abortion, the document is very conservative. Nevertheless, the Chilean right has decided to endorse the constitutional process by underwriting this new document—in essence risking its aspirations to regain the country’s presidency in 2025 were the new draft to be rejected by the population.¹⁶

¹² Cariola Diez Perez-Cotapos. (2022, December 15). *Agreement for a New Constitution—Chile*.

<https://www.cariola.cl/wp-content/uploads/2022/12/Agreement-for-a-New-Constitution-15th-December-2022.pdf>

¹³ Buschschlüter, V. (2023, May 8). *Chile constitution: Far-right party biggest in new assembly*.

<https://www.bbc.com/news/world-latin-america-65524068>

¹⁴ Stott, M. (2023, May 8). Chile’s rightwingers to lead constitution revamp. *Financial Times*.

<https://www.ft.com/content/b9364b98-531b-4b1d-97f0-bce4fbd0728f>

¹⁵ Laborde, A. (2023, November 1). Keys to understanding the new draft of Chile’s Constitution: From the welfare state to the polls. *EL PAÍS English*. <https://english.elpais.com/international/2023-11-01/keys-to-understanding-the-new-draft-of-chiles-constitution-from-the-welfare-state-to-the-polls.html>; Bartlett, J. (2023, November 7). Chile’s right wing presents draft conservative constitution. *The Guardian*.

<https://www.theguardian.com/world/2023/nov/07/chile-new-constitution-conservative-boric>

¹⁶ Cavallo, A. (2023, October 28). Columna de Ascanio Cavallo: La hora de la Constitución. *La Tercera*.

<https://www.latercera.com/opinion/noticia/columna-de-ascanio-cavallo-la-hora-de-la-constitucion/BYIWOZS5ANB25KNSPP23RYWRM4/?outputType=amp>

The Current Proposal



How have Chileans reacted to this current proposal?

Only a simple majority will be needed to approve the proposal, but public opinion in Chile has consistently opposed the current draft of the constitution. Even so, approval has surged in the run-up to the December 17 plebiscite, though analysts have attributed this largely to exasperation at the extended rewrite process rather than genuine support for the current proposal.

On November 26, Cadem (one of the most reliable public opinion agencies in Chile) published their latest polling results, with 38 percent of respondents in favor and 46 percent opposed—representing the slimmest margin since the right-wing convention initially assumed office.¹⁷ Among the 16 percent of respondents who remain undecided, 24 percent said they would probably vote in favor, 17 percent said they would probably vote against, 15 percent said they would probably not vote, and 44 percent did not know or would not respond.¹⁸ Voting is mandatory in Chile, making undecided voters particularly important—only 2 percent of the vote was blank or null in the 2022 September plebiscite.¹⁹ However, voter apathy has grown considerably since that election, with null votes making up 21 percent of votes cast in the election for the current Constitutional Council.²⁰

Like the rejected 2022 draft, critics have charged that the current proposal is unrepresentative of Chilean society.²¹ The task of creating a charter to represent one of the wealthiest, yet most socioeconomically fragmented countries in the hemisphere is undoubtedly a tall one.²² However, the far-right PLR, which held the most seats in the Constitutional Council, made few concessions to extend an olive branch to centrists or the political left. The current draft's marginal popularity highlights the paradoxical nature of Chilean attitudes toward the operative 1980 constitution; though many are unhappy with it, adopting a consensus-driven approach to a rewrite has not been politically viable for convention leaders on the right or left, leaving Pinochet's constitution as the most moderate option.

¹⁷ Plaza Publica. (2023). *Encuesta N. 515*. CADEM. <https://cadem.cl/wp-content/uploads/2023/11/Track-PP-515-Noviembre-S4-VF.pdf>

¹⁸ Laborde, A. (2023, November 1). Keys to understanding the new draft of Chile's Constitution: From the welfare state to the polls. *EL PAÍS English*. <https://english.elpais.com/international/2023-11-01/keys-to-understanding-the-new-draft-of-chiles-constitution-from-the-welfare-state-to-the-polls.html>

¹⁹ *Resultados Plebiscito Constitucional*. (2022, September 13). Servicio Electoral de Chile. https://web.archive.org/web/20220913182345/https://www.servelecciones.cl/#/votacion/elecciones_constitucion/global/19001

²⁰ Vergara. (2023, May 8). Conservatives prevail in key vote for new Chile constitution. *AP News*. <https://apnews.com/article/chile-constitution-kast-boric-plebiscite-referendum-4a3941e0541a9fee0c1b5976c0c6af40>

²¹ Miranda, N. A. R., & Elliott, L. (2023, October 6). Chile voters sour on right-wing constitution as abortion clause stirs debate. *Reuters*. <https://www.reuters.com/world/americas/chile-voters-sour-right-wing-constitution-abortion-clause-stirs-debate-2023-10-06/>

²² *Chile World Bank Open Data*. (n.d.). World Bank Open Data. Retrieved December 11, 2023, from <https://data.worldbank.org>

What are the structural components of the current proposal?

If approved, the current proposal would secure the continuity of Chile's pro-business policies.²³ Similar to the operative constitution, the current draft protects access to both public and private healthcare, education, and pension systems. The current draft and the 1980 constitution both explicitly call for the participation of the private sector as a means of maintaining a social and democratic state governed by the rule of law.

Like the 2022 rewrite, the current proposal explicitly recognizes indigenous peoples and their collective rights, but recognition falls well short of defining Chile as a pluri-national state, as the rejected proposal did. It would also retain a bicameral Congress, with both the Chamber of Deputies and the Senate retaining their titles and most of their power.²⁴ Additionally, the current proposal includes a shorter list of guaranteed rights for citizens—much closer to the operative constitution than the earlier proposal.²⁵

Structurally, the largest departure from the 1980 constitution would be the creation of some 20 new state bodies, which are intended to act as counterweights or supervisors to existing ones. Among the proposed agencies, the current draft calls for the establishment of independent civil service, anti-corruption, and public policy evaluation agencies.²⁶ Though the state already performs these functions, Council members from the PLR have defended the measures, claiming the new state agencies will include more tools for specialization and broader state control. Even so, Chilean political experts have expressed doubts, arguing that these agencies would create new bureaucratic hurdles to policymaking and limit government capabilities in key areas.²⁷

What are notable articles of the current proposal?

Among the articles in the current proposal, none have elicited as much national and international attention as Article 16, which assures the rights of “the unborn,” and requires the government to expel unauthorized migrants “in the shortest possible timeframe.”²⁸ Activists have sounded the alarm due to its possible implications for women and migrants.

²³ *What to Expect as Chile Votes on a New Constitution (Again)*. (2023, November 15). RANE. Stratfor. <https://worldview.stratfor.com/article/article/what-expect-chile-votes-new-constitution-again>

²⁴ *Second time's a charm? A new Constitutional process ensues again in Chile*. (n.d.). Clyde & Co. Retrieved December 11, 2023, from <https://www.clydeco.com:443/insights/2023/07/second-time-s-a-charm-a-new-constitutional-process>

²⁵ Suárez, R. (2023, June 5). Chile ya tiene anteproyecto de Constitución: Comisión Experta cierra trabajo. *Proceso Constitucional*. <https://www.procesoconstitucional.cl/chile-ya-tiene-anteproyecto-de-constitucion-comision-experta-cierra-trabajo/>

²⁶ Ojeda, N. Q. y J. M. (2023, October 31). *Propuesta de nueva Constitución del Consejo mandata la creación de al menos 10 nuevos órganos estatales*. La Tercera. <https://www.latercera.com/politica/noticia/propuesta-de-nueva-constitucion-del-consejo-mandata-la-creacion-de-al-menos-10-nuevos-organos-estatales/SFUUDHIX6RGUFGWNZIJFBXOAVM/>

²⁷ Cavallo, A. (2023, October 28). Columna de Ascanio Cavallo: La hora de la Constitución. *La Tercera*. <https://www.latercera.com/opinion/noticia/columna-de-ascanio-cavallo-la-hora-de-la-constitucion/BYIWOZS5ANB25KNSPP23RYWRM4/?outputType=amp>

²⁸ Ávila, M. (2023, October 30). *Propuesta Constitucional: Los ocho artículos que impedirían la competencia democrática de todas las ideas*. *CIPER Chile*. <https://www.ciperchile.cl/2023/10/30/propuesta-constitucional-los-ocho-articulos-que-impedirian-la-competencia-democratica-de-todas-las-ideas/>; Laborde, A. (2023, November 1). Keys to understanding the new draft of Chile's Constitution: From the welfare state to the polls. *EL PAÍS English*.

Reproductive rights activists in Chile and abroad have condemned the vague language on “the unborn” in the article, warning that it could open the door to make abortion fully illegal once again.²⁹ In 2017, the Bachelet government passed a law which made the practice legal in three instances: when the life of the mother is at risk, when the fetus is not viable, and in cases of rape during the first 12 weeks of pregnancy.³⁰ By regional standards, this status quo is already restrictive, so it is hard to imagine an approval scenario without widespread pushback from Chile’s left-leaning urban voters and women’s rights groups.³¹

Though it calls for “full respect to human dignity,” Article 16’s required rapid expulsion of immigrants has also drawn criticism and concern.³² Chile’s migrant population doubled between 2017 and 2020, with an influx of hundreds of thousands of migrants both through regular and irregular channels—primarily from Venezuela and Haiti, though with large numbers from the Dominican Republic, Bolivia, Colombia, and Ecuador as well.³³ While in 1992, foreign-born nationals accounted for just 1 percent of Chile’s population, today they account for 9 to 11 percent.³⁴

The rapid pace of migrant growth and the low levels of formal entries—with one source estimating formal migrants as low as 10 percent of total migrants since the COVID-19 pandemic³⁵—have fueled a popular backlash against migrants. Starting with the second presidency of Piñera (2018-2022), who campaigned on “cleaning up the house,” Chileans have increasingly rallied behind anti-migrant rhetoric. As such, Article 16’s stance on migration represents a reaction to the rapid increase of foreign-born arrivals and the continuation of the Chilean right wing’s desire to control who is and is not allowed to stay in the country.

<https://english.elpais.com/international/2023-11-01/keys-to-understanding-the-new-draft-of-chiles-constitution-from-the-welfare-state-to-the-polls.html>; Lara, B., & Bordon, P. (2023, November 13). ¿Por qué votamos En Contra (de nuevo) de la nueva Constitución? *El País Chile*. <https://elpais.com/chile/2023-11-13/por-que-votamos-en-contra-de-nuevo-de-la-nueva-constitucion.html>; Propuesta Constitucion Política de la Republica de Chile, (2023). <https://www.diarioconstitucional.cl/wp-content/uploads/2023/10/PROPUESTA-DE-NUEVA-CONSTITUCION-POLITICA-DE-LA-REPUBLICA.pdf>

²⁹ *What to Expect as Chile Votes on a New Constitution (Again)*. (2023, November 15). RANE. Stratfor.

<https://worldview.stratfor.com/article/article/what-expect-chile-votes-new-constitution-again>

³⁰ Ley Num. 21.030. Regula la Despenalización de la Interrupción Voluntaria del Embarazo en Tres Causales, Pub. L. No. CVE 1276248, 5 (2017).

<https://www.diariooficial.interior.gob.cl/publicaciones/2017/09/23/41866/01/1276248.pdf>

³¹ Zissis, C., Harrison, C., Orbach, J., & Vilcarino, J. (2023, November 21). *Explainer: Abortion Rights in Latin America* | AS/COA. AS/COA. <https://www.as-coa.org/articles/explainer-abortion-rights-latin-america>

³² Laborde, A. (2023, November 1). Keys to understanding the new draft of Chile’s Constitution: From the welfare state to the polls. *EL PAÍS English*. <https://english.elpais.com/international/2023-11-01/keys-to-understanding-the-new-draft-of-chiles-constitution-from-the-welfare-state-to-the-polls.html>

³³ Doña-Reveco, C. (2022). Chile’s Welcoming Approach to Immigrants Cools as Numbers Rise. *Migrationpolicy.Org*. <https://www.migrationpolicy.org/article/chile-immigrants-rising-numbers>

³⁴ Stefoni, C., & Contreras, D. (2022). *Migration in Chile: Trends and policy responses in the period 2000-2021* (32; Policy Documents Series). UNDP LAC. <https://www.undp.org/sites/g/files/zskgke326/files/2022-11/PNUDLAC-working-paper-32-Chile-EN.pdf>

³⁵ Milesi, O. (2022, May 16). *Undocumented Migration Puts Pressure on New Chilean Government for Solutions*. *Global Issues*. <https://www.globalissues.org/news/2022/05/16/30858>

Among other concerning articles, critics have also underscored that Article 79 of the current draft raises the bar for constitutional reform.³⁶ While the operative constitution requires four-sevenths of Senators and Deputies to vote in favor of constitutional changes, the current proposal calls for three-fifths of legislators to vote in favor.³⁷ As such, any future modifications to the draft text would need more support in the legislature, making constitutional changes harder.³⁸

Looking Forward

What would approval mean for Chile?

If a majority of Chileans vote in favor of the new draft constitution, it would mean a resounding victory for Chile's conservative opposition and a formal embrace of the country's current free-market economic and social model. Moreover, it would be a historic defeat not only for Boric's leftist coalition, but also for numerous civil society movements that have long advocated for a new social welfare-oriented constitution capable of addressing their long-standing inequality concerns.

Among supporters, former President Piñera has noted that the current draft has the potential to “open the doors to a new stage of comprehensive, inclusive, and sustainable development.”³⁹ Backing this claim, most members of the National Chamber of Commerce expect that the new constitution will positively impact the economy.⁴⁰ Critics, including former president Bachelet, expect the new constitution will restrict human rights and personal freedoms.⁴¹ Former President of the Senate Jaime Quintana has even warned that, if approved, it could trigger a new wave of mass protests that would again destabilize the country.⁴²

³⁶ Lara, B., & Bordon, P. (2023, November 13). ¿Por qué votamos En Contra (de nuevo) de la nueva Constitución? *El País Chile*. <https://elpais.com/chile/2023-11-13/por-que-votamos-en-contra-de-nuevo-de-la-nueva-constitucion.html>

³⁷ Lattanzi, A. (2023, September 8). Consejeros aprueban quorum para reformas constitucionales. *Proceso Constitucional*. <https://www.procesoconstitucional.cl/consejeros-aprueban-quorum-para-reformas-constitucionales/>

³⁸ Correa. (n.d.). *Overcoming the Pinochet Factor in the Chilean Constitution-Making Process*. Constitution Net. Retrieved December 11, 2023, from <https://constitutionnet.org/news/overcoming-pinochet-factor-chilean-constitution-making-process>

³⁹ Navarrete, E. (2023, November 23). *Dos 'A favor' y dos 'En contra': Cómo votarán los expresidentes de la República en el plebiscito constitucional*. La Tercera. <https://www.latercera.com/politica/noticia/dos-a-favor-y-dos-en-contra-como-votaran-los-expresidentes-de-la-republica-en-el-plebiscito-constitucional/GPITTWIFG5GDRIXGE5LTHUPDS4/>

⁴⁰ Alonso, C. (2023, November 21). *Encuesta de la CNC revela que el 60% de los empresarios se inclinará por votar "A favor" de la nueva Constitución*. La Tercera. <https://www.latercera.com/pulso/noticia/encuesta-de-la-cnc-revela-que-el-60-de-los-empresarios-se-inclinara-por-votar-a-favor-de-la-nueva-constitucion/N75TMH4C2RGV7HEP5BUCC6MXSQ/>

⁴¹ Ibid.,

⁴² Tralma, D. (2023, October 31). *Bachelet se prepara para el "En contra" a propuesta Constitución—La Tercera*. La Tercera. <https://www.latercera.com/politica/noticia/bachelet-alista-diseno-para-pronunciarse-por-el-en-contra/3CEWNXJ7PFAYDNKHLHMI3DGK7X4/>

To his point, a vote of approval would not necessarily mean the long-term triumph of one model over the other. Chile remains highly polarized, and many of the issues that created calls for a new constitution remain unresolved. Several cleavages divide the country, not only between the traditional political right and left, but also between people of different genders, ages, geographies, incomes, and places of origin.⁴³ If the new text is approved, Boric will have five days to convene an extraordinary session of Congress in which the new text will be enacted and the members of Congress will swear to respect and protect it.⁴⁴

What are the possible consequences of voting to reject, and where would the Chilean political system go from there?

A second rejection vote would imply that Chileans prefer the current constitution, with its many amendments and iterations, over a new constitution that lacks input from both sides of the political spectrum. In fact, as with the first rewrite attempt, the lack of consensus-building in the latest process will likely ensure a second rejection. Given voters' apathy, it is expected that a new rejection will mark the end of the four-year-long constitutional rewrite process.

Indeed, a recent poll from the *Centro de Estudios Públicos* found that while 56 percent of Chileans believed that a new constitution would solve the country's problems in 2019, that number has now dropped to 23 percent. Today, nearly half believe that a new constitution would not help solve the country's problems.⁴⁵ Chileans' main concerns are centered around specific issues such as rising criminality as well the quality of the health, pension, and education systems that many believe require targeted solutions rather than constitutional restructuring.⁴⁶

In case of rejection, Boric's governing coalition—comprised of ten political parties, including *Partido Socialista de Chile* (PS), *Partido por la Democracia* (PPD), and *Partido Comunista de Chile* (PCCh)—has already announced that it would not favor a third constitution rewrite.⁴⁷ Senator and PS President Paulina Vodanovic said “the constitutional process is over, citizens do not want it.”⁴⁸ Likewise, government spokesperson Camila Vallejo has expressed that if Chileans vote against the second draft, the constitutional process will come to an end, claiming, “Chile needs

⁴³ De la Fuente, A. (2023, November 23). *Chile mide sus polarizaciones: Radiografía de sus grandes diferencias y consensos*. El País Chile. <https://elpais.com/chile/2023-11-23/chile-mide-sus-polarizaciones-radiografia-de-sus-grandes-diferencias-y-consensos.html>

⁴⁴ BCN Biblioteca del Congreso Nacional de. (2021). *Comparador de Constituciones. Proceso Constituyente | Biblioteca del Congreso Nacional de Chile* [Text]. bcn.cl; BCN. Biblioteca del Congreso Nacional de Chile. <http://www.bcn.cl/procesoconstituyente/comparadordeconstituciones/home>

⁴⁵ *Encuesta CEP N° 89, Junio-Julio 2023*. (2023, July). Centro de Estudios Públicos. <https://www.cepchile.cl/encuesta/encuesta-cep-n-89/>

⁴⁶ Ibid.

⁴⁷ Convergencia Social [@la_convergencia]. (2023, November 27). *Compartimos declaración “‘En Contra’ para cerrar el proceso” firmada por los partidos del oficialismo. “Para cerrar este proceso y darle certezas a Chile, la única opción razonable es el voto ‘En Contra’. No más extremos, En Contra”*. <https://t.co/xqQ3UBbdhH> [Tweet]. X. https://twitter.com/la_convergencia/status/1729174472916353285

⁴⁸ *Paulina Vodanovic (PS) por la posibilidad de un tercer proceso constituyente: “Nuestros votos no van a estar.”* (2023, November 27). Radio Infinita. <https://www.infinita.cl/entrevistas/2023/11/27/paulina-vodanovic-ps-por-la-posibilidad-de-un-tercer-proceso-constituyente-nuestros-votos-no-van-a-estar.html>

certainty.”⁴⁹ Lautaro Carmona, President of the PCCh, noted that though they would not currently support a third process, they will start debating internally how to move forward on a new constitution.

Apathy toward the constitutional process is not limited to the governing coalition. Opposition leaders have similarly noted that the country can no longer afford to have the constitutional process open. PLR leader Kast said “We need investments... We need legal certainty now... Chile cannot wait any longer.”⁵⁰ Senator and *Unión Demócrata Independiente* (UDI) President Javier Macaya expressed that “under no circumstances” will his party vote to approve a third rewrite nor would they allow Congress to engage in a constitutional reform process, claiming “we have spent four years which have been too painful for Chileans, they are fed up with the constitutional issue, they do not want to know more about the discussion between the left and the right and we want to close it and close it well.”⁵¹

What mechanisms are there in Chile’s operative constitution to address the grievances that triggered the rewrites?

Although the constitution leaves the door open for more rewrite attempts, given voters' lack of interest, it is very unlikely the current Congress would have the desire or ability to reach the four-sevenths majority necessary to start a third constitutional rewrite. Moreover, some opposition senators, including José Manuel “Rojo” Edwards and Francisco Chahuán, have proposed amending the Constitution to prevent consecutive constitutional rewrites, establishing a two-year lapse between a rejection vote and a new constitutional process.⁵²

Nonetheless, it is very unlikely that the grievances that triggered the constitutional process will vanish regardless of the result of the December 17 referendum. Though Chile reduced poverty from 68.5 percent in 1990 to 8.6 percent in 2017, becoming among the richest countries in the Hemisphere, some measures of inequality have increased, making it the largest issue for many Chileans.⁵³ Indeed, Chile has the second highest level of inequality among the OECD group of

⁴⁹ Haas, B. (2023, November 20). *¿Qué pasa si se rechaza la propuesta de nueva Constitución?* BioBioChile - La Red de Prensa Más Grande de Chile. <https://www.biobiochile.cl/noticias/servicios/explicado/2023/11/20/que-pasa-si-se-rechaza-la-propuesta-de-nueva-constitucion.shtml>

⁵⁰ Quiñones, N. (2023, November 9). *Kast dice que “esta es la Constitución que va a dar pega” y cuestiona a los parlamentarios de derecha que están por el “En contra.”* La Tercera. <https://www.latercera.com/politica/noticia/kast-dice-que-esta-es-la-constitucion-que-va-a-dar-pega-y-cuestiona-a-los-parlamentarios-de-derecha-que-están-por-el-en-contra/QPIIG2DMHVC23GJS7CO7T6DAWU/>

⁵¹ Rodrigo Gómez, S. (2023, October 16). *Macaya (UDI) afirma que “de ninguna manera” daría los votos para iniciar nuevo proceso constitucional y rechaza que Congreso haga las reformas.* La Tercera. <https://www.latercera.com/politica/noticia/macaya-udi-afirma-que-de-ninguna-manera-daria-los-votos-para-iniciar-nuevo-proceso-constitucional-y-rechaza-que-congreso-haga-las-reformas/VJWQNXXV65VDAZFB2JFO3JEWKA/>

⁵² *Presentan reforma para evitar nuevo proceso constituyente de rechazarse propuesta elaborada por el Consejo.* (2023, September 13). CNN Chile. https://www.cnnchile.com/pais/presentan-reforma-evitar-nuevo-proceso-constituyente_20230913/

⁵³ Naciones Unidas Derechos Humanos. (n.d.). *ODS 10: Reduccion de las Desigualdades.* https://www.chileagenda2030.gob.cl/storage/docs/Presentacion_ODS10.pdf

developed countries, in addition to one of the highest levels of perceived earnings disparities and perceived inequality of opportunity.⁵⁴



Both the operative constitution and the current proposal require privatized options in health, school, and pensions, which critics claim have prevented equal improvements for the average Chilean in these crucial areas.⁵⁵ The top ten percent of Chileans continue to control over 80 percent of Chile’s wealth, while the bottom 50 percent owe more than they own.⁵⁶ While robust property right protections in Chile’s constitution will make redistributive economic policies a challenge,⁵⁷ a compromise between different political actors and consensus-building reforms on specific issues such as healthcare and education access will likely remain the most effective mechanisms to address Chilean concerns.

⁵⁴ OECD. (2021). *Does Inequality Matter?: How People Perceive Economic Disparities and Social Mobility*. Organisation for Economic Co-operation and Development. https://www.oecd-ilibrary.org/social-issues-migration-health/does-inequality-matter_3023ed40-en

⁵⁵ Rasp, L. C. (2022, November 25). “It’s not 30 pesos, it’s 30 years”: Chile’s Fight for a More Equal Society. Australian Institute of International Affairs. <https://www.internationalaffairs.org.au/australianoutlook/its-not-30-pesos-its-30-years-chiles-fight-for-a-more-equal-society/>

⁵⁶ *Share of wealth by percentile Chile 2021*. (n.d.). Statista. Retrieved December 11, 2023, from <https://www.statista.com/statistics/1294731/distribution-wealth-by-percentile-chile/>

⁵⁷ *La evolución del derecho de propiedad a lo largo de la historia constitucional chilena—Universidad de Chile*. (2022, October 20). Universidad de Chile. <http://www.uchile.cl/noticias/191543/el-derecho-de-propiedad-a-lo-largo-de-la-historia-constitucional>



Chile's Constitutional Rewrite

A Global Americans Explainer

This report was prepared by Global Americans. The report was written by Scott Brasesco (Program Associate), Jackson Mihm (Research Associate), Alejandro Trenchi (Research Associate), and Tulio Vera (Interim President & CEO).

The analysis and views expressed herein are those of the authors.

December 11, 2023