

---

Chile's Protesters Have Won a Path to a New Constitution

16/11/2019



SANTIAGO, Chile—Every evening for the last month, Camila Arroyo has been out on the streets of Santiago to air a growing list of frustrations.

As soon as she arrives home from work each day, she throws her rucksack onto her bed, ties a green cloth around her neck, and heads straight back out to mingle with protesters on the shaded fringes of Plaza Italia—taking a saucepan and frayed wooden spoon with her.

“I believe that basic rights should be guaranteed independent of a person’s ability to pay,” the 28-year-old explained between deafening volleys of saucepan-bashing—a traditional *cacerolazo* protest, in which people create a cacophonous din from balconies or street corners to register their dissent.

For nearly four weeks, millions of Chileans have been flooding the wide avenues and public squares of Santiago—as well as in towns and cities across the country—to demand change on issues including pensions, education, and political reform. As the protests have rumbled on for almost a month, one call has long resonated above the others—a new constitution to replace the current dictatorship-era document.

In the early hours of Friday morning, a historic agreement was reached at Chile’s presidential palace, La Moneda. After nearly a month of resistance from President Sebastián Piñera, party leaders agreed to a nationwide plebiscite in April 2020, asking Chileans if they want a new constitution and how they would like it to be drafted. For many, the deal may open up a path for

Chile to move beyond the dictatorship-era framework that has become the target of anger during the country's mobilization.

The protests began with high school students leaping metro station turnstiles after a fare increase, but by Oct. 18 an explosive movement bringing together Chileans from all sectors had gripped the capital.

That night, as 10 metro stations and several buildings were engulfed in flames, the world watched on in horror as one of Latin America's most stable countries lurched alarmingly into chaos and violence.

The marches have spread across the country, and although the demands are profuse, there is a clear overall message from many Chileans of greater dignity in every walk of life—a possibility snatched from them, they say, by the neoliberal economic doctrine embedded by the dictatorship of Augusto Pinochet (1973-1990) and then permitted by decades of unresponsive governments.

"We have all heard the message. We have all changed," Piñera declared on Oct. 25. However, protesters had deemed his cabinet reshuffle to be cosmetic, and although a reform package appeared to target many of the right areas, it did not go far enough to appease demands.

Arroyo is certain that replacing Chile's dictatorship-era constitution would be a step toward regaining social order. "This is a constitution that was written under the dictatorship and does not represent the people—it is not the expression of any social or political consensus," she said.

In Chile's model, the belief in the market is demonstrated by the comparative insignificance of the state. The constitution is largely interpreted to hand the markets responsibility for what other models delegate to the government in areas such as health and education. Constitutions elsewhere in the region have a much stronger emphasis on social welfare.

"The [current] constitution is the combination of three ideologies: traditional Catholic values, a set of liberal principles, and some elements that could be considered social-democratic," said Pablo Ruiz-Tagle, the dean of the University of Chile's law faculty and a constitutional expert. "Chile constructed a welfare state with an incredibly limited capacity—something that the country has been rebuilding bit by bit since the return to democracy in 1990, although it is still very weak."

The constitution has been reformed several times, including a 1989 modification that broadened participation to include left-wing groups outlawed by the original text, and a profound set of alterations were approved in 2005 under the government of Ricardo Lagos. As such, some have argued that the constitution is not the dictatorship-era document its critics paint it as.

Nonetheless, post-tax income inequality in Chile is now the highest among countries in the Organization for Economic Cooperation and Development, with a Gini ratio of 0.46 in 2017. The cost of living is high, and social welfare allowances are largely insufficient. As a result, many of the protesters' demands—which have focused particularly on the quality of and access to a health care system that is split between an oversubscribed public system and a private system with greater choice but expensive plans; pensions; and social security—have roots in the constitution and the legacy of the dictatorship.

The pensions system, for example, became law in 1980 shortly after the constitution was ratified

and sees for-profit groups manage funds contributed by workers—guaranteeing a base monthly pension of just 110,201 pesos (\$137). A paltry pension provision and high drug prices have made life unaffordable for many people as they reach old age. People over 80 have the highest suicide rate of any age bracket in Chile. A message sprayed crudely across a concrete wall near a Santiago metro station reads: “This is for all the grandparents who killed themselves so as not to be a burden. Today we rise up in your honor.”

Meanwhile, the constitutional enshrinements of education and health refer to a commitment to the freedom of choice of provider—public or private—rather than any guarantee of access to health care or education. Even if these rights were enshrined, a funding gap has been blamed for the lack of access to health care and a stratified system of education in which many who do not qualify for any state aid end up with unsustainable levels of debt.

Furthermore, water is declared a public good, with the rights to its use privatized and administered through a market system set in place by the water code—part of the constitution. Chile's watersheds are unevenly distributed. The Atacama Desert in the north—the driest nonpolar place on Earth—holds little water, while the expansive Patagonian ice fields in the south of the country see far more precipitation. With climate change hitting Chile hard and much of the population concentrated in its increasingly arid central region, the issue of water rights and distribution has surged up the agenda for many protesters, particularly in Antofagasta, a mining city in the desert.

The constitution also provides structural provisions that limit the remit of the state and concentrate its influence firmly in the executive. “The system the constitution enshrines is hyper-presidential,” said Javiera Arce, an academic teaching at Chile's Catholic University and the University of Valparaíso. According to Arce, many of the issues within the president's control are beyond the powers of the Chilean Congress. Given that the president can also direct the legislative agenda, many protesters feel that the legislature is incapable of responding to their demands. “The rules are incredibly rigid. There are no real channels through which other forms of participation can be generated beyond electing a representative,” Arce said.

As such, in order to distill their plethora of demands into a coherent proposal, civil society groups from almost every profession and discipline have once more taken the lead in organizing town hall-style meetings across the country. More than 1,500 people attended a congregation at the Estadio Monumental in Santiago on Oct. 31, hosted by Chile's biggest football club, Colo Colo, which saw people splinter into small groups to discuss their own visions for a new Chile.

A Nov. 11 survey by the Chilean pollster Cadem suggested that 78 percent of Chileans were in favor of a new constitution, and figures from across the political spectrum joined the calls. On Nov. 12, the opposition united to back the formation of a constitutional assembly—the first time the entire set of nongovernmental parties has come together in such a way—in opposition to Piñera's preferred option of drafting a new constitution in Congress. Drafting the document in Congress, opponents said, would limit civil society's participation.

When the agreement was finally reached between party leaders on Friday, they ditched Piñera's congressional plan entirely. The two options to be included in the plebiscite are a hybrid assembly, with half of its members to be chosen by Congress and half to be chosen from outside elected politics, and a constitutional assembly drawn entirely from the population at large—the preferred alternative according to polls. Details on how either would be formed or function in practice are sparse at present. The key compromise reached in the deal is that two-

thirds of the constitutional body, whatever form it eventually takes, will be required to approve any article it attempts to incorporate.

Ultimately, with an opposition that has only just begun to take advantage of the opportunity presented by the crisis to work together, and a beleaguered president who has finally had to invite a broader political class to break bread, a new social contract to replace the obsolete dictatorship-era constitution is Chile's best chance of drawing a line under its sociopolitical crisis.

---