

CHILE: Divisive constitutional campaign in prospect

- Following a 12-month drafting process, the new constitution was officially delivered to President Gabriel Boric in a special ceremony yesterday, 4 July. The constituent assembly has now been formally dissolved.
- A public referendum to ratify or reject the new constitution will take place on 4 September.
- For the last few weeks, polls have indicated that a majority of voters would reject the new constitution despite a landslide vote in favor of constitutional change in 2020.

Why has public opinion turned against the new constitution?

According to the latest Cadem poll last week, only 10% of voters would like to see the constitution applied exactly as it is currently formulated. While the draft does contain important advances in some areas, such as gender equality and greater recognition for indigenous peoples, in too many ways, there are aspects of the new constitution that are a) too radical (introducing changes to the judicial system that raise questions about equality under the law); b) introduce unnecessarily divergent change (the introduction of an untested so-called asymmetric bicameral system); or c) generate uncertainty (the future of the pension system). Most voters wanted an updated charter of social rights and guarantees combined with fairer rules, not a left-wing policy document or a radical refoundation of the Chilean state.

The growth in public skepticism is also down to process, not just substance. A smattering of scandals in the assembly undermined confidence. The constituent assembly, dominated by anti-establishment leftists of varying hues, never ceased to flaunt a combination of -isms: political sectarianism, maximalism, and revanchism. Even yesterday's concluding event was overshadowed by the assembly's partisan and petty decision (later overturned) not to invite the country's former presidents to an event of major symbolic significance.

The Boric government's floundering in the nearly four months it has been in office has also undermined sentiment in the new constitution. Boric and his cabinet have struggled with security problems; blocked a popular pension withdrawal initiative; and had to deal with truckers' protests – all against a backdrop of slowing growth and rising inflation. The interplay between Boric's popularity and support for the new constitution is important; only recently has Boric realized that connecting his political fortunes to the new constitution may have been a mistake. The latest weekly Cadem poll put Boric's disapproval rating at 62%, up 15 points in the space of a month and remarkably high for this stage of a Chilean president's term. Yesterday, Boric called on voters not to see the referendum as a chance to judge (code for punish) his government.

Could the "no" vote prevail?

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The latest MORI poll from June put the “no” or “reject” vote at 42% and the “approve” or “no” vote at 38%, with 12% still undecided. According to Cadem, the gap is wider: “no” is at 51%, and “yes” stands at 34%, with 15% undecided. Additionally, there is a growing expectation among voters that “no” could prevail.

Based on these polling numbers, the “no” vote has a real chance of winning the referendum. However, the number of undecided voters means the outcome is far from sure. The dissolution of the constituent assembly may lessen its prominence, which could help the “yes” campaign (though assembly members will still be involved in the campaign). Boric has been reaching out to prominent figures on the center-left to boost support for “yes.” At the same time, the Communists (PC), a key partner in the governing coalition, want a one-off cash transfer for low-income groups to be paid out between now and the referendum, which could boost sentiment. Note that voting is obligatory. If the “yes” campaign can mobilize younger voters, who tend to be much more supportive of the new draft, this could change the dynamic. Lastly, as a last resort, Boric could carry out a cabinet reshuffle to refresh his administration and help the “yes” vote, even if doing so would also be an admission of weakness.

However, it will be hard to gloss over the flaws in the draft document. Boric’s now-notorious assertion that “any result is better than a constitution written by a bunch of generals” is overly simplistic. The 1980 constitution was reformed dozens of times since it was promulgated (most comprehensively in 2005). The parties that comprise the center-right *Chile Vamos* (CV) coalition seem aware of the danger of being seen as defenders of an outdated status quo tinged by authoritarian origins. They all back “no” but will not front the campaign since their involvement could turn off some center-left voters who may have misgivings about the new constitutional draft. This position makes sense but could end up being undermined by the right-wing Republicans, the party of the defeated presidential candidate Jose Antonio Kast.

To convince the center-left, the CV by and large now acknowledges that the process of constitutional change would need to continue if the “no” vote prevails, an idea that is crystallized in the “reject to reform” slogan, which enjoys the backing of 57% of voters according to last week’s Cadem poll. A bill cooked up by the centrist Christian Democrats (CD) – not a CV member – could be of service. The initiative proposes to lower the bar to change the *existing* constitution from 2/3 to 4/7 to advance more smoothly with reform if the “no” vote wins and to head off any sense of a political impasse (or another outbreak of social unrest) after September. Another option for the “no” camp is to propose another referendum to decide on a less contentious way to change the constitution.

On balance, it probably helps the “no” campaign that many in the “yes” camp have issued a corresponding call to “approve to reform” – a clear sign that even the “yes” camp sees the current draft as flawed and requiring immediate change if it is endorsed in the referendum. These competing slogans and strategies incidentally show that the constitutional change process is set to continue well beyond September 2022, dashing any hopes for the quick implementation of a stable legal framework.

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