

OECD Public Governance Reviews

Chile

**SCAN REPORT
ON THE CITIZEN PARTICIPATION
IN THE CONSTITUTIONAL PROCESS**

2017



What are Public Governance Scans?

OECD Public Governance Scans are the abridged version of full-fledged Public Governance Reviews (PGRs) that provides governments with a 360 degree perspective on their ability to deliver on government objectives. Rooted in the sound methodological approach of the PGRs, the Scans aim to deliver a diagnosis in a shorter period of time and in the format of a more concise output. Data collection is based on OECD surveys and complemented with a fact-finding mission.

This Scan specifically focuses on good governance performance in public consultation and citizen engagement within the framework of the constitutional process open to citizens in Chile. The output focuses on:

- key actors and core processes;
- ongoing reform initiatives;
- observed challenges.

The Scan also offers preliminary indications on the good governance performance in public consultation and citizen engagement as compared to OECD standards.

Why a Public Governance Scan on the citizen participation in the constitution-building process in Chile?

The Chilean Government approached the OECD to carry out an assessment of the Citizen participation in the Constitution-Building Process in Chile (*CPOC – Proceso Constituyente Abierto a la Ciudadanía*), identify lessons learned and advise on how to further improve citizen engagement in policy making processes.

The primary objectives of this Public Governance Scan are to:

- assess the participative consultation process and its methodology in the constitution-building process;
- analyse current open government and citizen participation practices designed and implemented in the country;
- identify areas of improvement, based on good practices by OECD members and partner countries;
- provide examples from other countries on citizen participation in the constitution-building process.

This Public Governance Scan includes the following sections:

- Setting the Context for Constitution-building process;
- Public Participation in Chile: Challenges for the Participative Constitution-building process;
- Citizens at the Forefront of the Constitution-building Process;
- Fostering an Open and Inclusive State in Chile.

Chile

SCAN

2017

Setting the context for a constitution-building process



Chile is one of the most stable and prosperous countries in Latin America, with a significant index of political stability, economic growth and poverty reduction (World Bank, 2016). Even though the country still has some challenges ahead, it joined the OECD in 2010, becoming the first South American country to join the Organisation.

In parallel to its economic, political and social evolution, Chile has made important efforts over the past decades to improve its citizens' quality of life (OECD Better Life Index, 2016). It has modernised the State apparatus and reformed its public sector to provide better services to citizens (OECD, 2016a;2017).

In this context, the Government of Chile has set in motion several initiatives to promote citizen participation. One initiative stands out for its nature and relevance: the constitution-building process, during which the Government designed and conducted a public consultation to promote a debate and collect information on how Chileans would like to shape their constitutional framework. The consultation mechanism proposed by President Michelle Bachelet lasted from April to August 2016. It addressed all citizens, and spanned the local, provincial and regional levels.

CONSTITUTION-BUILDING PROCESS: INTERNATIONAL PRACTICES AND EXPERIENCES

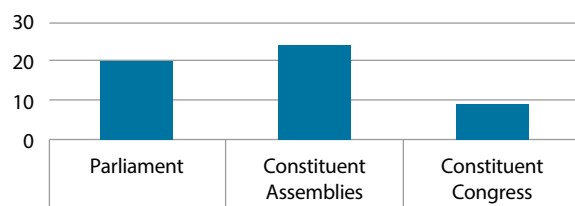
History has shown that constitution-drafting and citizen consultation do not follow a single model (United Nations Development Programme [UNDP], 2015):

- **Legislative branch.** When the Congress is the body in charge of drafting a new constitutional law, a specific commission is generally created within the Parliament, comprising previously elected parliamentarians. When the Congress drafts a constitutional law, the entire Congress can be selected as a constitutional power or a smaller commission can be created, as happened in Greece (1975), Poland (1997) and Croatia (2000).
- **Constituent Assembly.** This is a body of citizens elected by universal suffrage for the sole purpose of discussing and designing a constitutional draft. An essential factor that guarantees the legitimacy of the constitution-drafting process is that the different groups and sectors co-existing in society are represented thanks to dedicated tools, such as electoral quotas and reserved seats. Italy (1947), Portugal (1979), Colombia (1991), Iceland (2010) and Tunisia (2014) are some of the most relevant cases.
- The **Constituent Congress or Parliament** comprises parliamentarians elected by popular vote to draft the constitution and legislate. Spain (1978), Peru (1993) and South Africa (1996) are examples of this mechanism, which is similar to the Constituent Assembly.
- **Constituent Commission or Experts Committee.** A group of experts, generally appointed by the government, is in charge of discussing and drafting the constitutional text, as has happened in France (1958), Slovenia (1991) and Switzerland (1999).
- Finally, in some countries in post-conflict situations, such as Bosnia-Herzegovina (1995), the **international community** has played a critical role in the constitution-making process through the Dayton Agreement.¹

1. https://www.usip.org/sites/default/files/Framing%20the%20State/Chapter12_Framing.pdf

A growing trend in recent years has been to include forms of direct citizen participation in these constitution-building processes (UNDP, 2015). These initiatives (e.g. in Colombia, Ireland, Iceland and Tunisia) can vary in their scope, level of participation, non-binding character and final impact. They usually constitute the first stage in gathering ideas and reaching a consensus on the key principles and topics to be included in the new constitution. These participative processes are followed by a final referendum, which determines the ultimate nature of the new draft.

**Most common tools for a constitutional reforms
(1945-2012), Number of countries**



Source: UNDP (2015)

AMENDING THE CONSTITUTION: A HISTORICALLY ARDUOUS DEBATE

The current Chilean Constitution has been in place since 1980, pushed through by the regime of the former dictator Augusto Pinochet. Although Chile returned to democratic governance over 25 years ago, a strong polarisation of political opinions and public policy approaches still prevails,² particularly with regard to the constitution-building process: the call for a new constitution is perceived as emanating from the left-wing political parties, whereas a vast majority of the right wing rejects the idea. In fact, the elaboration of a new constitution has been a long-standing demand since the end of the Pinochet regime, as the current Chilean Constitution was approved during a state of siege characterised by political repression. The right wing considers that the democratic transition already took place in 1990, and that the current Constitution – which has been amended on many occasions — can already be considered as new and free from any connotation of dictatorship. The left wing, on the other hand, is asking for a new Constitution born in democracy. Part of this left-wing group asks the new Constitution to be drafted by a Constituent Assembly.³

Chapter XV of the current Chilean Constitution only enshrines the idea of partial constitutional amendment; it does not allow the drafting of a new constitution. However President Bachelet did include this possibility in the amended Chapter XV in April 2017. If this amendment is not approved, a new constitution would not be approved.⁴

Since the return to democracy in 1990, the Chilean Constitution has been partially amended 39 times to legitimise and adapt it to the needs of the State; however, no new constitutional text has been adopted. In 2005, former President Ricardo Lagos undertook one of the most important amendments to relevant chapters of the Constitution. Among other issues, these amendments curbed military power, and reduced authoritarian enclaves by abolishing appointed and life senatorships, limiting the power of the State Security Council and strengthening democratic institutions.

Despite these important changes, the demand for a new “democratic constitution” has persisted. In the 2013 presidential campaign, President Bachelet, supported by a number of political parties and citizens, stressed the lack of legitimacy of the current Chilean Constitution and the need for an entirely new fundamental law, achieved through an “institutional, democratic, and participative” process providing social legitimacy to the Chilean political system, instilling renewed confidence in citizens and addressing inequalities.⁵

After taking office in March 2014, President Bachelet launched a complex constitutional-reform process in October 2015—the first of its kind in Chile – to engage citizens in early-stage dialogue, with the aim of submitting a new draft constitution to the Congress before the upcoming November 2017 general elections.

2. http://www.sgi-network.org/2016/Chile/Executive_Summary.

3. http://www.bbc.com/mundo/noticias/2015/04/150429_chile_constitucion_80_bachelet_irm.

4. Articles 5 and 15 describe the different modalities for plebiscites on constitutional reforms and local plebiscites.

5. As stated in President Bachelet’s speech of 13 October 2015: <http://www.gob.cl/2015/10/13/discurso-de-la-presidenta-de-la-republica-al-anunciar-el-proceso-constituyente/>.

Public Participation in Chile: Challenges for the Participative Constitution-building Process



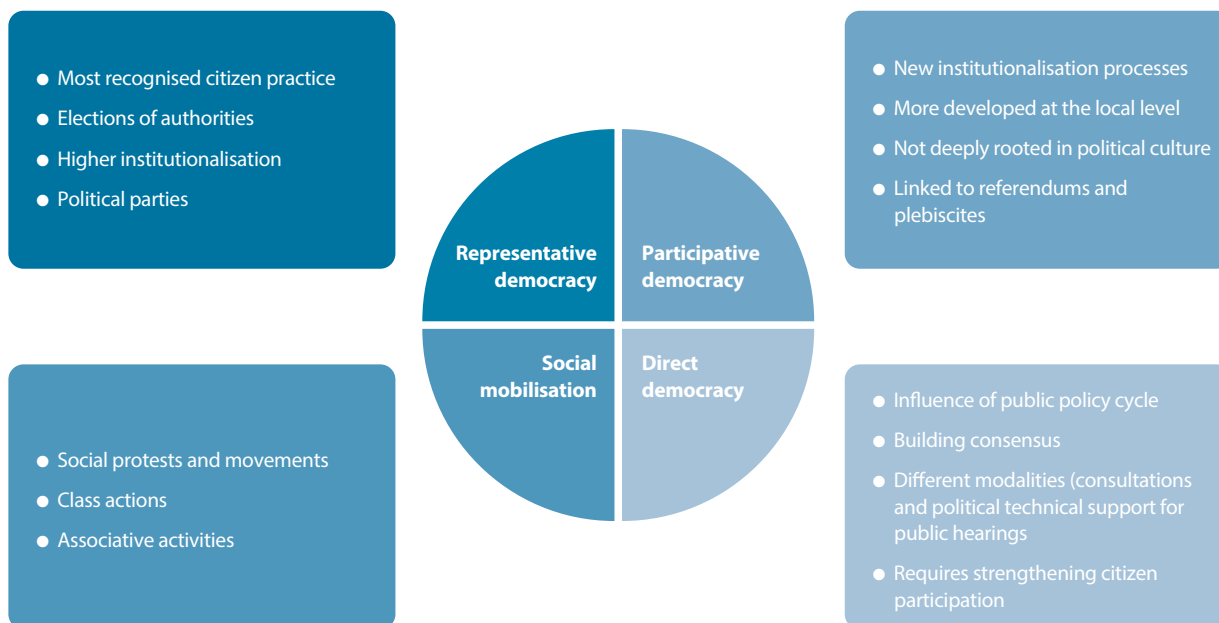
The following section describes the context for public participation and consultation on constitutional issues, focusing on Chile, a country with a low tradition of citizen engagement, to explain the rationale for a participative, grassroots process.

PUBLIC PARTICIPATION AS AN ENABLER OF A DEMOCRATIC AND OPEN GOVERNMENT

Initiating a constitution-building process through a participative process raises the issue of democracy and its different dimensions. Democracy can be exercised in different ways. **Representative democracy** is a governance system in which all eligible citizens elect representatives at the presidential, legislative and subnational levels to take decisions and pass laws, each according to their respective competencies. In Chile, as in a vast majority of countries, it is the most common governance system, rewarding traditional representation through elections. Chile also functions under a so-called **direct democracy**, where the President can pose specific questions in determined cases to the public through direct consultation mechanisms (e.g. referendums and/or plebiscites), as stated in Article 5 of the Chilean Constitution. **Participative democracy** is one of the most recent dimensions of democracy; it incorporates additional consultation mechanisms and interaction with citizens in the public policy-making process. Finally, **social movements** are another essential element influencing the democratic regime, leading to changing the meaning of objectives of a particular government policy's objectives.

Lately, an effort has been made to emphasise and highlight the complementarities between the different dimensions. The European Union's Lisbon Treaty⁶ enshrines the complementarity between representative democracy and participative democracy. The Treaty also confers upon citizens "the right to participate in the democratic life of the Union" and stipulates that "decisions shall be taken as openly and as closely as possible to the citizen".⁷

Dimensions of democracy and citizen participation



Source: Author's own elaboration, based on Sol Arriaza, R. (2012), *El Desafío de la Participación Ciudadana en el Estado Democrático de Derecho*, FLACSO, Costa Rica.

6. Articles 10 and 11

7. Article 10.3. For further information, please consult: http://www.eesc.europa.eu/resources/docs/1071-5points-gjii_17mar2011.pdf

International declarations also recognise the importance of citizens and civil society in policy making (OECD, 2016a):

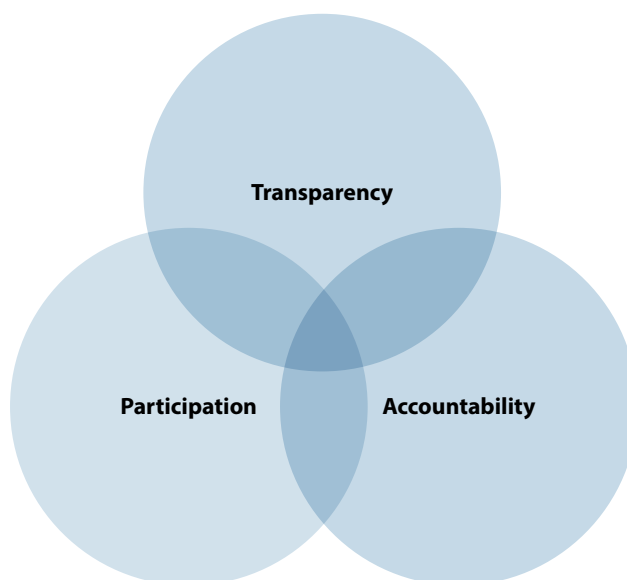
- **Agenda 21**, the outcome statement of the United Nations Conference on Environment and Development (the “Earth Summit”), which was held in 1992 and brought together 172 governments, recognised that “one of the fundamental prerequisites for the achievement of sustainable development is broad public participation in decision-making” (United Nations, 1992; United Nations Economic Commission for Europe, 1998).
- The **Arhus Convention** on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, ratified in 1998 by 40 countries, recognised the importance of public participation in environmental governance and established the public’s rights to be involved in national governance.⁸
- **The Future We Want**, the outcome statement of the 2012 Rio+20 Conference, which convened 192 governments and helped lay the groundwork for the Sustainable Development Goals, states: “We underscore that broad public participation and access to information and judicial and administrative proceedings are essential to the promotion of sustainable development. [...] In this regard, we agree to work more closely with Major Groups and other stakeholders and encourage their active participation, as appropriate, in processes that contribute to decision making, planning and implementation of policies and programmes for sustainable development at all levels” (United Nations, 2012).
- The **OECD** considers public participation “as the interaction, either formal or informal, between government and citizens (e.g. civil-society organisations [CSOs], academia and the private sector) at the initiative of either, that is used to inform a specific policy outcome in a manner that ensures well-informed decision making and avoids policy capture” (OECD, 2016 background paper).

The 2008 financial crisis highlighted the need for countries to restore citizens’ trust, as well as strengthen their democratic system through more proactively engaged and informed citizens. While governments can “no longer afford to provide incomplete information or just ask the public its opinions on matters that are *fait accompli*” (Caddy, 2011), citizens are demanding a more proactive role where they become not only beneficiaries, but also key partners in policy making. Thus, citizen engagement is considered a condition for effective governance (OECD, 2009), as well as a core element of open government.

The OECD defines open government as “a citizen-centred culture of governance that utilizes innovative and sustainable tools, policies and practices to promote government transparency, responsiveness and accountability to foster stakeholders’ participation in support of democracy and inclusive growth” (OECD, 2017).⁹ The experience of OECD countries, moreover, shows that access to information and transparency, along with public consultation and initiatives to promote active and conscious citizen participation in policy making, contribute to good governance by improving the quality of policies and services, and ensuring higher levels of implementation and compliance (OECD, 2016b).

The OECD has untangled the different participation and engagement levels of open government, allowing countries to better understand innovative practices in their countries and beyond.

Participation as a core principle of open government



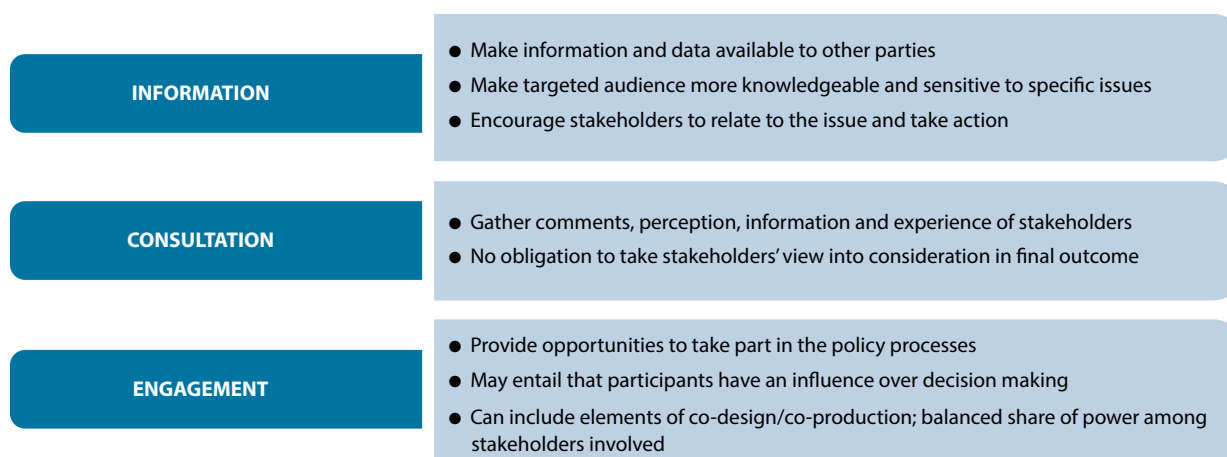
Source: Author’s own elaboration.

8. Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, Denmark, 25 June, www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf (accessed 15 June 2017).

9. The OECD is currently undertaking a public consultation on the OECD draft Recommendation of the Council on Open Government, which entails the definition. For more information, please see <http://www.oecd.org/gov/open-government.htm>

In the same vein, public participation varies, from its weakest form (the basic provision of information by the government) to its fullest (co-production, co-delivery and co-evaluation, involving a balanced share of powers among stakeholders), each with different objectives and expected impacts (OECD, 2016b).

The imaginary ladder of participation practices: Levels of stakeholder participation



Source: adapted from OECD (2015a), "Policy Shaping and Policy Making: The Governance of Inclusive Growth", OECD Publishing, Paris.

LESSONS LEARNED: INTERNATIONAL EXPERIENCE

1. **Enhancing citizen participation.** Citizens can be involved at different stages of policy making, transitioning "from a partnership between citizens and governments to 'co-production/co-creation'" (OECD, 2016b). Citizens and civil society can have different roles (World Economic Forum, 2013), including acting as watchdogs or campaigners for societal issues, promoting fundamental values, advocating for minority groups and contributing to concrete policies through participative budgeting. This can help build a more participative democracy, where citizens interact with public authorities and contribute new inputs to a given initiative.
2. **Managing citizen expectations.** The 2008 financial crisis led OECD countries to adopt more interactive policies to restore citizens' trust in government. Because Chileans generally distrust politics, public life and government, the Chilean Government need to manage and answer their expectations during participative processes (especially on such a sensitive topic such as the constitution-building process), while also following through on its own commitments. OECD research underlines the importance of providing a clear process, timelines and advance notice, as well as raising awareness to strengthen citizen involvement and move towards a more open, transparent, accountable and participative government (OECD, 2016b). Thus, interaction between citizens and government, through continued dialogue and an open government practice, is essential to promoting trust in any national policy.
3. **Involving the legislative and the judiciary branch.** Such involvement can foster an open state and help to achieve national objectives built on a national consensus. For example, Costa Rica has committed to creating an open state by involving the executive branch, the Legislative Assembly, the judicial branch and the Supreme Electoral Court in national initiatives fostering transparency, promoting citizen participation and combating corruption.

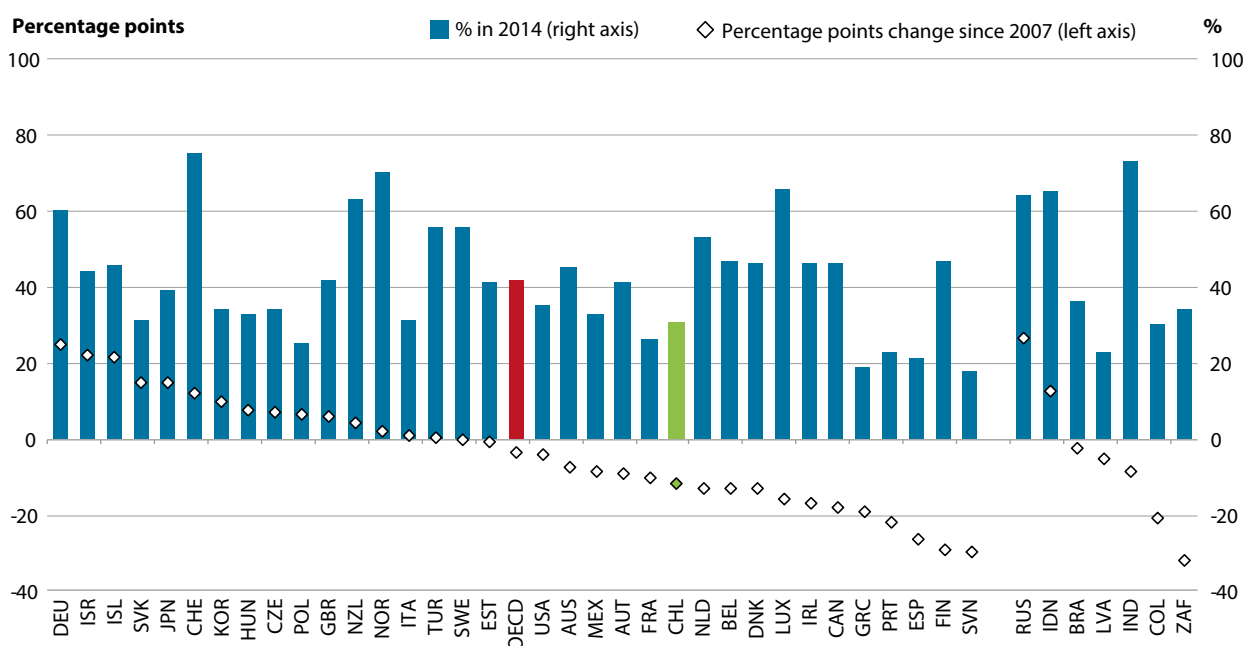
PUBLIC PARTICIPATION IN CHILE: A WORK IN PROGRESS

A country with low public participation and citizen engagement...

According to the main international organisations and key national stakeholders, Chile is one of the region’s most consolidated and stables democracies, while paradoxically facing a deficit in participative governance. As shown in the interviews conducted during the fact-finding mission, this conundrum stems partly from the unresolved legacy of the transition to democracy, and the disconnection between citizens and public authorities.¹⁰ The low trust levels, together with a weak sense of community and a decreasing rate of voter registration and turnout, also illustrate this reality (OECD, forthcoming).

Only 49% of all registered voters in Chile voted during the most recent general elections (2013) for which data are available; this is one of the lowest voting rates in OECD countries, where average turnout is 68% (OECD Better Life Index, 2016). Recognising the problem of low political involvement and participation, the legal framework surrounding electoral participation had already transitioned in 2012 from free registration with compulsory participation to automatic registration with free participation to engage more citizens in elections and combat abstention. However, the new system failed to achieve higher voting participation, at least in the last municipal elections (October 2016), which registered the lowest electoral turnout (34.9 %) since the country’s return to democracy. This low participation could also be related to frequent corruption scandals, as well as voter disenchantment and apathy, seemingly the country’s greatest challenges.¹¹

Confidence in national government in 2014 and confidence change since 2007



Source: OECD (2015b), *Government at a Glance 2015*, OECD, Paris, http://dx.doi.org/10.1787/gov_glance-2015-en

As stated, Chileans seem to have low confidence in public authorities and the Government. According to a bi-monthly survey last conducted by the Centre for Public Studies (*Centro de Estudios Públicos*) in May 2017, only 11% of citizens believe that democracy works or works well in Chile (compared with 26% in October 2010).¹² Thus, the level of political participation – either formal (i.e. through running or voting in elections) or informal (e.g. through political activism and interest in public affairs) – remains relatively low: less than 5% of citizens are members of a political movement or party, business association, co-operative, foundation, charity association, professional association, academic association, cultural group or volunteer association.¹³ Likewise, more than 50% of survey respondents do not follow political news or speak about politics with family or friends. In fact, according to the 2013 *Human Development Report* (UNDP, 2013), Chile is among the

10. <http://www.mideuc.cl/wp-content/uploads/2016/MidEvidencias-N6.pdf>.

11. <http://latinamericagoesglobal.org/2016/10/5204/>.

12. www.cepchile.cl/cep/site/artic/20170601/asocfile/20170601155007/encuestacep_abr_may2017.pdf.

13. Report by the National Council of Citizen Participation.

Levels of citizens participation in Latin America and the Caribbean

Countries with the highest levels of citizen participation	
Haiti	91.8%
Bolivia	84.9%
Dominican Republic	75.9%
Peru	74.5%
Ecuador	72.1%
Countries with the lowest levels of citizen participation	
Chile	48.4%
Argentina	47.1%
Panama	44.1%
Brazil	43.4%
Costa Rica	41%

Sources: OECD (2016d), Open Government Review of Costa Rica; OECD Publishing, Paris <http://dx.doi.org/10.1787/9789264265424-en>

BBC Mundo, "El país con menos participación ciudadana de América Latina", http://www.bbc.com/mundo/noticias/2013/10/131025_america_latina_costa_rica_politica (accessed 27 June 2017).

Well-being indicators for Chile



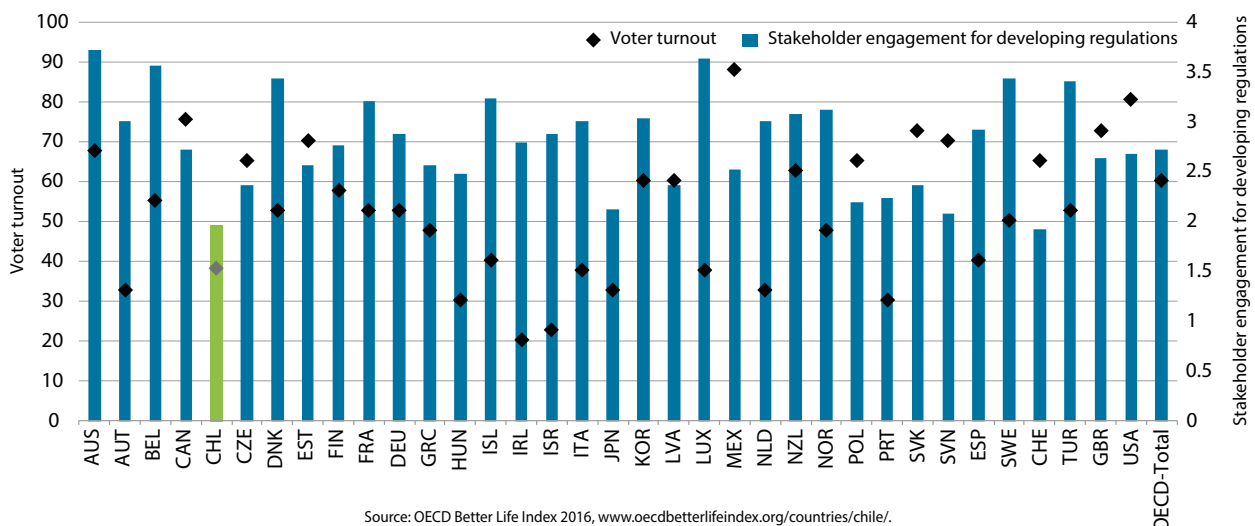
Source: OECD Better Life Index, 2016 www.oecdbetterlifeindex.org/countries/chile/.

five countries in Latin America registering the lowest percentage of citizen participation in CSOs. At the same time, the 2015 UNDP report explains how “the politicization process of Chilean society is full of contradictions and indecisions, of tensions and difficulties, of moments in which it rears up with force and others when its development gets stuck”. Indeed, a wide demand exists among different segments of the population for profound changes, particularly regarding key public services such as health (79%) and education (77%).¹⁴

The low level of citizen engagement in electoral- or regulatory processes, which scored 1.3 in the OECD Better Life Index, decreases the legitimacy of the democratic system, and in particular of the government, which is accountable to its electorate and citizens.

The results are similar in the area of regulatory policy, which also has an impact on citizens’ lives. In Chile, the level of stakeholder engagement in developing regulations is 1.5 (on a scale between 0 and 4) – lower than the 2.4 OECD average (OECD, Better Life Index 2016). Chile lags behind most OECD countries in ensuring that the public can systematically participate in the regulatory process, where effective consultation is crucial to ensuring that citizens’ and businesses’ interests are taken into account when developing and designing regulation.

Civic engagement in Chile



Source: OECD Better Life Index 2016, www.oecdbetterlifeindex.org/countries/chile/.

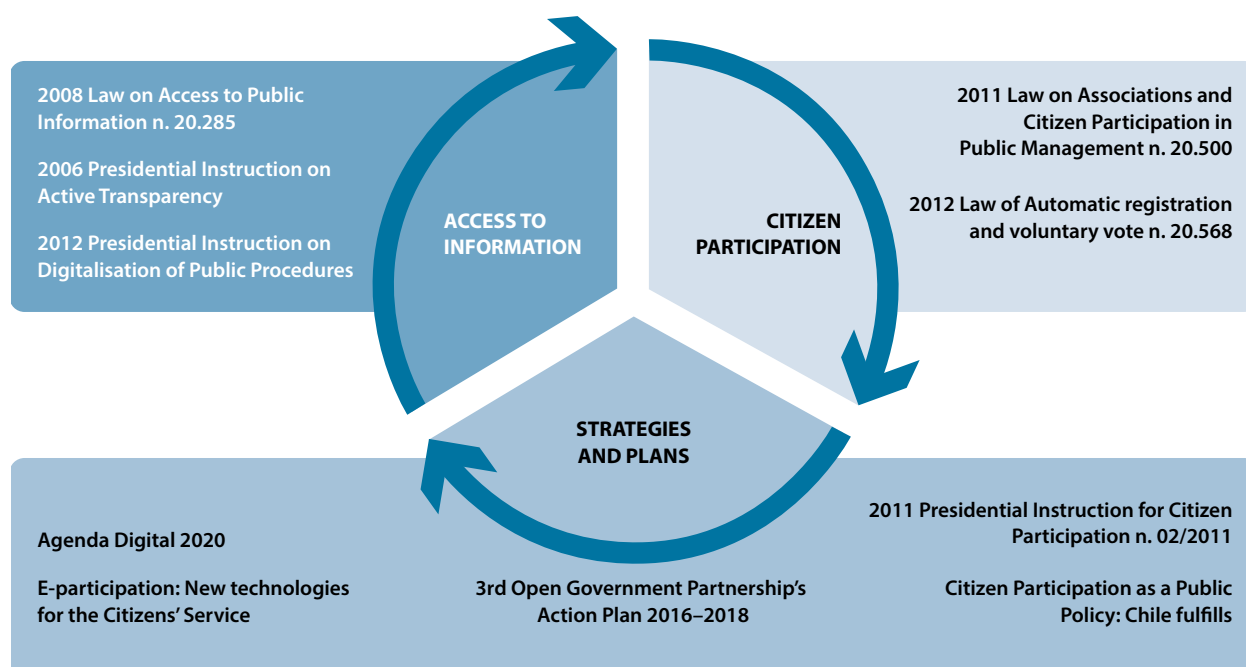
14. <http://desarrollohumano.cl/idh/informes/2015-los-tiempos-de-la-politizacion/>

... But a sound legal framework governing public participation

In January 2017, the National Council of Citizen Participation (*Consejo Nacional de Participación Ciudadana*) convened by President Bachelet published a report on the current situation, past achievements and remaining challenges for citizen participation in Chile. The report summarises the context in which citizens are given the opportunity to express their opinions, acknowledging that complex and institutionalised procedures at the central level have “neither led to a redistribution of power to society, nor to the construction of a true political community, nor did they establish channels or mechanisms for ongoing and active citizen participation in the national and public administration discussions” (National Council of Citizen Participation, 2017).

As explained in the previous section, the Chilean Constitution’s only provision regarding citizen participation relates to the possibility of holding a plebiscite in the event of constitutional reform, or consultations at the municipal level. The deficit in public participation does not stem from a lack of laws, mechanisms or guidelines. Since 2008, the Government of Chile has made significant efforts to regulate and promote participation, notably through Law No. 20 500¹⁵, establishing specific rules for citizen participation in public policy, as well as the 2008 Presidential Instructive Note No.008¹⁶ and the 2014 Presidential Instructive Note No. 007/2014¹⁷ on Associations and Public Participation in Public Management.¹⁸

Legislation and strategic plans defining Chile's open government agenda



Source: Government of Chile (n.d.), Gobierno Abierto – Documentos, <http://www.gobiernoabierto.gob.cl/documentos> (accessed 15 June 2017); OECD (2016c), Digital Government in Chile: Strengthening the Institutional and Governance Framework, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264258013-en>

Law No. 20 500 and the Presidential Instructive Note No. 007/2014 identify ways in which the central government can foster greater participation (including by the public) as well as participative budgeting, consultations (especially through sectoral commissions on key topics such as health, education and housing) and other mechanisms (e.g. digital participation platforms). These initiatives are mainly co-ordinated by the Ministry General Secretariat of Government (*Ministerio Secretaría General de Gobierno [SEGEGOB]*), while the open government agenda is led by the Ministry General Secretariat of the Presidency (*Secretaría General de la Presidencia [SEGPRES]*). At the local level, municipalities must also establish a municipal Council of Civil Society Organisations (*Consejo Comunal de Organizaciones de la Sociedad Civil [COSOC]*) as an advisory body on local planning. These initiatives have not always generated the expected results (Carvalho, 2015). For instance, only 63% of municipalities have created a COSOC. Interviews also showed that the Government is aware there is still room for improvement.

15. National Congress Library of Chile, Law 20 500: <http://www.leychile.cl/Navegar?idNorma=1023143>.

16. <http://transparenciaactiva.presidencia.cl/Otros%20Antecedentes/002-2011.pdf>

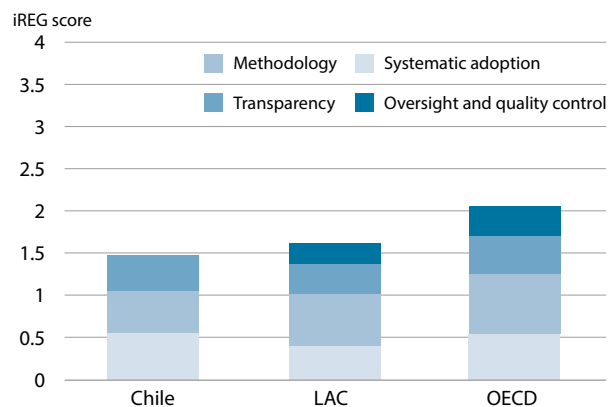
17. Presidential Instructive 007: <http://www.minjusticia.gob.cl/media/2015/05/Instructivo-Presidencial-sobre-Participaci%C3%B3n-Ciudadana.pdf>.

18. <http://www.ideapais.cl/docs/estudios/31/participacion-ciudadana.pdf>.

Chile is among the approximately 50% of overall OECD countries endowed with a strategy or law on citizen participation in the policy cycle, as well as a well-developed strategy on access to information, digital governance and implementation of the Open Government Partnership (OECD, 2016b). Although the country also relies on various approaches to engage citizens in the law-making process (OECD, 2016e), the three main challenges the Government of Chile faces in implementing concrete open government reforms are public officials' lack of awareness of the benefits of open government, a lack of co-ordination and a prevailing culture of secrecy. Moreover, Law No. 20 500 on Associations and Citizen Participation in Public Management does not provide incentives for municipalities and other bodies to create spaces for citizen participation (OECD, forthcoming).

Chile would also benefit from consolidating existing efforts to promote public participation in the rule-making process, and should establish a more systematic approach to consulting with stakeholders before issuing regulations. The country still has not implemented an oversight function to verify and control the quality of consultations (OECD, 2016e).

Composite indicator: Stakeholder engagement in the development of subordinate regulation



Notes:

1. The figure displays the total aggregate score across the four separate categories of the composite indicator. The maximum score for each category is 1, and the maximum score for the aggregate indicator is 4. The more regulatory practices a country has implemented, as advocated in the 2012 OECD Recommendation on Regulatory Policy and Governance, the higher its indicator score.

2. Data on countries in Latin America and the Caribbean (LAC), include Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico and Peru. They reflect the situation as of 31 December 2015. Data on OECD countries cover 34 OECD countries and reflect the situation as of 31 December 2014.

Sources: OECD (2016f), Indicators of Regulatory Policy and Governance (iREG) for Latin America 2016 OECD, Paris, www.oecd.org/gov/regulatory-policy/ireg-lac.htm; OECD (2015c), Indicators of Regulatory Policy and Governance (iREG) 2015 OECD, Paris, www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm.

KEY FINDINGS

- Chile has a limited tradition of public participation. The country has a consistent legal framework, in keeping with OECD standards, that aims to bring policies closer to citizens through consultation and co-ordination mechanisms. While this is a growing Government priority,** there is still space for improvement to ensure that consultation mechanisms are efficiently used and embedded in the Government culture (OECD, forthcoming). The national strategies on open government, access to information and citizen participation through consultation mechanisms are not fully exploited.
- Public participation is considered a key issue, led by two key bodies within the Government of Chile, SEGEOB and SEGPRES (which co-ordinates the open government agenda).** Fluent dialogue, synergies and co-ordination mechanisms to ensure effective and efficient citizen participation mechanisms at the central level can also promote involvement by all relevant stakeholders. The Social Organisations Division of SEGEOB, has implemented a series of participative initiatives to orient government actions. These initiatives have fostered a closer relationship between citizens and the State, enhanced access to public information and understanding, and stepped up public consultations, providing input to the design and implementation of public policies.
- Public participation also requires a proper monitoring and evaluation system to develop a culture of learning about initiatives to anticipate citizens' needs and answer their demands.** The momentum created by the early-participation stage geared towards the development of a new constitution provides a good opportunity to lead and discuss an innovative methodology for conducting key national debates around public issues.

FURTHER READING

BBC Mundo, "El país con menos participación ciudadana de América Latina", Nefer Muñoz, www.bbc.com/mundo/noticias/2013/10/131025_america_latina_costa_rica_politica (accessed 27 June 2017).

Caddy, J. (2011), "Why citizens are central to good governance", *OECD Observer*, No. 229, November 2001, http://oecdobserver.org/news/archivestory.php/aid/553/Why_citizens_are_central_to_good_governance.htm.

Carvallo (2015), "Por más participación ciudadana: Ley N°20.500". Centro Democracia y Comunidad. www.cdc.cl/web/wp-content/uploads/2015/07/pdf-n6-carvallo-ley-20500.pdf

Consejo Nacional de Participación Ciudadana y Fortalecimiento de la Sociedad Civil (2017), *Estado de la participación ciudadana en Chile y propuestas de reforma a la Ley 20 500 sobre Asociaciones y Participación Ciudadana en la Gestión Pública*, <http://consejoparticipacion.cl/content/uploads/2017/01/informe-final.pdf> (accessed 2 June 2017).

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Citizens at the Forefront of the Constitution-building Process

The participative process initiated by the Government of Chile allows consulting citizens during the current constitutional debate.

PUBLIC CONSULTATION FOR A NEW CONSTITUTION

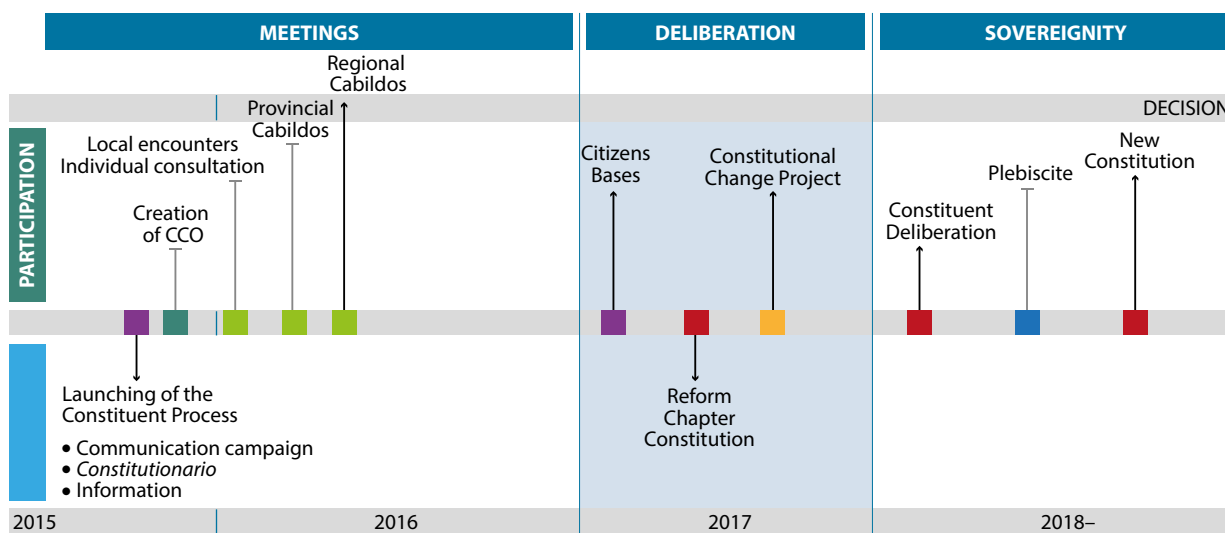
In 2016, the Government of Chile conducted a consultation to collect information on the concepts the public wished to see prioritised in a new constitutional text. The consultation followed its own institutional arrangement, consisting of: i) individual consultations; ii) local meetings; iii) provincial meetings; and iv) regional meetings, all designed to gather evidence. The results of the consultation were not binding for the executive or legislative branches of the Government; rather, they aimed to provide insights to inform the constitutional discussion.

In October 2015, President Bachelet presented the Constitutional Process Open to Citizens (CPOC), which featured three overarching stages:

- **El Encuentro** (the Meeting) is the name of Chile’s constitutional consultation. The Meeting is divided into three administrative levels to hear from different sectors of society, from individual citizens to regional groups. The main output is the *Citizen Bases* document (described below), which is intended to serve as an input for the draft constitution to be presented in 2017.
- **La Deliberación** (the Deliberation) is the actual writing of a new constitution by a specific assembly, depending on a Congressional decision based on the President’s proposal. The Deliberation (described in the next chapter) started with the project of amendment of chapter XV which sent on 3 April 2017. Its main output is the text of the new constitution.
- **La Soberanía** (the Sovereignty) is the phase containing the approval plebiscite. Its main output is the issuance of the new constitution.

While all the moments described above foresee an element of public participation, this OECD evaluation report will focus exclusively on the “Meetings” moment of the process.

Timeline including the three overarching stages: Meetings, Deliberation and Sovereignty

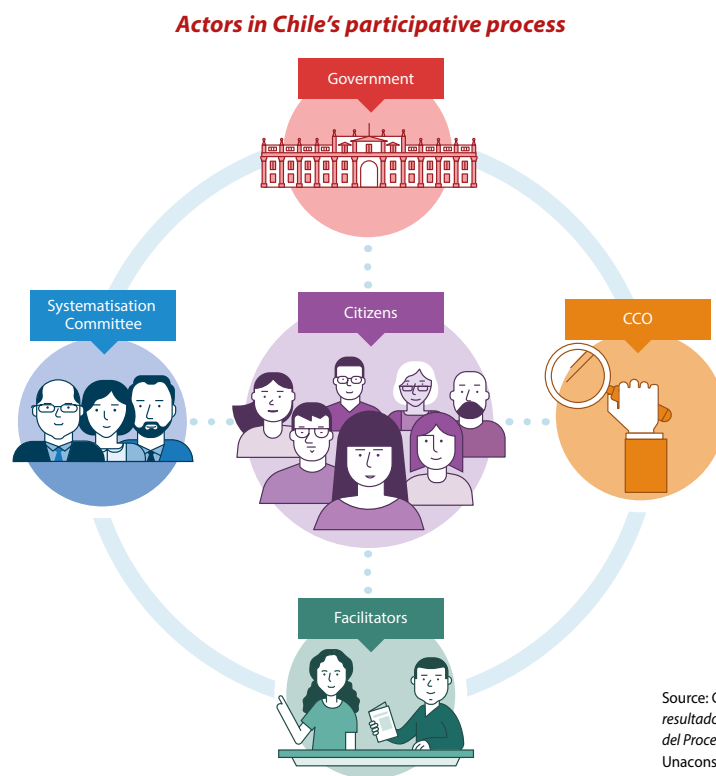


Source: information provided by SEGPRES (May 2017).

Institutional arrangement for the participative process

The fit-for-purpose institutional arrangement created for the consultation comprised key actors (including the Government, through the SEGPRES, and three external stakeholders with different levels of participation and roles), as well as a wide array of profiles (including representatives from academia, CSOs, citizens with public participation backgrounds and constitutional lawyers). The main actors involved in the consultation were as follows:

- **Government:** the Executive established a task force in charge of co-ordinating and organising the process. The task force, which consisted of representatives from the SEGPRES, the Ministry of Interior and Public Security, and the SEGEGOB, was charged with co-ordinating, managing and administering the technical, political, financial and methodological elements of the process. The Ministry of Finance, the Civil Service Office (*Servicio Civil*), the Ministry of Education and the Ministry of Foreign Affairs also collaborated in the project.
- **Citizen Council of Observers¹⁹** (*Consejo Ciudadano de Observadores [CCO]*): this civil society committee, created by the President through Decree No. 36, oversees and guarantee the transparency, openness and inclusiveness (i.e. the lack of political bias) of the consultation process. Two of its initial 17 members resigned, leaving the Council with 15 members, including from the current political opposition. CCO observers comprise lawyers, scholars, entrepreneurs, former athletes and singers, all of whom are committed to social, economic or political causes.
- **Systematisation Committee²⁰** (*Comité de Sistematización [SC]*): this collegiate, autonomous body consists of data analysts who process and draft the reports presenting the results of each of the consultative meetings, as well as the results of the overall consultation.
- **Territorial Facilitators** (*Equipo Territorial de Facilitadores*): selected by Chile's Civil Service Office and trained by SEGPRES and the University of Chile, the facilitators provided advice on how to conduct local self-convened meetings (*encuentros locales autoconvocados [ELA]*); they assisted whenever an ELA host requested their presence, and conducted the discussions during the provincial and regional meetings. The 199 facilitators worked in 52 groups of 3 (comprising a territorial co-ordinator, a legal specialist and a systematisation specialist).



19. <https://www.ccoobservadores.cl/>.

20. <http://www.sistematizacionconstitucional.cl/>.

The meetings: Putting citizens at the centre of the constitutional debate

The participative process revolved around four types of consultation mechanisms. Citizens were asked four guiding questions, which they could answer either by using pre-existing concepts or creating new ones in a dedicated open-comment section. The questions revolved around four constitutional pillars: i) values and principles; ii) rights; iii) duties and responsibilities; and iv) state institutions. The consulted groups could choose among three possible responses: agreement, partial agreement or disagreement.

Consultation questions in the Chilean constitutional process

Principle	Question
Values and principles	What should be the main VALUES and PRINCIPLES that inspire and support the Constitution?
Rights	What should be the fundamental and universal RIGHTS contained in the Constitution?
Duties and responsibilities	What universal DUTIES and RESPONSIBILITIES should be established in the Constitution?
State institutions	What STATE INSTITUTIONS should the Constitution include and what characteristics should they have?
Open comments	Open comments

Source: Adapted from the executive report of the SC (February 2017).

The consultation mechanism was organised at three administrative levels: local (consisting of an individual questionnaire and local meetings), provincial and regional. The guiding questions were accompanied by a reference list on constitutional concepts to help citizens craft their responses (see Annex for a complete list of possible answers), notwithstanding the possibility for citizens to generate new answers or concepts. The questions remained the same throughout the three meeting levels and the four different consultation mechanisms.

Individual consultation (*consulta individual*): this individual web-based consultation, open between 23 April and 6 August 2016 to all Chileans over the age of 14, garnered 90 804 responses. Survey respondents could choose a maximum of seven concepts/answers for each guiding question.

Local self-convened meetings (*encuentro local autoconvocado*, ELA): these self-convened meetings, which brought together a minimum of 10 people and a maximum of 30 people (with the exception of indigenous communities, which could gather more participants than the maximum allowed), could be led by citizens or any non-governmental organisation. The convener was required to register the meeting on the same website as that used for the individual consultation, following the step-by-step guide provided therein. This mechanism took place between 23 April 2016 and 28 June 2016; 8 113 meetings, totalling 106 412 participants, were registered and validated in the system.

Provincial meetings (*cabildos provinciales*): conducted by the territorial facilitators, these meetings were organised by provincial governors in public spaces. The seven main concepts extracted from the results of the local meetings were used to inform participants of the provincial meetings prior to deliberating around the same four guiding questions. A total of 71 provincial meetings were conducted throughout Chile's 54 provinces on 16, 23 and 24 July 2016, bringing together 12 852 participants.

Regional meetings (*cabildos regionales*): led by the facilitators and organised by the regional administrations (*intendencias*), these meetings took place in each of the 15 regional capitals. Citizens evaluated and deliberated over the seven concepts extracted from the provincial meetings and debated a maximum of seven new concepts of their choice. Each of Chile's 15 regions held a single regional meeting on 6 August 2016, with a total of 8 621 participants.

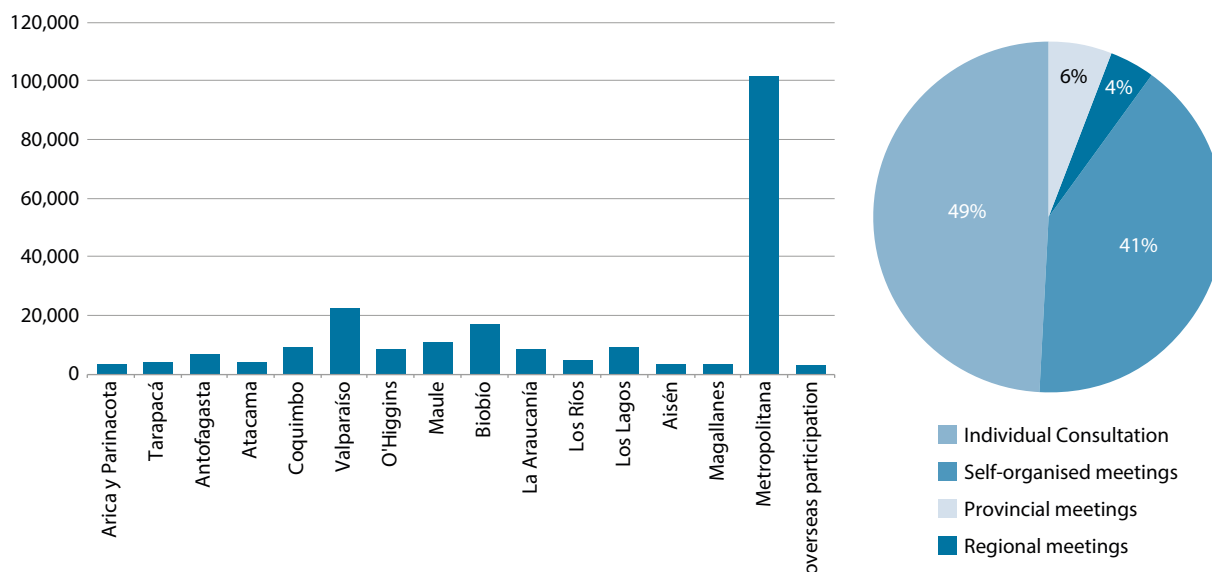
Participation rate per consultation mechanism

Consultation mechanism	Participants	Percentage of total population
Individual consultation	90 804	0.49%
ELAs	106 412	0.58%
Provincial consultations	12 852	0.07%
Regional consultations	8 621	0.04%
TOTAL	218 689	1.2%

Note: As citizens could choose to participate both in local and provincial or regional meetings, the total number of actual individual participants is 204 402.

Source: Information provided by SEGPRES (May 2017).

Number of participants by region and percentage per consultation mechanism



Source: Information provided by SEGPRES (May 2017).

The regional distribution is very unequal: the Santiago Metropolitan Region concentrates a large share of the consultations, followed by Valparaíso. These are the two largest urban areas in Chile, hosting the most citizen-participation initiatives. At the same time, ELAs were organised in 95% of the country, i.e. in 328 of the 345 municipalities.²¹

The Government of Chile based this institutional arrangement and organisation on five principles: inclusion, non-discrimination, diversity, certainty and transparency. The committees and consultations were designed to reach the highest number of citizens, while avoiding political bias.

Methodology used to carry out the public consultation

The consultation mechanism was based on a deliberative convergence methodology, which conceived the consultation as an opportunity to deliberate – even in the presence of diverging viewpoints – and reach conclusions or convergence collaboratively. To facilitate the process, the consultations focused on the four guiding questions that provided guiding answers (under the guise of constitutional concepts; see Annex A for a detailed list), as well as a space for open comments. The constitutional concepts were based on a comparative analysis of 16 constitutions,²² designed and proposed by SEGPRES under the observation of the CCO.

The meeting organisers recorded in the meeting minutes whether the group had reached an agreement, a partial agreement or a disagreement for each of the constitutional concepts under discussion. The Government provided step-by-step guidance for every stage of the process, as well as a free telephone line and video tutorials downloadable from a dedicated website.²³

The facilitator teams monitored each of the ELAs and advised the organisers by phone, e-mail, Skype or in person in two instances: to help them register their meeting for validation, and when meeting participants registered on the e-platform. The facilitators signed off on the minutes when the meeting had fulfilled all the requirements (i.e. participants had registered their national identification number and signed the minutes, and a picture was taken of the event), and provided assistance at the organisers' request if obstacles emerged. The facilitators conducted the provincial and regional meetings differently.

The results were collected and broken down by SEGPRES (see below) according to whether they qualified as qualitative or quantitative, and were communicated to the SC for processing.

21. <http://datos.gob.cl/dataset/proceso-constituyente-abierto-a-la-ciudadania>.

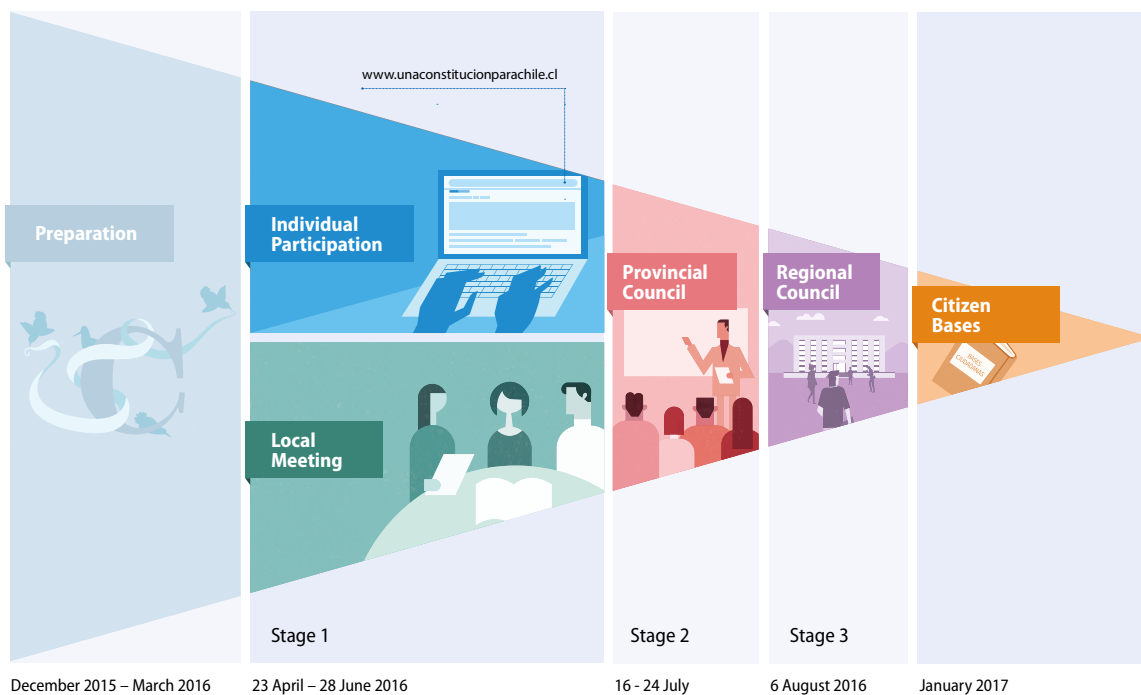
22. Argentina, Brazil, Canada, Chile, Colombia, Finland, France, Germany, Italy, Mexico, Netherlands, Spain, Sweden, Switzerland, United States of America and Uruguay.

23. www.unaconstitucionparachile.cl.

- The quantitative systematisation methodology was based on the recurrence of the concepts chosen and was carried out by the MIDE UC Measurement Centre of the Catholic University of Chile.²⁴
- The qualitative systematisation methodology analysed the open comment section and was created by the Argumentation and Reasoning Centre (*Centro de Argumentación y Razonamiento*) of the Diego Portales University.

The overall systematisation methodology was developed by the SC and overseen by the CCO. The SC connected the local, provincial and regional meetings: at the onset of the provincial meetings, it presented the 7 constitutional concepts prioritised by the ELAs in a given province so that attendees could know what had been deliberated at the local level; at the onset of the 15 regional meetings, it presented the 7 prioritised constitutional concepts stemming from the provincial meetings. The Committee's final report presented a statistical analysis of the key concepts prioritised during the meetings with the goal of untangling the opinions and ideas expressed in the minutes of the different citizen-consultation mechanisms, and producing the *Citizen Bases* document (which will serve as input for the constitutional proposal).

Timeline of the different participation levels



Source: Government of Chile.

*Citizen Bases*²⁵ summarises the results of the consultation mechanism, which were presented to President Bachelet on 16 January 2016. Concepts prioritised by citizens that are not currently featured in the constitutional text include:

- respect for the environment and natural resources
- decent housing
- protection, promotion and respect for human rights
- gender equality
- secular state
- public participation including plebiscites and consultation mechanisms
- multiculturalism.

The documents featuring the results can be found online, both on the consultation website and on the dedicated websites of the SC and CCO. The next steps of the constitutional process will involve incorporating the results of the consultation into the draft constitutional text, which must be submitted to the Congress before the November 2017 elections.

24. www.mideuc.cl

25. *Citizen Bases* consists of: i) an observation report of the CCO; ii) a synthesis of the systematisation results of the CCO; and iii) a synthesis report of the SC.

Lessons learned: Assessment of the process against OECD principles

Addressing the challenges associated with consultation practices, and seizing the opportunities stemming from engaging with citizens, is a continuous task. To contribute to the public participation debate, and provide policy makers and civil servants with a practical instrument to better design their public participation strategies, the OECD has issued Principles on both open and inclusive policy making, and stakeholder engagement in regulatory policy. The Principles serve as an analytical framework for assessing Chile's CPOC, to shed light on better implementation of consultation mechanisms in OECD countries. Both sets of Principles also inform citizens, civil society and other stakeholders on what they should expect and demand from their government when performing consultations.

- **Leadership and commitment.** The Principles state that all levels of government must demonstrate leadership and strong commitment to open and inclusive policy making and rule-making. The consultation was led by President Bachelet and the political committee, including SEGPRES, the Ministry of Interior and SEGEGOB, **demonstrating the Government's commitment and leadership in designing the consultation process.** Moreover, a dedicated institutional arrangement, featuring the CCO and the SC, was established for the purpose of the consultation.
- **Planning strategically.** The Principles highlight the relevance of planning ahead, including providing sufficient human and financial resources, and enough time for the consultation and systematisation of the inputs received. The planning component began two years in advance and foresaw all the elements stated above. However, as with any consultation mechanism, there are lessons learned that can help future consultations in Chile, as well as in other OECD countries. Interviews with different stakeholders highlighted that the following items could have been beneficial to this specific process: granting more time to conduct the unprecedented ELAs (which was not possible owing to their proximity to the municipal elections and the fear of political bias); allocating more financial resources to the communication campaign, to include paid television ads informing a wider audience; and matching the needs of the qualitative-systematisation methodology at an early stage to ease data and results analysis.
- **Transparency.** According to the above-mentioned OECD Principles, "Government information should be complete, objective, reliable, relevant, and easy to find and understand." In this regard, the **consultation process exerted a remarkable effort to make widely available general information** outlining the different steps of the process and how to participate, as well as provide guidance material and video tutorials featuring examples of each of the four participation modalities. The Principles mention that "clear timelines must be set and publicised for stakeholder engagement activities"; these can be found on the government website, *Una Constitución para Chile*.²⁶ Moreover, the individual results at the local, provincial and regional levels, as well as the quantitative and qualitative syntheses of the results, are available for public scrutiny. The CCO website also features the minutes and opinions of Council sessions.
- **Accountability.** The Principles mention that "governments have an obligation to inform participants how they use inputs received through public consultation and participation". Regarding the results of the consultation itself, the Government made the information available through social media; by organising a public event during which the CCO and the SC presented the results of the consultation process, as well as various events where public officials addressed the topic; and by enabling citizens to browse the results on the constitutional website. While these steps are already quite beneficial, they constitute passive feedback, in that the citizen needs to search for the information. The consultation could benefit from a focused active feedback mechanism to inform the public on a summarised version of the results and next steps. This would enhance the trust gained during the participative exercise and help create a consultation culture, possibly entailing going back to the regions and talking to the people that participated, producing a short explanatory video presenting a simplified version of the results, and sending e-mails to the participants. As for the use of the results as input for the draft constitution, the incorporation of citizens' demands is still pending, not only because of the prevailing uncertainty about the next steps (Chapter XV needs to be amended by the Congress, based on President Bachelet's proposal), but also because of the complexity of incorporating abstracts concepts (e.g. justice, the right to work, or environmental protection) in a final draft constitution effectively reflecting citizens' proposals.

26. www.unaconstitucionparachile.cl.

- **Active oversight.** The Principles foresee the inclusion of mechanisms and institutions to provide active control and oversight “of the quality of engagement activities and compliance with the engagement policy should exist within all administrations. Clear competences for co-ordinating and promoting stakeholder engagement in regulatory policy across the administration should be established”. In 2015, the Government of Chile issued Decree No. 36, which created the CCO to observe and guarantee the overall transparency, openness and inclusiveness of the consultation process, the SC and the ministries involved.
- **Inclusion.** Providing a level playing field is vital to allowing equal opportunities for participation, avoiding capture and ensuring inclusion. The ELAs, which provide the opportunity for anyone over the age of 14 to meet and deliberate about the draft constitution, exemplify this principle. On the other hand, **the Government could have improved participation by proactively reaching out to specific groups** (i.e. the elderly, the disabled and Chilean citizens overseas), **to enable wider participation** (see section below on representativeness and engagement).
- **Early-stage engagement.** According to the Principles, “Public engagement should be undertaken as early in the policy process as possible to allow a greater range of solutions and to raise the chances of successful implementation. Adequate time must be available for consultation and participation to be effective”. The **CPOC is a clear example of an early-stage consultation** allowing the collection of citizen inputs to inform a subsequent regulatory framework, i.e. the Constitution of Chile.

KEY FINDINGS

Following the implementation of this unprecedented and laudable citizen consultation, some remaining challenges present a learning opportunity for Chile and other OECD countries. The highlights and challenges stemming from the constitutional consultation include the following:

1. **Process stakeholders recognised the transparency measures featured in the consultation mechanism.** The dedicated website served as an informational platform, explaining the steps in the process; providing instructions on participating in each step, and video tutorials to facilitate understanding; and presenting a synthesis of the aggregated results, as well as specific results for each step. The CCO and SC websites also present considerable information, such as the methodologies used, the session minutes, the Government opinions, the consultation results and the process syntheses. These transparency measures were overseen by a CCO comprising representatives from academia, civil society and both sides of the political spectrum.
2. **Citizens of OECD countries constantly demand to be informed on the manner in which their opinions are taken into account; the Chilean constitutional-consultation process is a case in point.** When providing active feedback during consultation mechanisms, governments should invest human and financial resources in explaining how citizen inputs have been assessed and incorporated into decisions. In addition to making *Citizen Bases* available online, the Government of Chile could actively and systematically inform all citizens, particularly those involved in the process on the results of the CPOC. In addition, showing citizens’ impact is vital to gaining and maintaining their trust: citizens need to check that their involvement has been influential and that their inputs are reflected in the new constitution. This remains a challenge; however, there is an opportunity to do so with the forthcoming draft bill of the new constitution.
3. **Including the input from the consultation in the draft proposal for a new constitution remains a challenge.** The technical and legal nature of constitutional frameworks makes it difficult to untangle what citizens mean when agreeing on a given concept, such as democracy, respect, gender equity or solidarity. As a result, citizens may feel their inputs were not taken into consideration, especially given that the consultation results are not binding, no active feedback has been provided, and no possibility of co-production and public engagement has been implemented. This could lower citizens’ expectations.
4. **The ELAs illustrate good practice with regard to levelling the participative playing field and promoting inclusion.** The ELAs are examples of direct, participative and deliberative democracy that can help overcome policy capture by strong interest groups and provide a voice to generally underrepresented populations. This is clearly evidenced by the fact that some of the key constitutional concepts prioritised by citizens are not currently included in the political debate or in the current Chilean Constitution. Nonetheless, it is true that if an open consultation mechanism does not actively search for minority groups, those citizens who support the acting government may be more likely to participate in the consultation, even when all citizens are given that opportunity.

FURTHER READING

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Querbach, T. and C. Arndt (2017), *Regulatory policy in Latin America: An analysis of the state of play*, OECD Regulatory Policy Working Papers, No. 7, OECD Publishing, Paris, <http://dx.doi.org/10.1787/2cb29d8c-en>.

Fostering an Open and Inclusive State in Chile



The consultation process is meant to be the first step in the constitutional reform. It provides an opportunity for Chile to share experiences from other countries that have completed the process, and to build on this experience to create a more participative and inclusive State.

REAPING THE EFFECTS OF THE CONSULTATION PROCESS

In a country like Chile, where public participation remains a work in progress, the CPOC allowed setting a common ground for both the Government of Chile and civil society to push for participation mechanisms. Following the constitutional consultation, other initiatives were conducted – possibly as spillovers – featuring the same methodology: a consultation relating to the law on childhood; and two more consultations, led by a political party and by academia (see below).

- **Indigenous consultation.** In the 2013 national socio-economic survey (CASEN, 2013), 1.57 million Chileans (i.e. 9.1% of the total population) claimed to belong to one of 9 indigenous peoples recognised by the law.²⁷ It is not surprising, therefore, that President Bachelet's Government Programme mentioned the need for the Chilean Constitution to recognise Chile's cultural diversity and the rights of indigenous people; this has been an aspiration of Chile's indigenous movement for many decades, particularly since the return to democracy. In fact, Chile ratified the International Labour Organization's Convention No. 169,²⁸ which specifically requires indigenous and tribal communities to participate in – and be consulted on – all matters affecting them in the draft constitution.

In parallel to the general consultation, the indigenous participative process took place between August 2016 and January 2017 with the aim of gathering indigenous communities' specific demands.²⁹ The steering committee was co-ordinated by the Ministry of Social Development, which oversees relations with indigenous people and includes a vast representation of line ministries also working with these communities. While this process was separate from the general consultation, indigenous people could contribute to both processes.

The results of the indigenous consultation are proportionally very similar to those of the general consultation: up to 650 meetings were organised (255 by the central government and 350 through -ELAs), totalling 16 478 participants. In addition, 538 indigenous participants from the indigenous community responded to the online questionnaire; their responses highlighted their wish to introduce three key principles in the new Constitution: constitutional recognition (50%), multiculturalism (23.2%) and multinationalism (22.3%).

- The **National Childhood Council** also organised consultations, seminars and meetings in schools countrywide to raise awareness of the challenges and principles governing a new constitution. This was also considered a contribution to civic education, an area far removed from the traditional academic curriculum.
- The ELAs have inspired other organisations to perform consultations at the local level. For instance, the left-wing political coalition *Frente Amplio* used the ELA format to promote grassroots discussions on its electoral programme for the upcoming presidential elections. Similarly, discussions at the University of Chile around higher-education reform were structured around local encounters, while more institutionalised meetings were organised by competent units and bodies at the University.³⁰ These spillover effects should not be underestimated.

The process itself has been positively evaluated within the Government,³¹ as well as by the CCO, which presented a final evaluation report stating that “the exercise of civic participation, despite its shortcomings and limitations, met the

27. www.ministeriodesarrollosocial.gob.cl/resultados-encuesta-casen-2013/.

28. www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C169.

29. www.constituyenteindigena.cl.

30. www.uchile.cl/portal/presentacion/discusion-sobre-la-reforma-de-la-educacion-superior/presentacion/125861/modalidades-de-participacion.

31. <http://participacionciudadana.minseggpres.gob.cl/>.

requirements of transparency, participation, inclusion and absence of political bias”,³² both as regards the political sphere and management. This is evidenced by the SEGPRES account on the 2016-17 participative process.

On the civil society side, the Network Foundation: Network for Studies on Democratic Deepening,³³ with support from the Ford Foundation, created **the Observatory on Constituent Process in Chile** in March 2017. The Observatory (mainly comprising academics from different Chilean universities) monitors and evaluates the constitutional process developed in Chile since 2011 from the viewpoint of a participative democracy. It assesses the levels of transparency, inclusiveness and deliberation of the constitution-building process; examines the social, political, institutional and legal conditions; and identifies the obstacles to an equitable and inclusive participative process.

Following the constitutional debate: Steps forward on the legal path

While the current constitutional text features the steps and quorums required to amend specific chapters of the Chilean Constitution, it does not foresee a mechanism to replace it entirely, nor does it foresee a constitutional entity to draft it. Following the presentation of Citizen Bases on 16 January 2017 to President Bachelet, the Government of Chile presented a draft bill to amend Chapter XV of the Chilean Constitution by introducing the replacement mechanism. The draft bill – which is still being discussed by the Congress, and would need to be approved by two-thirds of its members – envisages convening a Constitutional Convention as the mechanism for discussing and drafting a new constitution.

While the legislative branch decides on the process of integrating the Constitutional Convention, the Government stresses that it does not exclude other mechanisms for the constitution-building process, such as the Constituency Assembly. The amended Chapter XV further stipulates that the Constitutional Convention must include as yet undefined citizen participation mechanisms, in addition to a final plebiscite for ratification.

President Bachelet has also committed to sending a new draft constitution, based on the *Citizen Bases* document, to the Congress before November 2017. Once it is approved, a plebiscite will be organised to ratify the final text.

Interviews with different stakeholders have shown that unlike the steps taken at the early participative stage, the measures taken by the Government following the public consultation are neither clear nor well communicated to citizens. Indeed, the considerable efforts undertaken by President Bachelet to explain and communicate the roadmap still need to be followed with successful passage of the next required steps: the amendment of Chapter XV enabling a constitutional reform, and the approval by the Congress of the Constitutional Convention to initiate the such. the constitutional reform as such. A feeling of lack of information still prevails about the real outputs and use of these consultations, particularly with regard to the ELAs, where people felt engaged without a clear devolution from the Government.

OECD PRACTICES AND EXPERIENCES

The ten constituent processes undertaken in Latin America during the 1990s and 2000s³⁴ were driven by a multiplicity of political and social factors, including the desire to ensure political stability; adapt fundamental principles to new economic and political paradigms; consider historically marginalised social sectors and use the process as a tool for conflict resolution. Perhaps because these processes occurred in relatively young presidential democracies, they all show several commonalities: they relied on the creation of a Constitutional Assembly or Constituent Congress, as most recently in Bolivia (2008), Ecuador (2008 and 1998), Venezuela (1999) and Colombia (1991). The use of expert committees, as in Brazil (1967) and Ecuador (1979) was no longer deemed a viable option for drafting a new constitution: indeed, ensuring broader representation and democratic participation plays a major role in legitimising the entire process.

These processes also shared a second key dimension: citizen participation. Traditional phases of constitution-making include drafting, consultation, deliberation, adoption and ratification; this form of civil participation is usually implemented by a binding referendum (as in Venezuela, Ecuador or Bolivia) or a non-binding referendum (as in Iceland). New forms of participation have also emerged, such as the possibility of electing the people (in a Constituent Assembly, a Constitutional Council or a regular legislature) who will determine and draft the constitution's contents.

32. www.unaconstitucionparachile.cl/Informe-Final-CCO-16-de-enero-de-2017.pdf.

33. Fundación RED: Red de Estudios para la Profundización Democrática.

34. Bolivia (1994, 2009); Colombia (1991), Ecuador (1998, 2008), El Salvador (1992); Nicaragua (1995), Paraguay (1992), Peru (1993) and Venezuela (1999).

Over the past decades, citizen demands for higher and better participation, and governments' desire to enhance societal support and the legitimacy of the overall process, have led to new forms of consultation or direct participation by the public (or representative groups) at various stages of the process (Ginsburg, Blount and Elkins, 2008). A few examples are worth mentioning:

Iceland's crowd-sourced Constitution

The 2008 financial crisis led to a major economic and political turmoil in Iceland; several political and civil society actors expressed the necessity to adapt the Icelandic Constitution to the new political and social challenges. This issue became a priority in the political agenda and a condition for some political parties to form a government in the context of the 2009 parliamentary elections. In 2010, the Icelandic Parliament (Althingi) called for the creation of a National Forum, a one-day meeting where 950 demographically representative, quasi-randomly selected sample of citizens (0.3% of the population) were gathered and asked to note the principles and values they wished to see reflected in the Constitution of Iceland.³⁵ These citizens listed issues such as human rights, democracy, transparency, equal access to health care, education, stronger financial-sector regulation and public ownership of Iceland's natural resources as constitutional priorities.

A Constitutional Council was then created, bringing together 25 constitution drafters selected from a pool of 522 citizens (excluding politicians) characterised by relative gender balance and diverse professional backgrounds.³⁶ Social media played a role during the process: one of the Constitutional Council's most innovative decisions was to use social networks to gather feedback on the 12 constitutional drafts, generating about 3 600 comments pertaining to 360 suggestions in total. For instance, Article 14 of the final proposal, which entrenches a constitutional right to the Internet, stemmed from a suggestion posted on Facebook. The National Forum's day-long meeting was also streamed online, and while the work of the Constitutional Council was mostly performed in closed sessions, it also included weekly open Council meetings, publicised on the Council's online platform. The webpage and the interaction with social media were a valuable way of ensuring transparency, as well as gathering precious input for the constitutional text.

Once the drafting phase was concluded, a non-binding referendum was held on October 2012 to ratify the draft text. Citizens were asked to decide on the following six proposals:

- Do you wish the Constitutional Council's proposals to form the basis of a new draft constitution?
- In the new constitution, do you want natural resources that are not privately owned to be declared national property?
- Would you like to see provisions in the new constitution on an established (national) church in Iceland?
- Would you like to see a provision in the new constitution authorising the election of particular individuals to the Althing more than is presently the case?
- Would you like to see a provision in the new constitution giving equal weight to votes cast in all parts of the country?
- Would you like to see a provision in the new constitution stating that a certain proportion of the electorate is able to demand that issues be put to a referendum?

The resulting constitutional proposal was approved by two-thirds of the voters; all six questions were also approved. However, the sitting government ended its term before the constitutional bill was passed in the Parliament and the following government did not act upon it.³⁷

Ireland's Constitutional Convention

In 2012, the Irish Parliament established a Constitutional Convention to discuss possible amendments to the Constitution of Ireland. The Convention comprised 100 individuals (66 Irish randomly selected citizens, 33 elected politicians and 1 independently appointed chair); and was mandated to deliberate and prepare recommendations within 12 months of its creation on the following issues:

35. www.slate.com/articles/technology/future_tense/2014/07/five_lessons_from_iceland_s_failed_crowdsourced_constitution_experiment.html.

36. There was a public election for and Constitutional Assembly where 25 people were elected from a pool of 522. However the election was invalidated by the Supreme Court which lead to the Parliament appointing these members to a constitutional council.

37. <http://eprints.lse.ac.uk/71870/1/blogs.lse.ac.uk-icelands%20crowd-sourced%20constitution%20may%20have%20stalled%20but%20the%20experience%20offers%20lessons%20for%20constituti.pdf>.

- reducing the President's term of office to five years, and aligning with local and European elections
- reducing the voting age to 17
- reviewing the Dáil electoral system
- establishing Irish citizens' right to vote at Irish embassies in presidential elections
- providing for same-sex marriage
- amending the clause on the role of women in the home and encouraging greater participation of women in public life
- removing the "blasphemy" offense from the Irish Constitution.

The Constitutional Convention then launched a consultation process with experts from each of the proposed areas. The Convention had the power to determine its own rules of procedure and recommend additional issues for consideration. These were to be submitted to the Parliament, which had to respond to each recommendation within four months. If a recommendation was approved, the Parliament would then set a date to put it to a referendum.

In May 2015, the Government submitted two of the Convention's proposals to a referendum: i) mandating legal same-sex marriage (which was accepted); and ii) reducing the age of eligibility for the presidency from 35 to 21 (which was rejected).³⁸

Tunisia's National Constituent Assembly

Between December 2010 and January 2011, the resolute action of a citizen-led movement toppled president Zine El Abidine Ben Ali's 23-year regime, marking the beginning of a sometimes-convoluted democratisation process that resulted in the approval of a new Constitution of Tunisia in 2014. The process began in 2011 with the election of a National Constituent Assembly (NCA), entrusted with drafting and adopting a new constitution to consolidate and sustain the country's democratisation process, driven by unwavering citizen demands for more participation, transparency and accountability.

In its early stages, the process encountered several organisational challenges and deficits in citizen participation. However, after the first draft was presented to the public in 2012, the NCA launched a broad two-month outreach campaign, comprising public meetings in different communities countrywide, gatherings with special-interest groups and the public diffusion of most NCA debates. Moreover, through the support of international organisations, an extensive dialogue process took place in the 24 governorates, garnering the direct input of about 6,000 citizens, 300 CSOs and 320 university representatives.

These public participation modalities represented an important contribution to the draft constitution and introduced several changes (e.g. strengthening fundamental and political liberties, increasing women's rights and ensuring more independence for the judiciary). In addition, the unceasing political engagement of civil society during the entire period pushed political forces to overcome important cleavages undermining the development of the new text. In 2014, the Tunisian Constitution was approved by a vast majority (200 out of the 217 MPs). The efforts undertaken to reach people during the negotiation and drafting process helped enhance the legitimacy of the process and support for the Constitution, particularly in the absence of a referendum to ratify the final text.³⁹

38. www.constitution.ie/Documents/Terms_of_Reference.pdf.

39. www.usip.org/publications/2015/01/participatory-and-inclusive-constitution-making; https://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/tunisia-constitution-making-process.pdf; <https://www.files.ethz.ch/isn/188062/PW105-Participatory-and-Inclusive-Constitution-Making.pdf>.

OTHER RELEVANT CITIZEN CONSULTATIONS

Other initiatives involving national debates, including on the electoral reform or welfare state, have also used consultation processes.

Citizens' assembly on electoral reform (British Columbia)

In 2004, British Columbia, the third most-populated Canadian province, adopted an innovative practice in the design of democratic institutions: it created an Assembly comprising 160 quasi-randomly selected citizens, entrusted with recommending the best possible electoral system for the province. Should the Assembly recommend an entirely new electoral system, the recommendation would be placed as a referendum item on the ballot at the next provincial election. The Assembly deliberated for close to one year (January-November 2004) before recommending an entirely new electoral system, which led to a referendum in May 2005. The proposed modifications received 57.1% of the popular vote, but needed 60% to pass. In light of the close margin, the Government of British Columbia ruled that the Assembly's recommendation would be placed on the ballot at the next provincial elections. In May 2009, the referendum was again defeated, with 60.9% of voters opposing the reform and 39.09% supporting the change.⁴⁰

Nationwide consultation process on well-being in Germany

In 2015, the Federal Government of Germany organised a nationwide dialogue on well-being and quality of life, entitled "Living well in Germany – what is important to us".⁴¹

Between April and October 2015, citizens countrywide were invited to participate in 203 civil dialogues, through an online discussion and sending postcards to share their views on the most important quality-of-life facets that future government action should seek to improve. In addition to the 50 dialogue sessions organised by the Cabinet, an alliance of associations and foundations, churches and social-welfare organisations, and business associations and trade unions held meetings to reflect the variety of opinions and perspectives, and jointly reach a more holistic understanding of what well-being, prosperity and progress meant in practice to citizens.

The national dialogue mobilised more than 15 000 participants. It resulted in 12 dimensions and 46 indicators, clustered in 3 broad thematic areas and summarised in a Government report, describing and measuring the status and development of well-being in Germany⁴²:

- "our life": family, health, education, employment, income
- "our environment": security, mobility, housing and social cohesion
- "our country": strong economy, healthy environment, freedom and equality, peace and Germany's responsibility in the world.

The indicator system illustrates the current status and long-term development of well-being in Germany. By measuring the progress and setbacks in each area, it points to the need for action among political, economic and social stakeholders. The dialogue sessions were supported by an independent academic advisory board, and evaluated by an independent academic service team.⁴³

Ensuring representativeness while engaging citizen participation in the constitution-building process

In addition to the approaches presented above, another innovative approach is the random selection of citizens in participative processes to draft the new constitution, as happened in Iceland or Ireland. While experiences differ, these citizens did not represent a significant part of the population (e.g. only 0.3% in Iceland).

A successful approach involving citizens can have different formats, procedures, purposes, success factors and costs; it can yield better-quality policies and stronger legitimacy, and prevent policy capture. Nevertheless, findings from the Bertelsmann Foundation indicate that national and local governments may struggle to actively involve citizens, since only an estimated

40. www.publicdeliberation.net/cgi/viewcontent.cgi?article=1089&context=jpd.

41. Gut leben in Deutschland – was uns wichtig ist. <https://www.gut-leben-in-deutschland.de/static/LB/> (in German)

42. https://buergerdialog.gut-leben-in-deutschland.de/EN/Home/home_node.html

43. Ibid <https://www.gut-leben-in-deutschland.de/static/LB/> (in German).

3% of citizens contacted by phone will show interest in participating in the process (Bertelsmann Foundation, unpublished). The results of the OECD Survey on Citizen Participation in the Policy Cycle (OECD, 2015) confirm this conclusion, with 70% of the 23 finance ministries from mostly OECD countries pointing to the general public's lack of interest as the main reason for low participation. A full 50% of the 20 health ministries surveyed registered similar results (OECD, 2016).

In that sense, Chile is probably the country with the highest participation rate (1.13%) – although, as mentioned in this Scan Report, citizens were not selected: they decided to actively contribute (or not) to the debate through the different encounters. To this regard, the case of Chile is unprecedented because of its high rate of participation (1.13%) compared to other experiences and covering 98% of the territory but at the same time the inclusiveness of the process with unequal representation of citizens is also challenging.

While an inclusive consultation has the advantage of scope and theoretical openness, contemporary studies also show the need to involve key target groups to ensure inclusion (OECD, 2001). The random selection of citizens has the advantage of ensuring a selected representation of society, but is also limited in number and scope. In the absence of concrete data on the political, cultural and social backgrounds⁴⁴ of the participants in the Chilean consultation, the interviews conducted during the fact-finding mission showed that many were already active stakeholders from civil society. A more targeted approach to the consultation, also including women, young people and minority groups (other than indigenous), could have ensured a better representativeness of Chilean society.

Comparative citizen participation in the Constituent Process

Country/City	Year	Mechanism	Participation	Participation rate
Chile ³	2016	Participative process at three different levels: local, provincial and regional.	204 402 participants at national level	1.13%
Colombia ⁴	1991	1 580 working groups throughout the country, organised 3 months prior to the Constitutional Assembly	Average participation per working group, 15 persons. In total, 23 700 participants approximately	0.06%
Iceland ⁵	2010	National Forum where the need for a new constitution was discussed with selected citizens	950 citizens (0.3% of the total population)	0.3% for the encounters
Ireland	2012-2014	Establishment of an Irish Constitutional Convention to submit proposals on each key topic of the Constitution. Plenary meetings were held on each topic, where the delegates heard from experts and external speakers, and voted on the issue. The Convention published its final reports on Dáil Reform, economic, social and cultural rights, as well as its Conclusions and Final Recommendations on 31 March 2014.	100 delegates to the Irish Constitutional Convention	Not applicable
Mexico City, Mexico	2016	The participative process included individual questionnaires, 55 local encounters, petitions through a dedicated website (change.org) and 602 Electoral Institute of Mexico DF (IEDF) proposals The elections for the Constituent Assembly were held on 5 June 2016, registering a very low participation rate (28.36%)	Not applicable	Not applicable
Tunisia ⁶	2011	Dialogue and debates of the National Constituent Assembly with civil society in the 24 governorates	7 000 participants, approximately including 300 CSOs and 320 representatives from academia.	0.06%

Notes: 3. Chile: According to the Chilean official data website, data and results of the Constituent Participatory Process, <http://datos.gob.cl/dataset/proceso-constituyente-abierto-a-la-ciudadania> (accessed May 2017). 4. Colombia: Jiménez (2006). 5. Iceland: PNUD (2015). 6. Tunisia: Gluck and Brandt (eds.) (2015). Source: Author's own elaboration.

44. The Government of Chile decided not to ask for this information because of the tight legal framework for data protection

KEY FINDINGS

1. **One size does not fit all.** International experience has shown there is no single model for the constitutional reform. A wide scope of modalities exists for amending and reforming a constitution, depending on the social, historical and political context; the constitutional culture; the constitution's age, level of detail and characteristics; etc. These characteristics can vary over time, according to the country's social, economic and political transformations. Each case is different and evolving.
2. **Continuity between the consultation and the constitutional reform is important.** The international experiences outlined in this Scan Report exemplify the direct link between the citizen consultation, the drafting of a new constitution and the organisation of a final referendum for its approval. In the case of Chile, the next steps are still to be confirmed; they depend essentially on the engagement and commitment of political-opposition parties and the Congress.
3. **Consensus, transparency and legitimacy are required throughout the process.** In Chile, frequent changes in leadership (with elections held every four years, without the possibility of re-election for the President) pose a challenge, especially as regards implementing a constitutional reform. The uncertainty over the next steps and the lack of a clear and open roadmap involving all key stakeholders, may further hamper the sustainability and impact of ongoing efforts to design a new Chilean Constitution. In the words of the Council of Europe's Venice Commission, "the adoption of a new and good Constitution should be based on the widest consensus possible within society and [...] a wide and substantive debate involving the various political forces, non-government organisations and citizens associations, the academia and the media is an important prerequisite for adopting a sustainable text, acceptable for the whole of the society and in line with democratic standards. Too rigid time constraints should be avoided and the calendar of the adoption of the new Constitution should follow the progress made in its debate."⁴⁵ Political will and a good level of understanding and consensus among political parties will influence the importance and sustainability of the reform, as "even a good Constitutional text cannot ensure stability and democratic development of society without there also being the relevant political will of different political forces, further legislation in line with democratic standards and a sound system of checks and balances that sets the basis for its implementation."⁴⁶
4. **The participative stage in the constitution-building process is a first step towards a more open and inclusive Chile.** The participative process initiated by the Government of Chile has shown numerous citizens' commitment to expressing their opinions and interest in the future through the development of a new constitution. The Government of Chile should use the example of this consultation to deepen and strengthen its engagement policy at both the national and local levels.

Public participation as a key enabler for a Chilean Open State

This Scan Report has demonstrated that including stakeholders in the policy-making process is one of the pillars of an open government (OECD, 2016). As promoted by the OECD Best Practice Principles on Stakeholder Engagement in Regulatory Policy, inclusive policy making stems from a culture of governance that opens up policy-making processes to citizens, thereby broadening the evidence base to improve policy design and implementation.

A recent OECD (2016) report on open government points out the conceptual and methodological underpinnings of open-government strategies. It describes how these strategies can contribute to a broader notion of an "open state" – on in which all public institutions of the executive, the parliament and the judiciary, as well as all levels of government and independent public institutions, join forces and collaborate with civil society, academia, the media and the private sector, to design and implement a reform agenda aiming to make public governance more transparent, accountable and participative.

As concrete policies and strategies need to be country-specific, the constitutional-consultation process provides Chile with the opportunity to build on a more collaborative approach between the executive and the legislative branches, as well as create synergies to ensure citizen participation not only in the constitution-building process, but also regarding other relevant topics. This initiative – which has already been replicated by some political parties and universities– can help strengthen and deepen public policies, and make them more participative and inclusive, especially by involving other key institutions (e.g. the Parliament of Chile, as well as local and regional governments).

45. CDL-AD(2013)010, Opinion on the draft New Constitution of Iceland.

46. CDL-AD(2008)015, Opinion on the Draft Constitution of Ukraine.

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ANNEX A. QUESTIONS AND CONCEPTS

a) What should be the main VALUES and PRINCIPLES that inspire and support the Constitution? Choose up to seven topics among the list below or suggest others in the free space.

- | | |
|---|---|
| <input type="checkbox"/> Civic friendship | <input type="checkbox"/> Pluralism |
| <input type="checkbox"/> Autonomy/freedom | <input type="checkbox"/> Multinationalism |
| <input type="checkbox"/> Common good/community | <input type="checkbox"/> Probity |
| <input type="checkbox"/> Citizenship | <input type="checkbox"/> Republic |
| <input type="checkbox"/> Democracy | <input type="checkbox"/> Respect |
| <input type="checkbox"/> Development | <input type="checkbox"/> Responsibility |
| <input type="checkbox"/> Decentralisation | <input type="checkbox"/> Security |
| <input type="checkbox"/> Dignity | <input type="checkbox"/> Sovereignty |
| <input type="checkbox"/> Diversity | <input type="checkbox"/> Solidarity |
| <input type="checkbox"/> Free entrepreneurship | <input type="checkbox"/> Subsidiarity |
| <input type="checkbox"/> Gender equity | <input type="checkbox"/> Tolerance |
| <input type="checkbox"/> Environmental respect/protection | <input type="checkbox"/> Transparency/publicity |
| <input type="checkbox"/> Rule of law | <input type="checkbox"/> Unity |
| <input type="checkbox"/> Cultural identity | <input type="checkbox"/> None |
| <input type="checkbox"/> Equality | <input type="checkbox"/> Others, specify: |
| <input type="checkbox"/> Inclusion | _____ |
| <input type="checkbox"/> Innovation/creativity | _____ |
| <input type="checkbox"/> Integration | _____ |
| <input type="checkbox"/> Justice | _____ |
| <input type="checkbox"/> Secular state | _____ |
| <input type="checkbox"/> Multiculturalism | _____ |
| <input type="checkbox"/> Participation | _____ |
| <input type="checkbox"/> Patriotism | _____ |
| <input type="checkbox"/> Peace/peaceful cohabitation | _____ |

b) What should be the fundamental and universal RIGHTS contained in the Constitution? Choose up to seven topics among the list below or suggest others in the free space.

- | | |
|---|--|
| <input type="checkbox"/> Suffrage/vote | <input type="checkbox"/> Request before the authorities |
| <input type="checkbox"/> Nationality | <input type="checkbox"/> Freedom to work |
| <input type="checkbox"/> Election to public office | <input type="checkbox"/> Freedom of Education |
| <input type="checkbox"/> Participation | <input type="checkbox"/> Right to Work |
| <input type="checkbox"/> Life | <input type="checkbox"/> Fair wage |
| <input type="checkbox"/> Mental and physical integrity | <input type="checkbox"/> Decent housing |
| <input type="checkbox"/> Security/non-violence | <input type="checkbox"/> Healthcare |
| <input type="checkbox"/> Equality | <input type="checkbox"/> Education |
| <input type="checkbox"/> Non-discrimination | <input type="checkbox"/> Social security |
| <input type="checkbox"/> Equality before the law | <input type="checkbox"/> Right to organise and to collective bargaining |
| <input type="checkbox"/> Access to justice/due process | <input type="checkbox"/> Right to strike |
| <input type="checkbox"/> Equality in relation to public burdens | <input type="checkbox"/> Access to culture |
| <input type="checkbox"/> Tax equality | <input type="checkbox"/> Cultural identity |
| <input type="checkbox"/> Gender equity | <input type="checkbox"/> Indigenous people |
| <input type="checkbox"/> Children and teenager’s rights | <input type="checkbox"/> Environmental respect/protection |
| <input type="checkbox"/> Integration of disabled people | <input type="checkbox"/> Property/free economic initiative/free enterprise |
| <input type="checkbox"/> Personal freedom | <input type="checkbox"/> Judicial protection of individual rights |
| <input type="checkbox"/> Freedom of movement | <input type="checkbox"/> None |
| <input type="checkbox"/> Freedom of conscience | <input type="checkbox"/> Others, specify: |
| <input type="checkbox"/> Freedom of expression | _____ |
| <input type="checkbox"/> Right to information | _____ |
| <input type="checkbox"/> Access to public information | _____ |
| <input type="checkbox"/> Privacy and intimacy | _____ |
| <input type="checkbox"/> Honour/reputation | _____ |
| <input type="checkbox"/> Right of association | _____ |
| <input type="checkbox"/> Peaceful assembly | _____ |

c) What universal DUTIES and RESPONSIBILITIES should be established in the Constitution? Choose up to seven topics among the list below or suggest others in the free space.

- | | |
|--|--|
| <input type="checkbox"/> Respect for the Constitution | <input type="checkbox"/> Protection, promotion and respect of human and fundamental rights |
| <input type="checkbox"/> Respect for others' rights | <input type="checkbox"/> Responsibility |
| <input type="checkbox"/> Compliance with laws | <input type="checkbox"/> Community service |
| <input type="checkbox"/> Tax compliance | <input type="checkbox"/> None |
| <input type="checkbox"/> Fulfil public charges | <input type="checkbox"/> Others, specify |
| <input type="checkbox"/> Conservation and natural-protection duties | _____ |
| <input type="checkbox"/> Protection and conservation of cultural and historical heritage | _____ |
| <input type="checkbox"/> Lawful exercise of rights | _____ |
| <input type="checkbox"/> Compliance with treaties and international commitments | _____ |

d) What STATE INSTITUTIONS should the Constitution include and what characteristics should they have? Choose up to seven topics among the list below or suggest others in the free space.

- | | |
|---|--|
| <input type="checkbox"/> System of government: Presidential/semi-presidential/parliamentarian | <input type="checkbox"/> Public prosecutor/public defender |
| <input type="checkbox"/> Presidency of the Republic | <input type="checkbox"/> Ombudsman |
| <input type="checkbox"/> Government leadership | <input type="checkbox"/> Constitution-building process or amendment |
| <input type="checkbox"/> National government (structure and functions) | <input type="checkbox"/> Controller General's Office/Court of Audits |
| <input type="checkbox"/> Congress or Parliament (structure and functions) | <input type="checkbox"/> Army |
| <input type="checkbox"/> Impeachment/constitutional trial | <input type="checkbox"/> State of emergency |
| <input type="checkbox"/> Judicial power (structure and functions) | <input type="checkbox"/> Plebiscites, referenda and consultations |
| <input type="checkbox"/> Constitutional justice | <input type="checkbox"/> None |
| <input type="checkbox"/> Electoral justice | <input type="checkbox"/> Others, specify |
| <input type="checkbox"/> Forms of the State: federalism/autonomous regions | _____ |
| <input type="checkbox"/> Territorial division | _____ |
| <input type="checkbox"/> Regional government | _____ |
| <input type="checkbox"/> Provincial government | _____ |
| <input type="checkbox"/> Local/municipal government | _____ |

ANNEX B. NEW TOPICS SUGGESTED IN A NEW CONSTITUTION THROUGH CITIZEN CONSULTATION**Topics already included in the 1980 Constitution**

Democracy (Art. 4)
 Equality (Art. 1)
 Decentralisation (Art. 3)
 Common good/community (Art. 1.4)
 Freedom (Art. 1)
 Dignity (Art. 1)
 Security (Art. 1)
 Health (19 No. 9)
 Social Security (19 No. 18)
 Education (19 No. 10)
 Equality before the (19 No. 2)
 Right to Life (19 No. 1)
 Freedom of expression (19 No. 12)
 Right to organise and collective bargaining (19 Nos. 16-19)
 Respect for the Constitution (Art. 6)
 Law compliance (Art. 6 and 7)
 Right to vote (Art. 12)
 Probity and Transparency (Art. 8)
 Respect and non-discrimination (19 No. 2)
 Community service (Art. 1)
 Liability (Art. 6)
 Protection of, and respect for, private property (19 Nos. 23-24)
 Congress or Parliament (Chap. V)
 Judiciary Power (Chap. VII)
 Army (Chap. XI)
 Regional government (Art. 111)
 Local government/municipality (Art. 118)
 Constitution-building process or amendment (Chap. XV)
 Controller General's Office/Court of Audits (Chap. X)
 System of government (Chap. IV)
 National government (Chap. IV)
 Presidency of the Republic (Chap. IV)
 Sovereignty (Art. 5)
 Impeachment/Constitutional trial (Chap. V)
 Constitutional Justice (Chap. VIII)
 Public prosecutor/ Public Defender (Chap. VII)
 Electoral justice (Chap. IX)

New topics

Justice
 Environmental respect/protection
 Respect
 Gender equity
 Secular state
 Human rights
 Solidarity
 Multiculturalism
 Inclusion
 Participation
 State as guarantor
 Rule of law
 Multinationalism
 Diversity
 Right to decent housing
 Indigenous people
 Right to work
 Right to water
 Right to work and a decent wage
 Right to make one's own decisions about one's life
 Rights to natural resources
 Children and teenager's rights
 Right to information
 Protection and cultural and historical heritage conservation
 Respect for the rights of the others
 Human and fundamental rights protection, promotion and respect
 Lawful exercise of fundamental rights and freedoms
 Citizen or civic participation
 Social and civic responsibility
 Compliance with treaties and international commitments
 Tax compliance
 National unity
 Plebiscites, referenda and consultations
 Ombudsman
 Constitutional Assembly
 Popular initiative
 Assemblies and Cabildos
 Regional autonomy
 CSOs
 Territorial division
 Unicameral Parliament

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