

Chilean activists eye chance for unmatched environmental protection

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A cow is seen on land that used to be filled with water, at the Aculeo Lagoon in Paine, Chile, in May 2018 [File: Matias Delacroix/Reuters]

Santiago de Chile, June 6 (RHC)-- Chile's newly-elected Constitutional Assembly will be meeting this month for the first time to kick off a nine-month process of drafting a new doctrine to guide the country, throwing aside the previous dictatorship-era constitution.

May's election saw major Chilean political parties lose out to independents, with President Sebastian Piñera's right-wing coalition, Chile Vamos, only clocking one-fifth of the 155 seats.

Environmental lawmakers and activists have hailed the result as a historic moment that could secure unprecedented environmental protection. Whereas existing constitutions have taken important steps to include ecocentric provisions, no national charter -- with the exception of Ecuador -- recognizes the environment as fundamental to future development and prioritises its protection.

Forty-eight independent constituents -- who won the majority of seats -- emerged from social movements, many of which are closely tied to environmental causes. Together with the 17 seats reserved for Indigenous communities, and the 25 seats won by progressive left-wing coalition Apruebo Dignidad, a significant proportion of the final assembly has pledged to enshrine environmental protection in Chile's new constitution.

"This country has established its development on destroying the environment. We're in a severe ecological crisis," said Josefina Correa, political director of Greenpeace Chile. "A new constitution will change everything."

Bastian Labbé is one of the independents who is working to secure environmental rights. "In Chile, when communities want to save a river or protect a native forest, they have to campaign with their own money, through bingos, raffles," he explained. "The state (should) be in service to those communities."

It is a fight that Labbé knows intimately. He grew up in the industrialised coastal city of Hualpén, in southern Chile, characterised by a concentration of large gas refineries that continuously bellow clouds of smoke, their gas flares marking the city's peripheries.

But a short distance from the steaming towers, Labbé found refuge in the Natural Sanctuary of Hualpén, a protected environmental reserve that contains the last coastal forest of the area and that animals including flamingos and penguins call home. "It's part of my identity," said Labbé, who teaches history and geography at Concepcion University.

When real estate moved forward with a plan to build more than 1,000 homes in the area one year ago, illegally clearing swathes of the forest, Labbé emerged as a leader spearheading actions to save the sanctuary. His efforts grew with the support of other regional groups fighting for various environmental protections.

"It's a fight to defend the environment from the megaprojects, the extractivist politics that see nature as a resource to exploit," he told Al Jazeera. "And in the context of climate change, it's a fight for life."

Enshrining environmental clauses in the constitution will help communities take private sectors to court for infringing upon their human rights -- this could include rights to clean air, access to water, or mental wellbeing provided by green spaces.

Chile's assets plunged after the election results were announced, with investors wary of the "market-unfriendly" stance of the majority of the assembly. Meanwhile, the minority of elected conservatives has vowed to defend and strengthen civil liberties and private property as stipulated by Pinochet's constitution.

Maya van Rossum, an environmental law attorney and founder of US-based Green Amendment Movement, said eco-focused constituents such as Labbé must get environment rights positioned correctly in the draft to afford them the greatest level of protection, akin to civil rights and liberties, “(so) people can rely upon it (the constitution) legally to enforce their environmental rights in the courts”.

She also stressed the importance of keeping the wording broad. “We need to talk about clean water, a stable climate, healthy environmentals, and cultural values of the environment,” she said, explaining that specific definitions will be argued in courts. “You don’t want to get tricked and bullied into thinking that clean water is any less clear than free speech.”

Rewriting Chile’s constitution emerged as a central demand during an anti-government uprising in October 2019, when protesters called for equality and fair access to health, pensions, and education, as well as greater environmental protection.

Those demands converged into a call to change the constitution, illegitimately conceived in 1980 during Augusto Pinochet’s dictatorship and chiefly authored by conservative Catholic lawyer Jaime Guzman.

Guzman’s doctrine enshrined rights to private property and venerated free-market values, protecting private sectors and allowing for the gross expansion of industry. It explicitly permits the privatization of water, allowing businesses to buy and exploit water sources.

Despite democracy returning to Chile in 1990, subsequent governments did little to curb the private sector’s free reign over the environment. “The landlords of the water can defend their property rights while people who don’t have water do not have any legal right to complain,” said Correa at Greenpeace Chile. Currently, 350,000 people in Chile have no access to water and more than one million depend on unsafe drinking water.

Lynda Collins, an environmental law professor at the University of Ottawa and author of *The Ecological Constitution: Reframing Environmental Law*, stressed the importance of having environmental rights enshrined in constitutions. “If property is constitutionally protected, but the environment is not, obviously the environment will lose,” she said. “That’s not a fair fight, so it’s hugely important to, at a minimum, equalise the playing field.”

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