

# If You Can Fix It, Why Replace it? Democratizing the Pinochet Constitution in Chile

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**Abstract:** I respond to George Tsebelis's article that explains how difficult it is to amend the Constitution of Chile given the high majority thresholds for constitutional reforms, the broad scope of issues covered by those high thresholds and the cumbersome process to modify the amendment section. I review the history of constitutional change in Chile to show that, even though constitutional reform is difficult to achieve, it has happened 43 times since democracy was restored. I discuss how the demand for constitutional replacement is based on the illegitimacy of origin of the 1980 Constitution, but argue that Chileans should take pride in having built a full-fledged democracy despite the constraints of a constitution design to create a protected democracy under military tutelage.

*Keywords:* constitutional reforms, veto players, constitutional moments, Chile.

*¿Si puedes repararlo, por qué reemplazarlo? Democratizando la Constitución de Pinochet en Chile*

**Resumen:** Este ensayo reacciona al artículo de George Tsebelis que explica lo difícil que resulta reformar la Constitución de Chile, dados los exigentes requisitos de supermayoría, la cantidad de asuntos cubiertos por protección de supermayoría y el complicado proceso para reformar el capítulo de cómo se debe reformar la Constitución. Reviso la historia de los cambios constitucionales en Chile y muestro que, aunque el proceso sea engorroso, la Constitución ha sido modificada 43 veces desde el retorno de la democracia. Explico que la demanda por una nueva constitución se basa en la ilegitimidad de origen de la Constitución de 1980, pero argumento que los chilenos deberían sentirse orgullosos de haber

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Article received on December 15, 2017 (the number was posted online on 21 on November) and accepted on January 21, 2018.

*Note:* This range of pages corresponds to the published Spanish version of this article. Please refer to this range of pages when you cite this article.

logrado construir una democracia que funcione pese a las limitantes que ha impuesto una Constitución diseñada para crear una democracia protegida por el tutelaje militar.

*Palabras clave:* reformas constitucionales, jugadores de veto, momentos constitucionales, Chile.

In his enlightening article on how difficult is to replace the Pinochet constitution, George Tsebelis starts from the assumption that replacing the constitution is the only—or at least the best—way to go about eliminating authoritarian enclaves in the constitution. From there, he moves on to explain the intricate mechanisms that make constitutional replacement unlikely in Chile. In a language that reminds us of his seminal text, *Veto Players* (2002), Tsebelis explains that, given the super majority thresholds that cover such a wide array of issues—including those covered by organic laws, which are not in the constitution *per se* but also required high majority thresholds for modification—amending Pinochet’s constitution is particularly difficult, and replacing it altogether remains an unlikely scenario. If constitutional replacement is to come about in Chile, it will probably require a President to step outside the constitutional order and impose a new constitution or a constitutional assembly—or, riding a wave of high popularity, convince Congress to modify the amendment provisions in the constitution to “unlock” the Pinochet 1980 Constitution of Chile.

Though Tsebelis is right in his conclusion—and his explanation of the elaborate mechanisms in place that make change difficult is illuminating—, Tsebelis does not review the history of constitutional changes that have taken place in Chile since 1989—a few months before democracy was restored. That history shows that the Pinochet constitution might be difficult to change, but Chilean politicians have shown their capacity to build the necessary consensus to bring about 43 constitutional changes since democracy was restored in March of 1990.

### Changes to the Constitution, 1990-2017

Other texts have studied those changes in detail (Andrade Geywitz, 1991). Some have highlighted how the transition to democracy was, despite all statements pointing to the contrary at the time, the result of a pact (Godoy Arcaya, 1999). There is plenty of evidence that the transition to democracy was negotiated between the outgoing dictatorship and the incoming center-left democratic Concertación coalition (Fuentes, 2013). That ‘pacted’

transition was secured after Pinochet lost the 1988 plebiscite —when Chileans rejected a new 8-year presidential term for the dictator and that opened the way for democratic presidential and legislative elections to be held a year later. After Pinochet lost the October 5<sup>th</sup>, 1988 plebiscite, the victorious Concertación coalition pushed for the adoption of a number of constitutional reforms that could make governing easier for the soon-to-be-elected democratic administration (Boeninger, 1997). Multiple works narrate the details of those negotiations (Cavallo, 1998; Briones, 1999; Moulian, 1994; Otano, 1995). The dominant interpretation is that the outgoing government was able to leave in place many authoritarian enclaves that would prove to be a burden for the democratization process that began when Patricio Aylwin, the leader of the Concertación, was inaugurated in March 1990. Those negotiations resulted in granting the military more autonomy in decisions in exchange for more powers and attributions for elected authorities (Heiss and Navia, 2007).

The 1989 negotiations led to a constitutional reform package that was proposed by the outgoing dictatorship. The Concertación acquiesced to those changes —though it made it clear that it wanted to erase all authoritarian enclaves, including non-elected senators, a National Security Council where the military had half of the membership and other provisions that would strike any independent observer as ill-suited to allow for a well-functioning democracy to flourish. Though the dictatorship wanted to keep many of those provisions in place, given the anticipated victory of the democratic opposition in the upcoming 1989 elections, the Pinochet regime did make some concessions, like increasing the number of elected senators from 26 to 38 (thus, reducing the influence of the 9 non-elected senators that were appointed for an 8-year term by Pinochet, the National Security Council and the Pinochet-packed Supreme Court). Among the changes introduced to the constitution in 1989, one worth mentioning is the increase in the number of chapters that would require super majority for future constitutional changes (Andrade Geywitz, 1991). Thus, though the military dictatorship stripped some authoritarian provisions from the constitution, it also made it more difficult for the constitution to be modified in the future. After the dictatorship proposed the reforms and the opposition acquiesced, an overwhelming majority of Chileans (91%) voted to ratify those changes on June 30<sup>th</sup>, 1989. The constitutional referendum was held under military rule, but after the 1988 plebiscite and only months before the Concertación won a clear majority of votes in the presidential and legis-

lative elections (though non-elected senators prevented the Concertación from transforming its electoral majority into a seat-majority in the upper chamber when democracy was restored in March of 1990).

Thus, even though it was not a properly democratic constitutional reform process, the Pinochet authoritarian constitution was legitimized by the fact an overwhelming majority of Chileans supported the 1989 reform package and the incoming Concertación government acquiesced to the changes. Though I have not been able to find written references that put it so bluntly, one could paraphrase the dominant mood among Concertación leaders in late 1989 as suggesting that it was better to accept the Pinochet constitution and change it later on than to push for constitutional replacement at that time. After all, the constitution granted Pinochet the right to remain as head of the Army for 8 years and then he would assume a lifetime seat in the Senate. The balance of power was favorable for the incoming democratic administration, but not overwhelming. Pinochet still had plenty of power and influence and a negotiated transition meant that the Concertación had to win some and lose some in the bargaining process (Heiss and Navia, 2007).

The empirical evidence from the past 30 years—starting with the 1989 constitutional reforms—shows that, despite the difficulties to amend the constitution, substantial progress has been achieved in reforming it. In addition to the 1989 reforms, a comprehensive reform from 2005 and 42 other constitutional reforms between 1990 and 2017, show that, even though the process to reform the constitution is cumbersome, the original *statu quo* has been repeatedly changed overtime—as Tsebelis correctly notes in his article. Thus, if the constitution has been indeed reformed so often and most of the authoritarian enclaves—if not all—are no longer in the constitution, then the claim that the constitution needs to be changed can be challenged based on the evidence. Though the constitution will remain illegitimate in its origin—something that is not unique to the 1980 Constitution of Chile—a properly functioning democratic regime has emerged in Chile despite the illegitimate origin of the constitution and despite the several authoritarian provisions originally put in place that were designed as obstacles to allow for a well-functioning democracy. Chileans should take pride in showing that even when the initial conditions are designed against its emergence and consolidation, a well-functioning democracy can still thrive. Despite the intent of its original drafters, the 1980 Constitution has allowed a democracy to flourish and consolidate. The constitution has

been reformed and Chileans now live in a well-functioning democracy. True, the constitution remains difficult to change—in fact it has become more difficult to change overtime. But the high thresholds required for reforms do not make reforms impossible.

In fact, the Chilean 1980 Constitution can be compared to a child born as a result of a violent rape. The moment of origin of the text is unquestionably illegitimate. Memories of human rights violations and abuse are inseparable from the constitutional moment that led to the promulgation of the text in 1980. Yet, 37 years after its promulgation and 27 years after democracy was restored, the Pinochet constitution has not fulfilled the original intent of its designers. A full-fledged democracy has flourished in Chile. The constitution was designed to create a protected democracy with military tutelage (Ensalaco, 1995, 1994; Loveman, 1991), but its implementation allowed for the rebirth and growth of a well-functioning democracy.

To be sure, several authoritarian enclaves became obstacles for a more rapid and profound democratization process in the 1990s. Super-majority requirements and the presence of 9 non-elected senators (though one of them died in late 1990 and was not replaced) gave the rightwing opposition an effective and overwhelming veto power that forced the Aylwin (1990-1994) and Frei (1994-2000) Concertación administrations to bargain over major and minor reforms. Constitutional prerogatives guaranteed the opposition an effective veto power over the Concertación despite the fact that the center-left Concertación government coalition commanded overwhelming popular support and attempted, without success, to push forward a number of reforms that it had promised when in the opposition to the military dictatorship.

Yet, it is also true that the Concertación administrations also ended up embracing the neo-liberal economic model that Pinochet had implemented and that was engrained in the constitution. By embracing the market-friendly model—a social market economy, as Concertación governments preferred to refer to it—the center-left coalition helped legitimized one of the most important Pinochet legacies. Moreover, by accepting to govern with the Pinochet constitution, the Concertación also helped legitimized it (Navia, 2014).

In 2005, when Ricardo Lagos, the third consecutive President from the Concertación coalition, succeed in passing a comprehensive constitutional reform package—that included the elimination of non-elected senators, the scaling down of the National Security Council, more powers and attri-

bution for the Senate and Chamber of Deputies and a new composition for the Constitutional Tribunal—the government went out of its way to attempt to install the notion that Chile had a new constitution. Symbolically, the name of Pinochet was removed from the constitution and replaced with the signature of Ricardo Lagos. Yet, in the eyes of the public, the 1980 constitution—despite all the reforms and modifications—remained the Pinochet constitution. Other reforms have been adopted since 2005, including changes to the loathed electoral system that was also designed to favor rightwing parties. True, all those reforms have required the support of both coalitions. Since the threshold for supermajority requirements are so high, no reform is possible without broad agreements.

In theory, making it difficult for the constitution to change is not necessarily bad. Inflexibility has its pros and cons. I will not go into detail about the pros and cons, but just like any strong commitment, when the need for change arises, inflexibility has its costs. Inversely, stability and predictability are tremendously beneficial when seeking to attract foreign and domestic investment. When minorities have the power to block change, they feel more protected. Now, the uniqueness to the Chilean constitution is that it overwhelmingly protects the minority that favored the economic and political model that Pinochet put in place. Thus, the problem is not *per se* that the constitution is inflexible. The problem is that the original *statu quo* was clearly favorable for the rightwing political coalition that supported Pinochet.

In addition to its inflexibility—the central point in Tsebelis' article—another common objection to the 1980 Constitution is that it prevents the development of a proper democracy. Critics of the constitution discuss what they consider are the remaining authoritarian enclaves that constitute obstacles to full democratic development (Fuentes and Joignant, 2015; Atria, 2013; Chia and Quezada, 2015). Yet, the laundry list of obstacles is surely shorter today than it was when democracy was restored. And yet, democracy still flourished. Thus, the elimination of the remaining obstacles cannot be considered a *sine qua non* condition for democracy to continue on its path to consolidation. Moreover, some of the obstacles mentioned—like the existence and/or composition of the constitutional tribunal are, at best, debatable. Many well-functioning democracies have anti-majoritarian constitutional tribunals with broad powers. In fact, the recent highly symbolic Constitutional Tribunal ruling in favor of the leftwing Nueva Mayoría (formerly Concertación) government coalition-spon-

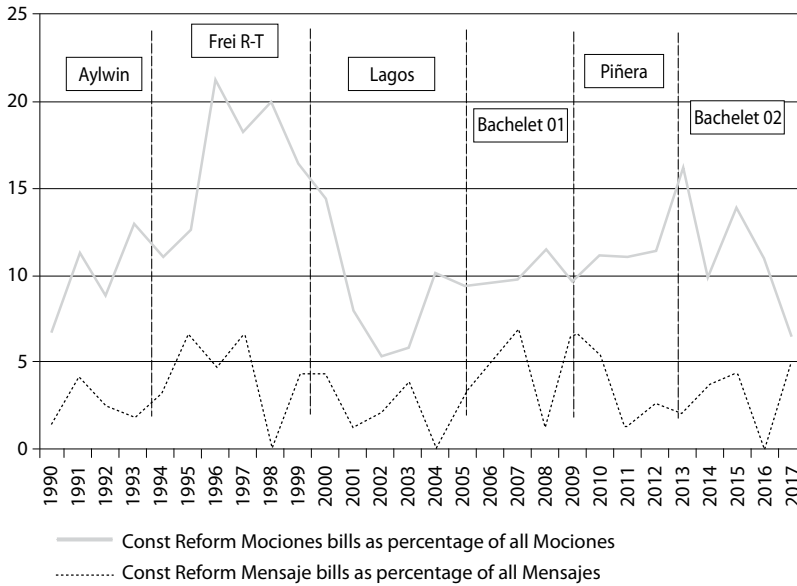
sored bill that legalized abortion under three special circumstances (when the fetus is inviable, when the life of the mother is at risk or in case of rape) shows that the Tribunal is not an unsurmountable obstacle against the popular will reflected in decisions made by the democratically elected Congress.

Since 2005, the 10-member Tribunal is comprised of lawyers appointed for staggered 8-year terms by the president (3), Supreme Court (3), and, by a 2/3 vote, Senate (2) and Chamber and Senate (2) (Navia and Ríos-Figueroa, 2005). Though the math should allow the center-left Nueva Mayoría to have a majority in the composition of the tribunal—at least since 2014—the Tribunal is evenly split between sympathizers of both coalitions because the government has honored an unwritten rule of balancing oversight bodies with members from the two dominant coalitions. It is unclear whether past governments would have succeeded in shifting the equilibrium in the Constitutional Tribunal closer to their views by appointing lawyers who would be amenable to the opposition in the Senate but with more moderate positions. What we do know is that the current and past governments did not even try to shift the balance in the constitutional tribunal. In fact, in the most recent appointment by the Senate of two new members of the constitutional tribunal reflected the little vetting that takes place before the nominees of each coalition are ratified almost unanimously by the Senate. Neither of the two members had a reputed career as constitutional scholars or lawyers. They were both lawyers who were political party operatives and whose trajectory was tainted by illegal campaign finances and accusations of plagiarism.<sup>1</sup>

In addition to the constitutional reforms promulgated, hundreds of constitutional reform initiatives are still making their way through Congress. Figure 1, based on a recent study (Navia and Saldaña, 2017), has reported that legislative initiatives seeking to change the constitution have comprised around 3 per cent of the annual legislative bills sent to Congress by the executive and between 5 and 22 per cent of the bills sponsored by legislators. Since the bills sponsored by the executive (*mensajes*) are significantly more likely to become laws than those sponsored by legislators (*mociones*), we can conclude that, though constitutional reforms have al-

<sup>1</sup> “Crítican nombramiento de Cristián Letelier en TC tras conocerse correo electrónico a Délano” *La Tercera*, January 12, 2015, available at: <http://www.latercera.com/noticia/critican-nombramiento-de-cristian-letelier-en-tc-tras-conocerse-correo-electronico-a-delano/> [accessed on August 28, 2017]. “Designación de dos nuevos ministros del TC: la cocina constitucional Ciper Chile”, January 12, 2015, available at: <http://ciperchile.cl/2015/01/12/designacion-de-dos-nuevos-ministros-del-tc-la-cocina-constitucional/> [accessed on August 28, 2017].

FIGURE 1. Constitutional reform bills as percentage of all bills by year



Source: Navia and Saldaña (2017).

ways been among the priorities of democratic governments, they have not been the leading priority. True, a constitutional reform bill might be far more comprehensive and have more lasting consequences than other bills—not all bills are equally important—but the fact of the matter is that initiatives to change the constitution have been a part of the legislative process in Chile since day one and the constitution has been changed, on average, six times every four years since democracy was restored (and that calculation excludes the numerous changes to organic laws that Tsebelis believes should be considered as part of the larger constitutional structure in place in Chile).

### Constitutional replacement as a popular priority

Although the Pinochet constitution is now under strong criticism, it was not always that way. In the first years of democracy, governments focused on trying to modify rather than replace the constitution. The presence of Pinochet as commander in chief of the Army until March 1998 (a few months



before his arrest in London that led to his resignation from the lifetime seat in the Senate he assumed when he retired from the Army) and the presence of non-elected senators made constitutional replacement even more difficult than today. That might have dissuaded Concertación leaders from even trying to change the constitution. But an alternative explanation is that despite its formal inflexibility, the constitution was sufficiently flexible for Concertación governments to successfully govern—and win 4 consecutive presidential elections, giving Chile its longest period of democratic stability under a single coalition to date. Whatever the reason, the debate on constitutional replacement has not been around, at least among presidential candidates and governments, since democracy was restored.

In fact, a recent study shows that politicians began speaking about constitutional replacement a few years after the 2005 reforms (Navia and Verdugo, 2017). Before, the dominant debate was on constitutional reforms that could eliminate authoritarian enclaves. After President Lagos promulgated the 2005 comprehensive reforms, it took just a few years for politicians to campaign on replacing the constitution. After the death of Pinochet in 2006, the favorite enemy the Concertación always chose to run against in elections was no longer present. In the absence of Pinochet, the Concertación used the Pinochet constitution as a proxy to recreate a polarized environment like the 1988 plebiscite, when the center-left Concertación was on the correct side of history and the center-right Alianza supported the continuation of the authoritarian regime.

In the 2009 election, the Concertación presidential candidate, former President Eduardo Frei (1994–2000) campaigned promising a new constitution. He stopped short of calling for a constitutional assembly—a concept introduced in the campaign arena by Marco Enríquez-Ominami, a 35-year old legislator who resigned from the Socialist Party and ran as an independent candidate for the presidency. Enríquez-Ominami received 20 per cent of the vote and other politicians took note that a growing number of people were in favor of replacing the Pinochet constitution.

In 2013, Bachelet (who had been president between 2006–2010 and had only called for a new constitution at the end of her term, reacting to the growing importance of the issue in the presidential campaign) campaigned for a second term making the demand for a new constitution a central component of her government program. Others joined in, including Enríquez-Ominami who ran for a second time for the presidency and other marginal presidential candidates. Bachelet's overwhelming victory gave an addition-

al impulse to those who wanted to produce a constitutional replacement. A lively debate ensued on how to change the constitution in a way that would not go outside the boundaries of the existing constitution. Several seminars and academic conferences were organized and many intellectuals, activists and scholars jumped in with the proposals and ideas.

After her election in 2013, Bachelet sought to deliver on her promise of constitutional replacement. However, rather than pushing for a new constitution early on, the President opted to prioritize other reforms —tax, educational and labor. Unlike what normally happens in countries where new government come to power promising new constitutions, the Bachelet administration chose to forgo the power of the honeymoon period to attempt to push for constitutional replacement. Since candidate Bachelet had promised that she would go about producing a new constitution through an *institutional, democratic and participatory* mechanism, the high thresholds in place for constitutional change made it impossible for her coalition to push a change through Congress. With 21 out of 38 seats in the fully-elected Senate (below the 23 required for the 3/5 super majority) and 71 seats (including 4 left-leaning independents) in the 120-member Chamber of Deputies (one seat short of the 3/5 majority required), Bachelet required support from at least a few rightwing legislators to push forward constitutional replacement. Rather than use her recently earned political capital in pushing for a new constitution, Bachelet opted until late 2015 —18 months into her administration— to announce the start of an unusual constitutional process. She created an advisory committee that would oversee a process of citizenship participation through self-convened caucuses of citizens. The government provided a guide for citizens to discuss constitutional priorities and rank individual and social rights in their order of priorities. The local caucuses would be complemented with provincial and regional townhall meetings where participants of local caucuses and other interested parties could discuss their priorities. All those instances of participatory democracy would produce reports that would then be analyzed and systematized by the government in order to build a report that would summarize the result of those dialogues. The report would be non-binding and would be used as input for the government to produce its own constitutional reform proposal that is scheduled to be submitted to Congress in October 2017, just weeks before the presidential and legislative election. The lame-duck Congress is expected, according to the government plan, to legislate on a constitutional reform that would

allow the new Congress, elected in November 2017, to decide on a mechanism to proceed with constitutional replacement.

The cumbersome process designed by the government seeks to bypass the big supermajority hurdle for constitutional replacement. Since some members of the ruling coalition are against constitutional replacement, the government is moving at a snail's pace to turn the debate on a new constitution into a campaign issue for the November 2017 presidential election. Whatever the end result is, it is increasingly likely that Bachelet will end her term in March 2018 without having accomplished her campaign promise of enacting a new constitution to replace the 1980 document.

Ironically, when Bachelet announced her roadmap for constitutional replacement in late 2015, the hype decreased as people took sides on celebrating or criticizing Bachelet's proposal. Those in favor welcome that Chileans would finally have an opportunity to debate constitutional principles. Those against the proposal complained that all the hype would only end up producing a document that would serve as advisory material for the Bachelet administration to present its own constitutional reform package to be discussed in Congress when Bachelet's term would be about to expire. The latter group correctly anticipated that the pressure to bring about constitutional change would end up subsiding.

In addition to the constitutional replacement roadmap designed by the Bachelet government, her administration also moved forward with the process of gradual constitutional change used by previous administrations. For example, the government pushed for a change to the electoral rules, successfully replacing the binominal system adopted in 1989 by the outgoing dictatorship (though the electoral system was not formally part of the constitution, but it is part of an organic law that requires supermajority thresholds to be changed). The binominal system was a proportional representation system with an across-the-board open-list 2-seat allocation for each of the 60 districts in the Chamber of Deputies and 19 senatorial districts. Since seats were assigned to coalitions, the most common outcome was that the Concertación and rightwing Alianza coalitions would equally split the two seats in each district. In essence, the binominal system functioned as an insurance against defeat, guaranteeing the losing coalition a higher seat-share than its vote share. As in most elections, the losing coalition was the rightwing Alianza, the binominal system ended up giving the Alianza a higher seat-share than its vote-share in most elections, especially in the Senate. Though the system also favored the ruling Concertación/Nueva Mayoría

coalition, its original design and the distortion in favor of the Alianza in the elections immediately after democracy was restored transformed it into one of the criticized legacies of the authoritarian regime. The new electoral system that will be first used in the 2017 legislative election reduces the number of districts from 60 to 28, increasing the district magnitude from 2 legislators in every district to a range from 3 to 8 deputies. In the Senate, there will be 15 districts ranging from 2 to 5 senators elected by an open-list proportional representation system. Since it is elected in staggered terms, the Senate will have 50 members when fully renewed under the new system in 2021. The new electoral system will no longer work as an insurance against the losing coalition. Thus, a majority coalition will be able to transform a clear electoral majority into a sufficiently large seat majority that can bypass the high thresholds required for constitutional replacement. Unfortunately for the Concertación/Nueva Mayoría, the fact that the center-left coalition will run under two different lists for the legislative elections will make it almost impossible for it to carry such commanding seat majority.

One of Bachelet's most recent—and perhaps lasting—legacies will be the legalization of abortion under three circumstances (as discussed above). Though that reform did not require a constitutional change, it did challenge a constitutional article that states that the protection of the “lives of those who will be born” (*la vida del que está por nacer*). The Constitutional Tribunal ruled that the statement did not confer to the fetus the condition of a person, thus showing that even inflexible constitutions are subject to legal interpretation.

To be sure, Chileans favor constitutional replacement. Polls suggest that a majority of Chileans want either significant changes to the constitution or a new constitution. Increasingly, presidential candidates in recent elections have included the promise of a new constitution—or constitutional reforms—as part of their platforms (Navia and Verdugo, 2017). However, the reasons behind the support for a new constitution seem to be related more to the expansion of rights than to disagreements with institutional design features—like the Constitutional Tribunal or the supermajority thresholds (Navia and Verdugo, 2017).


With the 2017 presidential election campaign underway at the time of writing this article, the debate on constitutional replacement has taken a backseat in the priorities championed by the presidential candidates. Though center-left coalition candidates have called for a new constitution, the fact that the Concertación/Nueva Mayoría has split into a centrist camp

led by the Christian Democratic Party, where support for a new constitution is weaker, and the leftist group of parties (Socialist, Party for Democracy, Radical and Communist), where support for a new constitution is stronger, has meant that overall support for a new constitution is weaker now than in 2013. The fact that pre-electoral polls give a comfortable advantage to Sebastián Piñera (2010-2014), the former president who became the first rightwing leader to be democratically elected in Chile since democracy was restored in 1990 make it unlikely that a new constitution will become a reality anytime soon in Chile.

### **If it ain't broke, don't fix it**

One would be hard pressed to identify pending authoritarian enclaves —criticizing the role of the constitutional tribunal or the prohibition for the public sector to enter productive industries are matters of taste and political preferences, not unquestionable evidence that the constitution is authoritarian or flawed. The biggest problem with the constitution is the illegitimate origin. Yet, just like adoptive parents who raised a child born out of a rape should take pride in having raised a good person, Chileans should be proud that, despite the initial intent, the Pinochet constitution allowed for a democracy to flourish. Thus, rather than go on complaining that the constitution remains Pinochet's constitution, Chileans should celebrate that a well-functioning democracy emerged out of a constitution that sought to suffocate democracy. Moreover, rather than keep on trying to replace the constitution altogether, Chileans should consider that, though it is admittedly difficult, if they have been successful in modifying the constitution 42 times, they should continue down that same road rather than attempt to do something that Tsebelis has brilliantly shown is a very improbable scenario.

True, Tsebelis's suggestion about the inconvenience of locking so many provisions under legislation that requires high thresholds to change the *statu quo* is a point that should be well-taken by Chilean politicians (many scholars agree with the notion that many high thresholds should be lowered or that the number of provisions protected by high thresholds should be reduced). Though the evidence shows that constitutional reforms in Chile have happened and have successfully eliminated authoritarian enclaves and reflected —with a delay— the dominant and stable preferences of the majority, the system requires thresholds that are too high and that make the constitution unnecessarily inflexible. Though the pressure for

constitutional replacement has subdued, the illegitimate origin of the constitution is a perfect excuse for those who continue to push for constitutional replacement. In order to help the constitution gain more legitimacy—legitimacy of its exercise, not legitimacy of origin—Chilean politicians should follow Tsebelis’ advice and work out a consensual reform to lower some high thresholds and introduce more flexibility to the (even though it will always be hard to swallow for democratically-minded Chileans) Pinochet’s 1980 Constitution. 

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