# Rights of Nature Case Study
## Chile – Nature

*In March 2022, rights of nature provisions were approved for inclusion in a draft revised Constitution for Chile, to be voted on in a national referendum in July 2022.*

<table>
<thead>
<tr>
<th>Location</th>
<th>Chile</th>
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<tbody>
<tr>
<td>Date</td>
<td>March 2022</td>
</tr>
<tr>
<td>Source</td>
<td>Constitution – forthcoming new Constitution, to be approved by national referendum in July 2022</td>
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<tr>
<td>Jurisdiction level</td>
<td>National</td>
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**Context**

Chile is a recognised global biodiversity hotspot, with extremely varied landscapes across the country, comprising mountains, forest, desert and several distinct ecosystems and 30,000 species, a quarter of which are native to the country. The main threats to biodiversity are land use changes connected with the agricultural and forestry sectors, as well as pressures associated with urbanisation, the climate crisis, invasive alien species and water extracted for mining and agricultural activities in the northern part of the country.

In 2019, social protests erupted across the country, focused initially on an increase in public transportation costs but then extending to issues including the general cost of living, inequality, the privileging of the private sector, and corruption. In seeking a solution to the crisis, politicians signed an ‘Agreement for Social Peace and the New Constitution’ in November 2019, which led to an initial constitutional referendum to decide whether Chile’s current constitution should be replaced. In October 2020, 78 per cent of voters in Chile supported the idea of a new constitution and a Constitutional Convention was established – a body comprising 155 people and a variety of thematic commissions including one on ‘Environment, Rights of Nature, Common Natural Resources and Economic Model’ – with the mission of drafting and approving the proposed new text.

**Rights of Nature recognition**

By official noticed dated 16 March 2022, the Constitutional Convention approved the following provision on rights of nature as proposed by the Constitutional Principles Commission:

*Article 9. Nature*, Individuals and peoples are interdependent with nature and form, with it, an inseparable whole.

Nature has rights. The State and society have the duty to protect and respect them.
The State must adopt an ecologically responsible administration and promote environmental and scientific education through training processes and permanent learning.

By official notice dated 25 March 2022, the Constitutional Convention approved the following provision on rights of nature as proposed by the Commission on the Environment, Rights of Nature, Common Natural Resources and Economic Model:

**Article 4. Rights of Nature.** Nature has the right to respect for and protection of the existence, regeneration, maintenance and restoration of its functions and dynamic balances, which includes natural cycles, ecosystems and biodiversity. The State through its institutions must guarantee and promote the rights of nature as determined by the Constitution and the laws.

This provision was approved at the same time as the following related provisions on animals, biodiversity, environmental protection principles and processes, and the climate and ecological crises:

**Article 9.** The law may establish restrictions on the exercise of certain rights or freedoms to protect the environment and Nature.

**Article 20. Waste management.** It is the duty of the State to regulate and promote the management, reduction and recovery of waste, in a manner determined by the law.

**Article 26. Environmental principles.** These are principles for the protection of Nature and the environment including, at least, the principles of progressivity, precautionary, prevention, environmental justice, intergenerational solidarity, responsibility and just transition.

**Article 1. Climate and ecological crisis.** It is the duty of the State to adopt actions of prevention, adaptation and mitigation of risks, vulnerabilities and effects caused by the climate and ecological crises.

**Article 23. Of the animals.** Animals are subject to special protection. The State will protect them, recognising their sentience and right to live a life free from abuse. The State and its agencies will promote education based on empathy and respect towards animals.

**Article 23 B.** The State protects biodiversity, and must preserve, conserve and restore the habitat of wild native species, in such quantity and distribution that adequately sustains the viability of their populations and ensures the conditions for their survival and non-extinction.

**Article 33. Environmental democracy.** The right of participation is recognised in relation to environmental matters. Participation mechanisms will be determined by law. All people have the right to access environmental information in the possession or custody of the State. Individuals must provide the environmental information related to their activities, in the terms established by law.
### Significance

The constitution of a country represents its highest law or overarching ‘rules’, with which all other national laws must align. Therefore, the drafting of a new constitution is a significant event through which to revisit values, engage in dialogue across different communities and interests, and agree a vision and current consensus or new ‘social contract’ to set out how the country wants to move forward in coming years.

If Chile’s population votes to approve the new constitution in the upcoming referendum, it would be the second such constitution in the world – after Ecuador – to recognise rights of nature at this level. Further, it would be significant in terms of replacing the market-focused version dating back to the dictatorship of General Augusto Pinochet, with the potential to reshape the priorities of the world’s largest copper-producing country, as bolstered by the pledges by President Gabriel Boric, elected in the 2021 election, to tackle the climate crisis, end Chile’s neoliberal economic focus and promote a green economy.

The drafting process itself is also a significant way to reflect the diversity of perspectives in today’s Chile. The Constitutional Convention is reportedly the first such institution globally to have gender parity by design, with 77 women and 78 men making up its 155 members. It also includes 17 seats reserved for Indigenous peoples, as well as many members coming from non-elite socio-economic backgrounds. The participatory nature of the process is set out in a dedicated website, which incorporates space for the population to input in a public way, covering citizens opinions (to comment on specific draft provisions), councils and meetings (to record community dialogue across topics), people’s initiatives (including proposed and accepted suggestions), and Indigenous people’s initiatives (to guarantee international obligations towards Indigenous peoples).

Given the significance of the new constitution for Chile, the region and for the global rights of nature movement, the Global Alliance for the Rights of Nature (GARN), in alliance with its Latin American hub, the International Tribunal for the Rights of Nature, and the civil society organisation FIMA, formed a delegation in Chile to support local efforts, to share drafting experience on rights of nature from other countries, such as Argentina, Bolivia and Ecuador, and to contribute to ongoing discussions and public debate.

### Implementation

Delegates of the Constitutional Convention have nine months, with the option of a one-time extension of three months, to draft the new Constitution. In March 2022, the President of the Constitutional Convention made use of the constitutional power to extend the process by three months, until 5 July 2022.

As part of the Constitutional Convention drafting process, the entire set of draft provisions will be reviewed by the Harmonisation Commission.
The final draft will then go to a public vote with a simple choice to accept or reject the new version. If rejected, the current 1980 Constitution remains in place.

<table>
<thead>
<tr>
<th>Key documents and links</th>
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<tbody>
<tr>
<td>✦ Official approved rights of nature provision by the Constitutional Principles Commission (16 March 2022) (in Spanish)</td>
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<tr>
<td>✦ Official approved rights of nature (and related) provisions by the Commission on Environment, Rights of Nature, Common Natural Resources and Economic Model (25 March 2022) (in Spanish)</td>
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<tr>
<td>✦ Unofficial English translation of rights of nature and related provisions</td>
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See also:

✦ Official website for the Constitutional Convention of Chile (in Spanish)
✦ Official digital platform for public participation in the Constitutional Convention (in Spanish)
✦ Official approved provision related to the climate and ecological crisis (4 March 2022) (in Spanish)
✦ Convention on Biological Diversity biodiversity facts on Chile
✦ FiMA
✦ Global Alliance for the Rights of Nature (GARN)
✦ International Tribunal for the Rights of Nature

Updated April 2022. Please contact us to share any suggested amendments or updates.

For more case studies and comparative analysis on the emerging global rights of nature movement, please visit www.animamundilaw.org