



Ciudad Constituyente: **The dispute for the right to habitat beyond the constitutional moment in Chile**

Ciudad Constituyente

‘Constitutional City’, Chile

Abstract

In October 2019, Chilean social revolts¹ deployed and conquered a popular ‘constituent power’ that shook the ‘constituted power’ and the institutional structures that sustain it: those that have always been in power, the same old ways of doing things, the *status quo* that never changes, and those structures and processes that have harmed our society so much and for so long. In other words, the social reproduction that has been co-opted by the market, and a deliberately unequal and unrepresentative political-economic system. The *constitutional moment*² that Chile is experiencing invites us to reflect upon and mobilise what made us recognise ourselves in the revolts of 2019. It is a moment that opens up new doors to redefine life in the territories. During this political moment, new platforms such as *Ciudad Constituyente* –a collaborative space for organisations of the people of Chile linked to habitat– have been created: a network organised upon democratic, anti-neoliberal, environmental and feminist principles. A collaborative space that seeks to move towards a human dignity in our neighbourhoods, cities and territories, with a focus on human, social and environmental rights at the centre of the constitutional debate.

Keywords

Right to habitat, right to the city, constitutional moment, social movements, Chile

Ciudad Constituyente is a collaborative space that gathers more than 30 organisations linked to the habitat, which is fighting for the inclusion of the right to habitat in the Chilean new constitution. Website:

<https://ciudadconstituyente.cl/somos/>

Contact:

ciudadconstituyente@gmail.com

¹ We understand that there is no unitary revolt, but multiple impulses challenging the established power and that in the development of this plurality lies in the challenge of building a collaborative future.

² The theory of ‘constitutional moments’ was championed by Bruce Ackerman. It refers to a constitutional moment as a period in which the people - not literally but metaphorically - deliberate intensively about the common good. In other words, for Ackerman, the real Constitution is not solely the text we call the “Constitution”, but a set of principles adopted by ordinary people at extraordinary “*moments*” of intense constitutional participation and deliberation (Ackerman, 1989, 1991).

1. The constitutional moment in Chile, among other Latin American reformist processes

Chile is currently undergoing a process of constitutional change as a result of massive popular uprisings that began on 18 October 2019. This process is a historical event, as it is the first time that our country will have a democratically discussed Constitution, in a parity, pluri-national and inclusive body, which is composed of 155 members democratically elected in May 2021 for this purpose (for more details, see Cociña et al., 2021).

The constitutional moment in Chile is part of broader political and ideological changes happening in Latin American geopolitics. After decades of post-dictatorial and centre-left governments, the regional political scene has faced the emergence of populist regimes in a polarised environment amidst alternatives for deepening democracy and the resurgence of far-right agendas, which deny the changes made in recent periods. The latter is sustained not only by the inability of many states to guarantee rights, but also by corporate capture and major economic powers over laws and public policies.

In Chile, the explosion of social unrest has several roots, all of them linked in some way to subsidiary policies that have limited public action and deregulated market operation. The current Chilean Constitution, formulated in 1980 through an undemocratic process and imposed during the military dictatorship, laid the foundations for our current neoliberal political-economic model. Broadly speaking, this logic promotes the deregulation of markets, the privatisation of rights, and the intensive exploitation of natural resources and land, among other things. In cities and territories, this model prioritises private property rights³ over social, human and reproductive rights. It favours an individualistic dimension over the principles of solidarity and the common good. Driven by a neoliberal logic and enabled by urban legislation, this model of urban development has boosted rapid, profound, and complex socio-spatial transformations, which far from enabling dignity of life, continues to hinder the right to the city, to housing and to the habitat. Furthermore, this model has deepened socio-spatial segregation, increased urban expansion at the cost of the destruction of ecosystems and contributed to the precarisation of spaces for care, among other urban conflicts. The latter denotes the unsustainable nature of current Chilean urban and territorial development, which allows for the enrichment of a few at the expense of the vast majority.

As such, more than forty years of this model have not only shown that it is environmentally and territorially unsustainable, but also, that it has perpetuated inequalities and generated a deterioration in people's quality of life. On 18 October 2019, the accumulated unease of a large part of the population resulted in massive demonstrations across the country. It was this social pressure mobilised in the streets of Chile that enabled the *constitutional moment* in which we find ourselves today.

Similar processes have occurred in other Latin American countries. In 1991, Colombia incorporated an extra ballot in elections, generating almost 90% support for a National Constituent Assembly (Quintero, 2005). In 2008, Ecuador began a constitutional change

³ This right is enshrined in Article 19, No. 23 and 24 of the 1980 Chilean Constitution.

resulting from a political and social crisis that led to a referendum approved by nearly 80% of the population to make way for a Constituent Assembly (Vallejo-Cárdenas & Zamora-Vásquez, 2021). Similarly in Bolivia in 2008, peasant and indigenous movements allied with urban popular movements to push for a Constituent Assembly, which was approved by the Morales government (Oviedo & Wexler, 2009).

The recognition of human rights and their link to habitat rights has been a common factor in all these processes, at least in terms of their formal recognition. In the case of the Colombian Constitution, it guarantees the right to adequate housing and the privilege of the social value of space over its exchange value. Similarly, Ecuador's Constitution guarantees the right to *“buen vivir”*,⁴ derived from the cosmovision of indigenous peoples, transforming the economic paradigm and property regimes, and allowing for collective ownership and the care of nature. The full enjoyment of the city and the guarantee of binding participation mechanisms were also guaranteed. In the case of the Bolivian Constitution, it guarantees a sustainable rural development, one of the most committed to this issue at the regional level. Outside the constitutional sphere, but related to the institutionalisation of the *right to the city*,⁵ Brazil's Cities Statute, enacted in 2001, legally recognises the social and environmental function of land over its exchange value. This allows for a better control of real estate speculation, of the capture of surplus value by the state and of the public, and the social function of the production of our habitat.

There is no doubt that looking at the Latin American experience is relevant to the Chilean constitutional moment. Not only because of the advances promoted, but also because these processes have not been free of difficulties in their execution and materialisation. On this basis, Chile has the enormous challenge of advancing with the installation of issues related to habitat and the city from a human rights approach in the constituent debate.

2. Principles and rights to habitat

In this exceptional *constitutional moment* that we have conquered and are living in Chile, human rights represent a pillar on which to agree the common base of coexistence, with the inclusion of economic, social, cultural and environmental rights that are not explicitly recognised in the current constitutional framework. Human rights are the current aspiration or utopia of human beings towards dignity and *‘buen vivir’*; they are a sign of emancipation. It is evident that human rights are not realised in the air; they materialise in the specificities of each place, neighbourhood, city and territory. The construction of human dignity must be related to the place where the subjects of all these rights live and share.

⁴ The concept ‘Buen vivir’ comes from Latin American indigenous movements and implies ‘good life’ or life in balance with community, natural systems, and future generations.

⁵ The Right to the City is a concept coined in 1967 by Henri Lefebvre. According to Lefebvre, the right to the city is a right to inhabitation, appropriation and participation. This idea has been taken up more recently by social movements, thinkers, and certain progressive local authorities as a call to action to reclaim the city as a co-created space.

In this sense, we and many others speak of the *rights to habitat*, equivalent to the ecological demands of cohabiting the planet. When we talk about housing, neighbourhoods or the city, there are specific human rights involved. Specifically, the right to adequate housing is part of the Universal Declaration of Human Rights,⁶ and it is in this *constitutional moment* that we have the opportunity to claim it. The Right to Adequate Housing covers seven attributes: (i) security of tenure, reflected in various ways of using and enjoying a dwelling or land individually or collectively; (ii) availability of services, materials, facilities and infrastructure; (iii) habitability; (iv) accessibility; (v) location; (vi) affordability; given the way cost of housing globally threatens or compromises the occupants' enjoyment of other human rights, this dimension is probably one of the most pressing demand; and (vii) cultural adequacy. As defined by the first Special Rapporteur (2000), the right to adequate housing goes beyond a roof and four walls; it is the right of every person to a secure a place to live in peace and dignity (OHCHR, n.d).

Since the end of the 20th century, formulas and clarifications of collective rights have been multiplying, arising from the many social struggles of resistance against the neoliberal era and new forms of colonisation, aggressive patriarchal traditions, and the predatory effects of an extractivist development model. These formulas favour the common good, "*buen vivir*" and the protection of nature and its biodiversity. Globally, social demands express the 'right to decent housing', 'no more sacrifice zones', the care of neighbourhoods and their heritage, accessibility and sustainable mobility, among others. People, families and communities not only aspire to 'a roof and four walls' or basic infrastructure, but they also want to be close to their place of work, have schools, health centres and other quality facilities, and be part of the decisions that affect their daily lives: the right to a dignified habitat.

Hence the urgency of assuming the social and environmental function of land and property rights. If we want to reverse the profound socio-spatial segregation of our cities and the tremendous inequality of the territory; if we want to develop radically democratic territorial planning and territories, then we must confront the complexity of property rights. Undoubtedly, the construction of human rights is a collective process that unveils the differences between more collective and individual views of rights. As such, the new Chilean constitution is challenged with articulating a balance between both approaches. Any territorial view of habitat is determined by the enshrinement of the right to private property, which is deeply rooted in our history and our way of life. In this sense, the right to property is part of our society and we must respect it, but it is important to understand that it is not a fundamental right; it is a secondary and derivative right; every time it is applied, other people and communities are excluded. We must address it, review it, and debate it, balancing out individual interests with the common good, and safeguarding the planet.

⁶ Adequate housing was recognized as part of the right to an adequate standard of living in article 25 of the 1948 [Universal Declaration of Human Rights](#) and in article 11.1 of the 1966 [International Covenant on Economic, Social and Cultural Rights](#).

3. Ciudad Constituyente: Coordinating practices to center habitat and the city in the constituent debate⁷

The people's uprisings mobilised the defence against deprivation and inequality of life, opening a unique opportunity to re-signify the role of our habitat. Even though the social demands expressed by the people since 18 October 2019 are mostly materialised in and from urban spaces, recognition of the city, neighbourhoods and/or habitat has not been widely addressed in the constituent debate. This openness presents us with the challenge of thinking together about the future we want, and to emphasise territorial issues and how these not only affect political-economic decisions, but also everyday life.

Ciudad Constituyente is a coalition composed of more than 30 social organisations, autonomous groups, institutions, NGO, housing committees, professional unions, and academic spaces, related mainly to struggles around feminism, housing, mobility, environment, and heritage⁸.

In *Ciudad Constituyente*, we seek to contribute to these challenges by placing the production of the collective as a political horizon and in the practices that bring us together. Our proposals emerge from the collaboration and horizontal deliberations among organisations that look at the current urban paradigm from critical and emancipatory perspectives. Organisations that have worked, discussed and finally agreed on a series of "Proposals for a dignified habitat in the New Constitution"⁹ in periodical assemblies that have brought us together, and from which we seek to influence the Constituent process.

The document contains first a Manifiesto, followed by a series of proposals organised around 9 themes:

1. **"Habitat based on feminist principles!"**, with proposals around care, identities, and gender violence;
2. **"People and nature before business!"**, towards the social and environmental function of property rights;
3. **"Health habitats that respect nature!"**, looking at environment, biodiversity and 'sacrifice zones';

⁷ This part is based on a text written by three members of the platform (Cabrera et.al., 2021)

⁸ The 30 organisations that are part of Ciudad Constituyente are: Aldea, Asociación Chilena de Zonas y Barrios Patrimoniales, Barrio Oriente Concepción, Campaña por el Derecho a la Ciudad y el Territorio, Centro Bicultura, Ciudad Feminista, Colectivo Muévete, Comité de Arquitectas y Arquitectos Jóvenes del Colegio de Arquitectes de Chile, Comité de Hábitat y Vivienda del Colegio de Arquitectes de Chile, Corporación Ciudad Común, Corporación Pedaleable, Fundación Escala Común, Geógrafas Chile, Habitar Colectivo - Cooperativo de Trabajo Kincha, Habitat International Coalition, Laboratorio para el Cambio Social, La Casa Común, Movimiento Ciudadano aquí la Gente, MODATIMA (Movimiento de Defensa del Agua, la Tierra y la Protección del Territorio, Movimiento de Pobladoras/es Vivienda Digna, Mujer Arquitecta, ONG de Desarrollo ATTAS-Fractal, Plataforma Global por el Derecho a la Ciudad, Reconquista Peatonal, Red de Mujeres por la Ciudad, Red Hábitat Popular, Revista Crítica Urbana, Rompiendo Barreras "Los Arenales", Sur Corporación y Vértice Urbano.

⁹ <https://ciudadconstituyente.cl/adhiero/>

4. **“Power to communities and local governments!”**, around governance and direct democracy;
5. **“The right to dignified housing!”**, looking at housing with focus on affordability, debt and precarity issues;
6. **“Cities and territories without segregation”**, moving towards real urban integration;
7. **“Anti-racist cities and territories!”**, looking at the ethno-racialisation of space;
8. **“Just mobility!”**, promoting active, diverse and inclusive mobilities for sustaining life; and
9. **“Heritage from and for people and nature!”**, looking at heritage, memory and identity.

In *Ciudad Constituyente*, we understand that our organizing potential is not limited to the Constitutional Convention but beyond, both theoretically and temporally, embracing a social mobilisation that accompanies not only this moment, but also those to come. The building of a real transformative process requires permanent organisation.

It is precisely this moment that allows us to transcend the understanding of space as an apolitical entity or mere landscape, and to think of it instead, as an active device capable of articulating new dynamics and radical ways of imagining, reclaiming and transforming the relations between people and their territories, as a profoundly political space. This understanding of the territory as both recipient and agent of political action and collective yearnings, allows us to project the struggles that have given birth to this constitutional moment, as they will continue to consolidate and dispute our demands with greater strength, as a never ending and continually emerging process for a dignified life for everyone, or *‘vida digna’*, as we say.

A collective, feminist, anti-neoliberal and environmentalist popular project implies replacing the current commodification and patriarchalization of both the built environment, the nature and our everyday lives. The defence of dignity and justice both in our domestic spaces, neighbourhoods and the entire territory and ecosystem must be a daily practice supported by care and organisation. In terms of housing, for example, multiple struggles have merged together; in addition to the known and visible precarious materials and overcrowded conditions that characterize housing for most of the population, indebtedness is also used as a technology of power, oppression and control. In Chile, while the UN conceptualisation of adequate housing is a privilege for a minority, most of the population live on credits, share overcrowded spaces, face abusive renting conditions or are forced to build their own homes in neighbourhoods that are often dangerous and precarious. We must rethink our model and structure and put people, nature and the reproduction of life at the core of our horizons, above economic and individual interests. In other words, we must identify those collective desires and wills as the basis of our relations, allowing us to transcend individualistic notions and to overcome the paradigm of property ownership that, to the detriment of many, has ultimately only benefited the few. Use value must be above exchange value.

This project must also be radically democratic. A common future must be representative of the local political scene, connect with multiple and complex territorial realities and reflect, in its actions and resolutions, the collective wisdom of the communities in the face of both the local and global dispute against neoliberalism and the climate crisis. The local expression of inequalities in our habitat is also the flip side of capital accumulation and climate devastation on a global scale. This implies generating networks that allow for a simultaneous coordination between neighbourhood assemblies and activist transnational networks that oppose the commodification of our lives, connecting different corners and places around the world, seeking tactics and strategies to contest hegemony with creativity, solidarity and rebellion. Navigating the axes of local/global and inside/outside institutions in horizontal structures of collaboration enhances the creative force that enables the sustainability of life in light of the principles of solidarity, the common good and equality.

We conceive this collective project from the understanding of care as a common responsibility that we must take on as a whole society, liberating bodies and spaces that have historically been linked to these tasks. A common horizon requires building an inhabitation free of physical and symbolic violence, which recognises the intersectionalities of the plurality and diversity of myriad life experiences that converge within the territory. The future must ensure a dignified life for all, taking into account inequalities of race, gender, class, migratory status, among others.

4. Conclusion

Building on the experience of other Latin American constitutional change processes, the *constitutional moment* in Chile requires us to strengthen the debate on issues related to housing, habitat, the development model, the organisation of the state, territorial planning, land regulation, respect for nature, and the historical memory of the present, just to name a few.

Housing -and built environment- is more than a commodity, or four-walls-a-roof-and-a-property-title. It is a space for living and not for speculation. In *Ciudad Constituyente* we come together to move from the individual to the collective, from home ownership to coexistence, and to contribute to the slow but fruitful common construction of the right to the city.

We understand that the *constitutional moment* does not end with the drafting of the new constitution and that the development of solidarity practices allows us to project the struggles and desires that accompany this period. This moment presents us with the challenge of strengthening the understanding of diverse territorial realities, strengthening local and global collaborative networks, and broadening the debate on the re-signification of urban life, which until now has been dominated only by a minority.

With a human rights approach contextualised in our own territory, with dignity as a horizon and popular organisation as a strategy; we locally connect and think of ourselves in relation to global movements for democratic transformation, feminist, anti-neoliberal and

environmentalist movements, in order to join forces to move towards the recovery of dignified life for everyone, everywhere.

Acknowledgements

A special thank you! goes to our monthly assemblies; their participants, the discussions and the thematic working groups that inspired the reflections here exposed.

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