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President Lagos Says Reform Constitution Complete

by LADB Staff
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A plenary session of Chile's Congress overwhelmingly passed a set of constitutional reforms on Aug. 16, removing both the signature of former dictator Gen. Augusto Pinochet (1973-1990) and many provisions that he put into the 1980 Constitution. President Ricardo Lagos praised the reforms as the completion of a 15-year transition to democracy, although he wants Congress to alter the binomial system of electing representatives, which grants extensive powers to opposition parties and makes it more difficult for small minority parties to gain office. Although the system has been taken out of the Constitution, it remains part of electoral law. On the day of the vote for reforming the Constitution, a group of about 50 protestors invaded Congress calling for the complete elimination of the binomial system.

Lagos’ signature replaces Pinochet’s

The Lagos government was able to make several reforms last year when the rightist parties opened the way for constitutional changes like allowing the president to remove military commanders in chief and eliminating senator-for-life seats (see NotiSur, 2004-10-22). The July and August decisions in Congress made more than 50 reforms to Pinochet’s 1980 Constitution. Among the chief reforms were the reduction of the president’s term from six to four years, the elimination of senators-for-life, and the removal of "designated" or "institutional" senators who did not have to face popular votes.

The Senate will be smaller once the reforms are put into place, shrinking from 48 to 38 seats. The 1980 Constitution gave extra powers to military commanders, fixing their influence above that of the president and the voters. Among the institutional senators were representatives from the Army, Navy, Air Force, and Carabineros, or militarized federal police, creating a "military bench" within the Congress. Lagos and his successors may now remove the commanders-in-chief of those military branches, a power presidents could not exercise prior to the reforms.

Ex-presidents enjoyed lifetime seats, partly a tactic by Pinochet to retain his hold on power and have immunity for his crimes against Chilean political activists. Pinochet resigned his Senate seat, however, after Chile's top court found him mentally unfit to stand trial (see NotiSur, 2002-07-12).

Senator-for-life and former President Eduardo Frei Ruiz-Tagle (1994-2000) is set to leave the Senate in 2006, along with the nine other designated senators. Frei is the only ex-president to hold a Senate seat. The Tribunal Constitucional (TC), charged with resolving conflicts among the powers of government, will grow from seven to ten members, and a representative from the armed forces will no longer sit on the tribunal. The TC will have exclusive responsibility for determining the constitutionality of laws. The Aug. 16 session approved the reforms with 150 votes in favor, three against, and one abstention.
President Lagos received word of the vote in a celebratory mood. "Today is a great day for Chile," he said. "Years ago Chilean society, which has never lost its democratic spirit, came to build a practical democracy that was not reflected in the Constitution. Today, the new constitutional text elevates the democratic spirit of all Chileans."

Press groups defeat law to protect "public and private life"

**Press groups defeat law to protect "public and private life"**

Media groups and journalists succeeded in getting legislators to strike one reform from the package that the groups said would limit freedom of the press. A norm that would have established protection for "public and private life" went down after press associations attacked the measure as "an extremely serious restriction on the freedom of expression." The reform failed in the Senate in mid-July, after groups like the Colegio de Periodistas said it would cut off legitimate civic scrutiny of actions by public authorities, "which does not exist in any democracy of the world." The Colegio also said the law would break international treaties on public freedoms that Chile has signed.

The Asociacion Nacional de la Prensa, the Asociacion de Radiodifusores de Chile, and the Asociacion Nacional de Television made similar criticisms. After removing the offense of defamation from the Constitution, some deputies sought to establish the new law as an "integral and effective" system to protect private and public life. It also would have established that the sole responsibility for indemnifications that might result from violating the measure would fall on the owners of communications media.

The Senate killed the measure after the Chamber of Deputies passed it by a vote of 38 against and one abstention. The president had promised to veto the measure. Deputies resisted the defeat at first, but then accepted the failure of the law.

**Protestors, president call for end to binomial system**

About 50 protestors interrupted the plenary session of Congress on Aug. 16 before the ceremony to ratify changes to the Constitution began. The individuals identified themselves as members of the Pacto Juntos Podemos (Together We Can Pact) and entered the "salon de honor" of the Congress yelling slogans and throwing pamphlets at parliamentarians, demanding they remove the binomial system from Chile's electoral law. Federal police removed the protestors before the two branches of the Congress separately approved the reforms.

The Pacto members described the binomial system as excluding minority parties from politics. The election system, unique to Chile, forces political parties to form alliances to get enough votes to have representation in parliament. The top vote-getting coalition wins only one of the two seats in a district unless it receives more than double the votes of the second-place coalition (see NotiSur, 2001-07-27).

Legislators and members of the Lagos government say that the stage is set to reform the binomial system since the system is no longer enshrined in the text of the Constitution but instead is part...
of the electoral law (Ley Organica sobre Votaciones Populares y Escrutinios.) After Lagos received word that the Chamber of Deputies had passed the reform package, he called on future legislative sessions to advance further in democratizing Chile's political system.

"I think it is good to have taken the binomial system out of the Constitution," said Lagos, "but the country knows what has been the position of the coalition that chose me: the Concertacion alliance was born saying that we want to eliminate the binomial system." He added, "We waited 15 years to remove the authoritarian enclaves, I hope we will not have to wait so long to change binomial system."

Although right-wing parties joined the Concertacion and its allies in passing the constitutional reforms, the loss of the binomial system might translate to an even deeper loss for the right in a time when it is experiencing a declining hold on Chile's electoral offices.

The reforms could further weaken the parties of the right, grouped together under the Alianza por Chile. The reduction in the size of the Senate will dilute the Alianza's strength, as will the probability that the right's vote will be split between Sebastian Pinera of the Renovacion Nacional (RN) and Joaquin Lavin of the Union Democrata Independiente (UDI) and will thus thwart the coalition's aspirations for December's presidential ballot.

Lavin currently trails Pinera in opinion surveys by a margin of a few points, and both trail Concertacion's candidate Michelle Bachelet, of the Partido Socialista (PS), by a large distance. Several polls indicate Bachelet will come very close to capturing half of all votes. Even before Pinera entered the race, Lavin trailed Bachelet by an apparently insuperable margin.

Members of Pinera's circle have told the Chilean press that they expect Lavin to lose his position as head of the UDI after the vote, leaving the group leaderless just as the RN was after the 1997 electoral defeats. The bickering between the RN and UDI, along with a failed presidential race, could contribute to an enfeebled right wing in both the Chilean Congress and in regional offices next year.

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