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Governing decentralised States during the Covid-19 pandemic: challenges of intergovernmental coordination and cooperation in Chile, Italy, and the Netherlands

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Chapter 3: The regional State in the Chilean constitutional proposal of 2022⁸⁵

Summary of the Chapter

After exploring the theoretical framework as well as its application in the Chilean case, this chapter adopts a more general perspective, by analysing the debates at the Chilean Constitutional Convention surrounding decentralization and the form of the State. This constitution drafting institution deliberated on these issues between 2021 and 2022, opening the conversation to a very comprehensive and wide variety of topics. Even though the constitutional proposal was ultimately not approved in the national referendum that was held on 4 September 2022, considering the endemic centralism of Chile it is not surprising that among the many innovations of this proposed new Constitution, such as gender parity and a strong protection of the environment, the reference to the so-called “regional State” stands out, as a new institutional organization of public power. This new form of organizing the State’s functions in the territory would have meant the creation of new territorial autonomies, such as autonomous regions and indigenous territorial autonomies, as well as strengthening the existing local governments. In terms of the different degrees and types of decentralization explored in the introduction and in chapter 1, the Chilean 2022 constitutional draft embraced enhanced regional authority, especially regarding policy-making and financial matters, with increased normative competences but not legislative powers, hence representing a step forward a more political form of decentralization, yet not entirely in line with other comparative models such as Italy or Spain.

Moreover, the idea of a regional State in the Chilean constitutional project of 2022 was connected to national law-making institutions, since the historical Senate, one of Chile’s oldest and most consolidated democratic institutions, would have been replaced by a so-called Chamber of the Regions, with different functions than the political branch of the legislative, the Chamber of Deputies. This idea, inspired in the concept of asymmetrical bicameralism and aimed at creating a legislative branch at the national Congress with a strong regional or territorial connection, encounter significant public criticism.

The chapter discusses both the proposed model’s advantages and its challenges, in light of the theoretical framework of decentralization and the debates about the territorial organization of the government and public administration in public law, but also in terms of the well-functioning implementation of the proposed new organisation of the State and its expected effects on decentralisation and intergovernmental relations. Despite certain inconsistencies in

⁸⁵ Paper citation: Esteban Szmulewicz Ramírez (2022), “The ‘regional State’ in the proposed Chilean new Constitution: positive developments and challenges ahead”, *Diversity Governance Papers DiGoP 01/2022*, Eurac Research, Bolzano/Bozen, Italy, <https://doi.org/10.57749/02AV-6D75>. The abstract, keywords, and the author’s presentation have been omitted. Only the section “challenges ahead” has been eliminated, for the reasons explained in the chapter.

I have benefited from the comments and observations to this paper in many instances. I am particularly grateful to the Institute of Comparative Federalism, at EURAC in Bolzano, Italy (presentation in March 2022); the Sant’Anna Legal Studies group in Pisa (in March 2022); and the World Congress of Constitutional Law in Johannesburg, South Africa, in December 2022.

the text, crucial aspects of the institutional design, such as territorial autonomy, asymmetrical bicameralism, financial decentralisation, and the proposed institutions for managing intergovernmental relations, are not advantages or disadvantages per se, but would have been mediated by political institutions and political variables, in coherence with the methodological approach elaborated in the introduction and on chapter 1. Therefore, the political party system and political culture will have been key for translating risks into opportunities, a matter of great concern considering Chile's tradition and contextual factors.

Introduction

Chile is heading to the polls for one of its most important political decisions. The process began when, in the constitutional referendum in October 2020, almost 80% of the citizens approved the writing of a new Constitution. The Constitutional Convention charged with that task began its work in July 2021. After a year of deliberations, the Convention delivered a full proposal that will be submitted to the people in an exit referendum on 4 September 2022.

Both, the constitution-making process and the content of the proposed new Constitution, have been praised for their innovations in crucial areas, such as gender parity, representation of indigenous peoples and emphasis on the protection of the environment (Couso 2021; Mayara Paixão 2022; Arlette, Sánchez, and Schildberg 2022). At the same time, many observers have pointed out that one of the most important institutional transformations of the new Constitution is the change in the territorial organisation of the State: from being one of the most centralised States in the Organisation for Economic Co-operation and Development (OECD) to formulating the basis of a far-reaching decentralisation process through a so-called “regional State” (Espinosa 2022; Burns 2022).

During the works of the Constitutional Convention (CC), it became clear that the process will have a strong emphasis on decentralisation and territorial equality, given the high representation of social and territorial movements, as well as the broad agreement on the disadvantages of the current territorial organisation of the State⁸⁶. However, the deliberations also showed disagreement on the means and ways to overcome the challenges. Two mechanisms played a crucial role to address these differences and also rationalise some of the initial proposals introduced by the Commission for decentralisation and the form of the State: the 2/3 quorum rule for approving any provision to the draft Constitution and the dynamic between the Commissions and the plenary of the CC, which played a moderating role.

The result is an ambitious design of the organisation of the State in the territory, considering Chile's history, political culture and administrative trajectory. The territorial organization of the

⁸⁶ Among many examples, the current centralised unitary State displays significant disparity among municipalities in the index of public expenditure per capita, with some of them ranking as developed countries, while a large majority only receive little revenues which can explain the underperforming of their tasks. In the same vein, Chile exhibits a very low percentage of public expenditure autonomously decided by regions or municipalities, with almost half of the average in OECD countries (OECD 2018).

State is defined as “regional”, although with particularities in comparison to well-known regional States. What are the main features of this “regional State” and what are the plausible advantages and challenges it introduces? For addressing these questions, the article starts by briefly explaining the regional State. Further, it assesses the main virtues and also the plausible challenges it may possess in terms of the autonomy of the territories as well as their shared power in national politics.

Although this chapter does not directly address the impacts of the COVID-19 pandemic, it aligns with the research design for two main reasons. First, the elected body responsible for drafting Chile’s proposed Constitution carefully examined Italy and The Netherlands, as relevant comparative cases for structuring intergovernmental relations and a decentralized State. Consequently, interviews with Convention members involved in drafting these constitutional provisions provided insights not only into the Chilean case but also into comparative perspectives on the two selected countries, highlighting their similarities and differences. For example, deliberations frequently referenced the Dutch municipal system and the Italian regional system, including their intergovernmental relations. Second, discussions on the State’s structure and decentralization featured normative and empirical debates about the strengths and weaknesses of different decentralization and intergovernmental relations models. These debates took place amidst the pandemic, incorporating preliminary lessons on crisis governance and the importance of intergovernmental coordination, as highlighted in the interviews. Notably, constitution-makers closely examined Italy’s early experiences in managing the COVID-19 pandemic.

1. Situating the so-called “regional State”

The proposal establishes a particular model of regional State. The regional State is composed of “territorial entities” - autonomous regions, autonomous local governments and indigenous territorial autonomies (ATI, for its Spanish acronym) – and special territories – all of which have legal personality and their own patrimony, with competence to govern themselves in the general interest of the republic, in accordance with the Constitution and the law (articles 7 and 187⁸⁷). According to the proposal, all territorial autonomies will have political, administrative, and financial autonomy, in the context of a single and indivisible territory and cannot threaten “the unique and indivisible character of the State of Chile, nor will it allow territorial secession” (Art. 187.4).

In terms of political autonomy, the autonomous regions will have regional governments (RG)⁸⁸, composed of directly elected Governors and Regional Assemblies. RG will approve their Regional Statute, subjected to later ratification by the national legislature. Also, RGs will have broad regulatory (but not legislative) and public policy powers (arts. 220, 224 and 226),

⁸⁷ From here on, all articles quoted or referenced are taken from the final proposal for a new Constitution of Chile, 2022. The Spanish version is available here <https://www.chileconvencion.cl/wp-content/uploads/2022/07/Texto-CPR-2022.pdf> and all the translations are a responsibility of this author.

⁸⁸ This comment focuses on the level of the regions, considering that it is the main locus of more “political” autonomy, and the level of government that undergoes more transformations.

including the possibility of “requesting Congress the transfer of legislative powers”, with several limits. With regards to administrative autonomy, the proposal establishes the basis for a transfer of public services from the centre to the regions and municipalities, while residual competences always belong to the central state (art. 221), despite the principle of preferential allocation of competences to the local and regional level (territorial subsidiarity). Finally, in relation to financial matters, the new Constitution provides for regional indebtedness, a limited and severely conditioned possibility. Also, it mandates a progressive autonomous execution by subnational governments of a significant part of public spending (art. 245), while recognising macroeconomic and fiscal stability, and fiscal responsibility. Additionally, territorial entities may levy taxes and contributions in accordance with the law, and they could also set forth regional or municipal public businesses, with prior authorisation by law.

Overall, the proposal represents a significant advance in regional authority in Chile, considering its history, and its political, legal, and administrative culture. As is well-known, Chile is one of the most centralised states according to the “Regional Authority Index (RAI), which considers both the regional autonomy to decide in certain affairs, as well as the territories participation in national decision-making processes or their shared power (Szmulewicz and Saffirio 2017, 112-3). Also, Chile’s subnational governments, both regional and local, can only decide autonomously on about 15% of the public budget, out of the total national public budget, whereas the average for OECD countries is 30% (OECD 2018). The regional state opens the door to an incipient and progressive process of decentralisation. Still, the regional State is substantively different to the Spanish or the Italian models, with the autonomous communities and the regions respectively.

Regional autonomy is conditioned not only by the Constitution, as is usual in regional States, but also by implementing laws. Additionally, there are two fundamental restrictions to regional autonomy that separate the proposals to mainstream understandings of what a regional State might entail, although the category is quite contested and elusive. First, according to the proposal, regions will have regulatory power, but not legislative power⁸⁹. Although there is the possibility of delegating legislative power from Congress to the regions, this is subject to a petition by regions and later approval by Congress, which can do so without any further motivation or constitutional warrantee for the regions⁹⁰. Second, all regions will have the same competences and powers. A relevant exception in the context of the territorial autonomies is provided for the case of the ATI which might eventually be granted different competences, provided they are set forth in the corresponding law that will need to be enacted⁹¹. Therefore, this *sui generis* model of a regional State, in fact – if approved – the first in comparative constitutional law to be explicitly defined as “regional State”, will require significant legislative

⁸⁹ In the Chilean academic debate, constitutional law professor and former Chief Justice of the Constitutional Court, José Luis Cea, advocated for the regional State, although with a particular interpretation since it does not allude to the legislative powers of the regional entities, something that the doctrine traditionally considers typical of the regional State (Cea 1997). On the contrary, constitutional law professor Humberto Nogueira proposed political decentralisation within the unitary State which seems to come closer to the regional State in the proposed new Chilean Constitution (Nogueira 1985).

⁹⁰ On the power to enact legislation as a distinctive characteristic of a regional State, see among others Badía 1986, 164; García-Pelayo 1993, 242-4; and Watts 2013, 25.

⁹¹ On asymmetry as a distinctive characteristic of a regional State, see Palermo and Kössler 2019, 55.

development. Legal implementation of the Constitutional provisions, which must be gradual and recognised different territorial capacities, will be key to determining the concrete form of the regional State. The transitional provisions of the new Constitution provide for this gradualist approach, yet it is likely that the transitional period will be even longer than the expected two or three years.

Along these lines, the proposed regional State has some similarities with the territorial organization of the public power in force in Italy under the 1947 Constitution or the *estado de las autonomías* of the 1978 Spanish Constitution. However, at least three contextual differences could introduce more complexity in the implementation of the Chilean regional State. First, the direct election of regional Governors, which plausibly will generate political and social pressures towards greater transferring of competences, more autonomy and even more financial resources, in the form of direct transfers, taxes or even indebtedness. In the original Italian case, as in Spain today, the Constitution envisaged a parliamentary form of government at the regional level, strongly conditioned by the political system at the national level. Second, the ongoing crisis of representative institutions (political parties, elections, and representative bodies) that can generate pressures for recourse to institutions of semi-direct democracy (art. 155) which, in the hands of regional *caudillos*⁹², could generate a situation of greater governance problems. Third, a delicate socioeconomic situation, which will make it difficult to access the financial resources needed to implement the regional State, and which could also accentuate the territorial inequalities currently observed, in the absence of strong instruments of territorial economic development and inter-territorial solidarity (Szmulewicz 2020, 96-8). It is very different to implement a regional State in a context of economic and political stability than in this more complex scenario⁹³.

Another important point is that the proposed norms present a lesser emphasis on local governments, which have been the most important subnational level in the last decades. In the case of indigenous territorial autonomies, the Constitution calls for the enactment of a law which will determine the procedure for their establishment and their competences (arts. 234 and 235). The vague wording of the Constitutional provisions means that, eventually, this law could set forth an administrative procedure for the establishment of each ATI, which naturally could raise a number of democratic legitimacy questions. Therefore, it would be convenient that each ATI be constituted by law, and not through a mere administrative procedure.

2. Advantages of the “regional State”

The proposed territorial organization of the government and public administration presents important virtues such as allowing regions to adopt their own regional statutes, to elaborate, implement and finance an important set of public policies (art. 220), and to have authorities elected and directly responsible to the people, bringing the government closer to the citizens.

⁹² The expression “caudillo” refers to a type of authoritarian leader, in the context of Latin America especially.

⁹³ Depending on the measurement, the current public deficit of Chile for the year 2021 was of 7,6% according to modest estimates, and of 11,4% according to adjusted measures, both as percentage of the national GDP (https://www.dipres.gob.cl/598/articles-264776_Informe_PDF.pdf).

This idea of “grassroots democracy” is at the core of arguments in favour of decentralisation, for two basic reasons: local and regional government as “schools of democracy”, enhancing citizen’s development; and greater responsiveness to local concerns, as well as more precise means for accountability⁹⁴. The Chilean proposal addresses these reasons. In addition, it incorporates constitutional principles on decentralisation that will guide both, the interpretation of the Constitution and the implementation of the constitutional norms.

Moreover, the incorporation of principles of territorial equity and inter-territorial cooperation is considered positive. In financial matters, the autonomous revenue of the regions will come fundamentally from regional taxes and contributions, within a general framework established by law. Another source of revenue will be their capacity of indebtedness. The issue of indebtedness should be considered with great caution because it can lend itself to abuses, especially considering the experiences in Latin America.

On another related matter, scholars have highlighted the centrality of coordination and cooperation in the context of multilevel systems. In this regard, one can distinguish between “top-down” coordination, characterised by a dominant role of the central state, and horizontal cooperation, where there is equality of all levels of government involved (Ceccherini 2021, 69). Following this logic, it is still unclear whether the institutions for intergovernmental relations proposed in the new Constitution – the Council of Governors and the President of the Republic at the national level, and Council of Mayors in each region - will have made Chile fall under the idea of some sort of “cooperative regionalism”.

On the contrary, the lack of an institution for coordination between levels of government with directly elected authorities could lead to political problems that are not institutionally aired, but channelled through informal or extra-institutional channels, or to problems of coordination of public policies, or to an excessive “judicialisation” of political grievances in the Constitutional Court through disputes over lack of competence. The experience of the Covid-19 pandemic in the two regional states with the longest history, Spain and Italy, points precisely to the need for such multilevel coordination bodies (Saunders 2021, 387-9). The same has been emphasised in the current literature on multilevel constitutionalism, either decentralised, regional or federal, wherever there are different levels of government and not just one, as in the unitary state with mere administrative decentralisation (Saunders 2020, 354-5).

In comparative constitutional scholarship, positive examples of multilevel coordination include so-called “cooperative federalism” in Germany and Switzerland. In the case of Germany, the role of the *Bundesrat*, the sort of interlocking executive federalism and the fiscal solidarity all point towards an institutional culture of “multilateral bargaining and consensus-seeking” (Börzel 2001, 45-8). During 2020, the first year of the Covid-19 pandemic, both countries proved cases in point about coordination during crises, yet authors have raised questions regarding the challenges of “horizontal cooperation of 26 autonomous actors” in the Swiss case (Belser 2021, 139), and the sustainability of Germany’s central state financial “generosity” (Farber 2021, 68). However, on the other hand, multilevel systems can also undermine equality

⁹⁴ For an interesting explanation of these arguments, particularly in the context of developing countries, see Diamond 1999, 121-9.

before the law and further complicate the fulfilment of the will of the majority as expressed in national law (Saunders 2020, 347-8). For constitutionalism and multilevel government to complement each other, it is necessary to provide adequate channels of coordination and cooperation between the different levels, as well as to ensure the intervention of the general interest and the common good, above particularisms, and also the legal control of respect for the rule of law, and the adherence to the system of distribution of competences and attributions.

The bottom line from the lessons of the recent pandemic is that, despite disagreement on whether centralised or decentralised systems are more effective, three key problems need to be especially addressed for multilevel government to properly function: a) an unclear division of powers between the centre and the regions; b) a high level of administrative capacity and political power among regions; c) weak intergovernmental relations, especially when a regional/territorial chamber is lacking at the central level (Alber, Arban, Colasante, Dirri, and Palermo 2021, 30).

Similarly, the risks of unorganised institutional fragmentation are addressed through a set of principles and mechanisms of inter-institutional and inter-territorial coordination and cooperation. This concern presupposes the existence of a strong centralised State that is well-functioning and present in the entire territory of the country, which transitions to a significantly decentralised polity. To this concern, it will be important to observe the implementation of the constitutional precepts by the national legislator, including the regional statutes and those of the ATIs, whose constitutionality can also be controlled before the Constitutional Court. Thus, in our view, it is not a matter of separate and independent institutions resulting from segmented and localised decision-making processes, as a purely centrifugal model might be (Gerring y Strom Thacker 2008, 16-20), but rather one that combines “autonomy” with inter-territorial and inter-institutional coordination and cooperation.

Finally, the proposal calls for an elimination of the existing Senate and its replacement by a “Chamber of the Regions”. However, this body will not have the same legislative powers as the current Senate does and it will be only concerned with so-called “laws of regional agreement”, whereas the newly established Congress of the Deputies will deal with all bills under consideration. This difference between the branches of the legislative has been labelled by some observers as asymmetrical bicameralism (García 2022). Still, it is important to bear in mind that “there is no insignificant bicameralism” as Arend Lijphart rightly has pointed out (Lijphart 2012, 200). All “second chambers” exercise some kind of influence and power, even if it is an asymmetrical bicameralism, since it implies some degree of separation of powers internal to the structure of the legislature, and it is also a body that counterbalances to some extent the executive power and must be considered by the latter. Neither the Congress of the Deputies and Deputies, nor the Chamber of the Regions, the body that would replace the Senate, could have imposed themselves over the other in the legislative process, which means that in the matters that are within the knowledge of both chambers, which include a significant number and quality of law matters, in addition to international treaties and amendments to the Constitution, their powers are almost identical. In addition, it should be borne in mind that the Constitutional Court will resolve conflicts of competence in matters of regional agreement laws (art. 381) and also in other matters between the Congress of the Deputies and the Chamber of the Regions, or

between these institutions and the President of the Republic. The Constitutional Court will be responsible for enforcing an adequate balance of powers.

3. Indigenous territorial autonomies (ATI)

ATIs are considered one of the territorial entities of the regional State. Therefore, they shall be geographically constrained, which differs them from examples of culturally-based communities, such as Belgium's cultural-linguistic communities.

Regarding ATI, the scope of self-government and self-determination will be defined by law, which will establish the exclusive powers of the ATIs and those that are shared with other territorial entities, in accordance with the Constitution. Article 235 states that the ATIs "shall have the competence and financing necessary for the adequate exercise of the right of free determination of the indigenous peoples and nations", which should be understood within the framework of the powers established for the organisation of the State as a whole by the Constitution and the laws, as well as the system of sources of law.

The potential for centrifugal force is counterbalanced by two mechanisms. On the one hand, in case of possible non-observance of the constitutional norms by the statutes of the ATIs, the Constitutional Court will be in charge of enforcing the principle of constitutional supremacy. On the other hand, it should be considered that the constitutional mandate of reserved seats for indigenous peoples in the representative institutions at the national level (Congress of the Deputies and Chamber of the Regions) could tend to generate an incentive for their integration into the national political system. They will sit at the national decision-making table, which could moderate the possible centrifugal tendencies that the ATIs might generate. In fact, comparative experience shows that in countries coming from a unitary State and where decentralising reforms affected the entire territory, as will be the case in Chile, the empowerment of the regions led to mechanisms for channelling sub-state grievances at the centre that have become stronger as the process of territorial distribution progressed (Swenden 2013, 70).

Given that the regulation of the ATIs is much more general, open and subject to legal implementation than in the case of the other territorial autonomies, whose authorities, competences and attributions are more clearly defined in the Constitution itself, the expectations for the law that develops the ATIs will be very high. Therefore, there is a risk that in the end, and given the distribution of competences established in the Constitution, the scope of competences of the ATIs will be very limited, or too broad, which could frustrate the expectations generated.

4. The regional State and the national political system

The legislative power is composed of the Congress of the Deputies and the Chamber of the Regions. The Chamber of the Regions is composed of directly elected regional representatives, in an equal number for each region of at least three regional representatives. This Chamber only

participates with regards to the so-called “laws of regional agreement”, which are processed by both bodies of the legislative power⁹⁵, including all constitutional reforms, laws regulating the organisation, attributions and operation of the justice systems, the legislative power and the autonomous constitutional bodies; laws regulating the constitutional states of exception; laws creating, modifying or suppressing taxes or exemptions and determining their progression and proportionality; laws implementing the rights to health, to education and to housing; the budget law; laws regulating the election, designation, powers, and procedures of the organs and authorities of the territorial entities; laws establishing or altering the political-administrative division of the country; laws establishing fiscal and budgetary distribution mechanisms, and other mechanisms of economic compensation among the different territorial entities; laws that delegate legislative powers to the Regional Assemblies; laws that regulate territorial and urban planning and its execution; laws that regulate the protection of the environment; laws that regulate popular voting and scrutiny; and laws those that regulate political organisations; among others (art. 268). In addition, the Chamber has the power to approve international treaties and to participate in the appointment of high authorities. In the case of regional statutes, proposals for the creation of regional companies and requests for the delegation of legislative powers made by the Regional Assemblies, once a proposal has been received, the Chamber of the Regions may approve the project or make the amendments it deems necessary. In the event that the Regional Assembly accepts the amendments, the bill will be processed as a regional agreement law (art. 276).

The Chamber of the Regions is not to be confused with the Regional Assemblies, since the members of the former are not members of the latter, nor do they represent the regional assemblies in the legislative power, although there is an obligation to render a periodic account before the regional assembly “which they represent”.

From the point of view of the relationship between the regional State and the national political system, the following considerations should be borne in mind. First, the possibility of legislative delegation to the autonomous regions (art. 268 n), which should be highly exceptional since the law should emanate from the national legislative bodies and procedures. Second, the legislative initiative of the regions, whose scope is not well specified in the proposed rules (art. 269.2). Third, the relationship between the Chamber of the Regions and the territorial autonomies, especially the Regional Assemblies, since in the proposed rules a certain connection seems to be sought between these entities, which would conflict with the direct mandate of the citizens through elections and the bases of the differentiated principles of representation for the members of both entities. Fourth, probably in the medium or long term a complex point could arise, as has happened in Spain with the most recent statutes of autonomy, if the regions were to seek to expand their powers through the regional Statutes, and this would generate subsequent friction with their necessary approval as “laws of regional agreement”, a matter that might be heard by the CC, like in the case of statutes of other territorial entities).

⁹⁵ All other matters of laws are only enacted by the Congress of the Deputies, which is why the system has been labelled as “asymmetrical bicameralism”. Among others, see Suárez-Cao, Szmulewicz, Toloza and von Baer 2022.

Fifth, the regional representatives shall be elected jointly with the local government and regional authorities, three years after the presidential and congressional elections (art. 254.2). In other words, these elections are decoupled from the presidential and parliamentary elections. Sixth, the Chamber of the Regions participates in joint sessions with the Congress of the Deputies in appointments of high authorities (art. 263), such as the Council of Justice, the Constitutional Court, and the Comptroller General of the Republic, the National Prosecutor, and the National Defender.

Broadly speaking, the governability of the political system could be further complicated by the need to have majorities both in the Congress of the Deputies and in the Chamber of the Regions, given the important number and centrality of the “laws of regional agreement” already enumerated. In addition, this complexity will be exacerbated by the fact that the elections of the Chamber of the Regions are held at a different time than the presidential and deputy elections, which could generate an even greater disconnection between the majorities present in the different representative institutions. On the other side, even if bicameral laws may complicate governance, especially when compared with a unicameral system – an option which was on the table at initial conversations in the Chilean Constitutional Convention, bicameralism can also force political cooperation among majority and opposition, at least when there is a different political majority in the two chambers. The way this tension will play out depends significantly on the maturity of the political system, and especially the party system, to turn this into a chance or into a risk.

Conclusions

In conclusion, the regional state in the proposed new Constitution represents a significant progress in regional authority in Chile, considering its history and culture. The model will open up a wide range of processes that will be implemented in the coming years through laws, public policies and even changes in the political culture. Still, the political, administrative, and financial autonomy of the territorial entities is a major change and, as such, presents a number of challenges.

This chapter has highlighted the pros and cons of the regional State under the proposed Chilean new Constitution. Overall, taking a systematic lecture of the constitutional provisions, despite the emphasis on the concepts of “autonomy”, “rights”, “non-tutelage” and others along similar lines, it would be wrong to interpret these concepts from an individualistic or isolationist perspective. First of all, the territory is unique and indivisible, and secession is prohibited. Secondly, principles of solidarity and territorial equity are enshrined in a series of norms, in addition to a set of more specific and concrete mandates. For instance, the State “shall make unconditional direct transfers to territorial entities that have fiscal revenues of less than half of the weighted average of these” and that the “regions and communes that have revenues above the weighted average of fiscal revenues shall transfer resources to those with revenues below the average” (art. 249).