



CHILE

OVERVIEW OF RECENT RESTRICTIONS TO CIVIC FREEDOMS



HERNÁNDEZ/ GETTY IMAGES



CIVICUS

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INTRODUCTION

In October 2019, student protests in Santiago over a public transport price increase gave rise to a mass, nationwide display of discontent over social inequality and discrimination. Over the course of several weeks, millions of people [joined](#) protests in what is commonly referred to as Chile's 'estallido social' (social unrest or uprising). At the time, protesters [raised](#) historical demands, including the recognition of Indigenous peoples' collective rights, decent pension guarantees and access to water, quality housing, education and healthcare.

This was a [transformative period](#) in Chile's history which exposed deep-rooted dissatisfaction with the enduring legacy of the Pinochet dictatorship that governed Chile from 1974 to 1990, showing that structural changes are long overdue. Many called for a new social pact founded on human dignity and pluralism, pointing to the need to change the current constitution, which dates back to the country's military regime.

A process to develop a new constitution emerged as a key demand of the protests and in October 2020, Chilean voters [approved](#) the creation of a directly elected Constitutional Convention, which [began](#) its work in July 2021. The body was praised for its diverse composition, with guaranteed gender parity and reserved seats for Indigenous representatives. While the process was [launched](#) with high hopes, confidence in the Convention gradually [eroded](#) and support for the progressive draft constitution it developed declined over time. On 4 September 2022, an overwhelming majority of Chileans [rejected](#) the adoption of the proposed constitution.

While this leaves the country in uncertainty as to how this process will continue, authorities in the government and the National Congress have [asserted](#) that they still intend to find a path forward for a new constitution.

This research brief summarises the situation of civic space in Chile between August 2020 and August 2022, reviewing emblematic cases, the main violations and positive developments regarding freedoms of peaceful assembly, association and expression. This period encompasses the final years of the government of President Sebastián Piñera, from March 2018 to March 2022, and the first months of the administration of President Gabriel Boric, since March 2022.

FREEDOM OF PEACEFUL ASSEMBLY

The 2019 social uprising and its aftermath

In responding to the mass protests of 2019-2020, Chile's security forces often used disproportionate force against protesters. According to the National Human Rights Institute (INDH), there were an estimated 8,575 victims of human rights violations during the social uprising. By July 2020, INDH had [identified](#) 2,825 victims and 4,075 instances of human rights violations between October 2019 and March 2020. Over 3,000 cases related to physical violence and 432 to sexual assault. At least 31 people [died](#) amid the unrest, four of whom were killed by law enforcement agents and two of whom died in police custody.

The armed forces, which were [deployed](#) in some areas of the country after President Piñera [declared](#) a state of emergency on 19 October 2020, used excessive force against protesters on several occasions. Chile's militarised

ABOUT THE CIVICUS MONITOR

The [CIVICUS Monitor](#), an online platform that tracks threats to civil society in countries across the globe, rates civic space – the space for civil society – in Chile as "**Obstructed**".

The data provides the basis for civic space ratings, which are based on up-to-date information and indicators on the state of freedom of association, peaceful assembly and expression. Countries can be rated as:

CLOSED

REPRESSED

OBSTRUCTED

NARROWED

OPEN



national police force, the Carabineros, were allegedly responsible for thousands of human rights violations, with thousands of people injured and hundreds suffering serious injuries. The Public Prosecutor's Office [registered](#) 5,558 victims of institutional violence, of whom 1,938 were injured by firearms and 674 sustained serious injuries. Security forces also committed numerous acts of torture and other cruel, inhumane and degrading treatment and punishment during the unrest. INDH's mapping [identified](#) Carabineros as the perpetrators in 93 per cent of the violations they had recorded.

While these [widespread](#) violations have been widely [documented](#), three years on little progress has been achieved in reforming the security forces or bringing the perpetrators to justice. Initial efforts toward reforming the police or amending protocols on the use of force [failed](#) to move forward significantly.

The Public Prosecutor's Office [archived](#) almost 55 per cent of complaints in which state agents were accused of committing various crimes against protesters amid the social uprising, without investigation. In almost all the cases archived, prosecutors considered that there was not enough information to identify a defendant. In May 2021, news outlets [reported](#) that the National Prosecutor had instructed all prosecutors to examine the criteria used, review their cases and consider reopening them.

In October 2021, INDH [stated](#) that only 70 cases had been investigated out of 3,072 complaints it had presented against state agents. In these cases 136 individuals were formally charged. At the time, INDH said the state was not fulfilling its obligation to investigate and sanction human rights violations. As of April 2022, Amnesty International [noted](#) with concern that only nine convictions had been handed down in cases that advanced to trial. The individual criminal responsibility of senior officials remained unclear, even in cases where there was progress.

In comparison, hundreds of protesters were detained and charged. While the Ministry of Justice and Human Rights [reported](#) that nearly 2,500 pretrial detention orders were issued by 9 December 2019, the Carabineros reported 1,615 pretrial detentions between 18 October 2019 and 29 February 2020. No state institution provided a comprehensive list of those detained, and Amnesty International [said](#) it received evidence of several instances of the unjustified use of pretrial detention. In some cases, individuals were held in pretrial detention for around a year and were then acquitted or the case was closed for lack of evidence.

While the Piñera government never [acknowledged](#) the extent of the social and human rights crisis revealed by the 2019-2020 protests, President Boric unequivocally made this a main theme of his electoral campaign and government. During his inaugural speech in March 2022, Boric [vowed](#) to act to 'repair the wounds' of the social uprising. Days before taking office, the incoming Ministers of Justice and of the Interior [announced](#) that one of the first measures of the incoming administration would be to withdraw 139 complaints against protesters charged under the Law of State Security. While this was a positive step, human rights experts [noted](#) its limited impact, as many of those charged under the Law of State Security are also facing charges for common offences such as 'arson' or 'theft'.

On a positive note, on 3 August 2022 the Boric government [presented](#) a Plan of Accompaniment and Care for Eye Trauma Survivors (PACTO) for people who suffered eye trauma during the social uprising, of which there are at least 427 cases. Among other things, the plan [includes](#) actions to provide physical and mental health assistance to victims, offer human rights training for healthcare workers and promote the rehabilitation of survivors and their reintegration into the labour market. The project is part of the government's agenda to promote truth, justice and reparations for victims of repression by security forces during the 2019-2020 protests. The event launching PACTO also marked the beginning of a participatory Integral Reparation Roundtable led by the Ministry of Justice and Human Rights.



October 2021, Riot police uses water cannon cars to disperse demonstrators (Photo by Claudio Santana/Getty Images)

Excessive force

In the reporting period, there were several reports of police using disproportionate force and arbitrary arrests to disrupt protests. On some occasions, journalists and human rights observers were targeted despite wearing credentials and identifiable clothing. Protesters demanding police reform and the release of people detained during the 2019 social uprising and defending Indigenous rights were particularly affected. In one example, over 500 people were reportedly [detained](#) across Chile in demonstrations around 28 October 2020 marking the anniversary of the 2019 social uprising.

In September 2020, the Inter-American Commission on Human Rights' (IACHR) Office of the Special Rapporteur for Freedom of Expression (RELE) [reported](#) that at least 28 people were arrested during protests against inequality on 4 September in the capital, Santiago, including several members of the press. Law enforcement officers dispersed the protest with water cannon trucks and made arbitrary arrests. One detained journalist was beaten and pepper sprayed. On 25 September, 16 people were also arrested in Plaza Dignidad during a protest by health workers and nurse technicians, including photojournalist Daniela Parra. Police reportedly dispersed the protest that day with teargas and water cannon.

In early October 2020, police [used](#) disproportionate force against anti-government protesters in Santiago, sparking public outrage as a police officer was filmed pushing a protester off a bridge into the Mapocho river. The victim, a 16-year-old boy, was severely injured with multiple fractures and a concussion. On 5 October 2020, 48 people were [arrested](#) across the country in demonstrations held to protest against the incident and support the young man. The officer responsible for pushing the young protester was [detained](#) and charged with attempted murder.



In February 2021, protests against police brutality [erupted](#) in response to the police killing of street juggler Francisco Martínez Romero in Panguipulli. A video of the incident showed an officer shooting at the unarmed performer several times, and the Prosecutor's Office for the Los Ríos region later [provided](#) evidence that the fatal shot was fired while the victim was on the ground and immobilised. On the day of the killing, protesters set fire to several of the town's public offices, including the municipal government building. Protests continued over several days in Santiago and other cities. During the wave of protests, there were instances of police using water cannon, teargas and pepper spray against protesters.

On 19 March 2021, the Carabineros used force to disrupt a demonstration in Santiago demanding the release of people detained in the 2019-2020 protests. According to information [reported](#) by IACHR, the police used water cannon and pepper spray, including against INDH observers who were wearing vests and credentials.

FREEDOM OF ASSOCIATION AND THE SITUATION OF HUMAN RIGHTS DEFENDERS

In general, civil society organisations and human rights defenders in Chile enjoy an enabling environment in law and in practice. However, some groups face restrictions and recurrent violations when exercising their fundamental civic rights. Indigenous defenders and communities face risks of violence, criminalisation, arbitrary detention and stigmatisation for defending their rights. In recent years, there have also been cases of harassment and intimidation against environmental defenders and feminist groups.

Case study 1: Judicial harassment against LasTesis

In 2019, feminist activist collective LasTesis, based in Valparaíso, grew prominent after their performance denouncing rape culture, 'A Rapist in Your Path', became an [anthem](#) for feminist movements worldwide. In 2020, Chile's national police force [filed](#) a criminal complaint against LasTesis for allegedly inciting violence against police officers. The legal action referred to the lyrics of a song titled '1312', released by LasTesis in May 2020 together with Russian feminist group Pussy Riot. In the song, the groups denounced police violence as well as entrenched inequalities and the rise in domestic violence in the context of the COVID-19 pandemic.

News of this complaint on mainstream media [resulted](#) in threats and online harassment against four members of LasTesis and their families. At the time the case was made public, the Minister of the Interior Gonzalo Blumel publicly [supported](#) the complaint, stating that the police had the right to 'protect the dignity and image' of their institution. In January 2021, the Court of Guarantees of Valparaíso [dismissed](#) this criminal complaint.

However, a separate complaint against LasTesis was filed by the Chief Prosecutor of Valparaíso for allegedly violating article 318 of the Chilean Penal Code by endangering public health. As [reported](#) by IACHR, the complaint was related to an artistic intervention carried out by LasTesis in October 2020 as part of the campaign for constitutional reform. The prosecutor alleged that LasTesis led a protest that brought together around 200 people without the authorisation required under pandemic-related restrictions. The activist group was fined through a simplified legal proceeding, and the fine was suspended for six months with a mandatory requirement that they did not reoffend. According to IACHR, this disproportionately affected their right to peaceful assembly.



Indigenous rights defenders



October 2021, Riot police uses water cannon cars to disperse demonstrators (Photo by Claudio Santana/Getty Images)

Law 19.253 of 1993 [established](#) norms for the protection, promotion and development of Indigenous peoples in Chile. However, the framework adopted under this legislation can undermine Indigenous traditional structures and organisations. For example, claims to land restitution are restricted to communities or individuals, while traditional institutions may be based on larger territories than those of communities, or on family relations. In addition, the law restricts Indigenous groups that have not been constituted as a legal entity from making land claims. In 2015, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association [asserted](#) that the lack of recognition of traditional institutions is contrary to the International Labour Convention 169 on Indigenous and Tribal Peoples ratified by Chile.

Over the period covered in this brief, government administrations have responded with emergency declarations and [militarisation](#) in response to heightened tensions in the southern region of La Araucanía, stemming from a longstanding conflict between the Chilean state and the Mapuche people. This security-oriented approach is particularly concerning in face of the [historical use](#) of anti-terrorism legislation to criminalise Indigenous protesters and leaders. Some Indigenous activist groups criticise this response as a failure to address the multiple underlying causes of the conflict.

In late July 2020, Mapuche protesters [occupied](#) municipal buildings in Curacautín and other towns in Malleco province. They mobilised in support of detained Mapuche leaders who were on hunger strike. On 1 August 2020, police in Curacautín acted to evict the protesters from government facilities and were joined by hostile private individuals who allegedly shouted racist slurs and attacked protesters with sticks and stones. In the Victoria municipality, a Mapuche Chemamüll statue was burned down. According to Amnesty International, all the Mapuche people involved in the occupations were [detained](#), but neither the government nor the police took action against the individuals who had engaged in violence and discrimination against them.

On 29 April 2021, Indigenous logko (leader) Alberto Curamil was [injured](#) during a protest against the burning of a Mapuche home in Perquenco, Araucanía. The protesters used burning tyres to barricade a highway in support of werken (community spokesperson) Elena Paine, whose house had been attacked and burned. Curamil said police officers shot at protesters and then chased and shot at his car from a police vehicle. He was [wounded](#) by rubber-coated pellets and then denied immediate treatment. His nephew and son, both teenagers, were detained during the protest and released the next day.



In May 2021, the Supreme Court [upheld](#) the conviction and prison sentence of police officer Carlos Alarcón for the [killing](#) of Mapuche leader Camilo Catrillanca during a police operation in the Temuicui community in 2018. Alarcón was also sentenced for the attempted murder of a 15-year-old Mapuche person during the same operation. Six other officers and a lawyer were convicted for various offences related to the police operation and subsequent obstruction of its investigation.

In July 2021, Mapuche rights defender and professor Elisa Loncon was [elected](#) president of the Constitutional Convention. A broad coalition of Indigenous organisations successfully [advocated](#) for reserved seats in the constitutional process, with 17 Convention seats reserved for Indigenous peoples' representatives and four other Indigenous members elected through regular constituencies.

A key demand of Chile's various Indigenous movements is for a new constitution to [recognise](#) Indigenous peoples as nations within a plurinational state, as well as their rights to land and resources. The Constitutional Convention's proposed constitution [defined](#) Chile as a plurinational and intercultural state, but this became one of the [most controversial](#) aspects of the draft.

Case study 2: Harassment of environmental defenders

Water defenders of the Movement for the Defence of Water, Land and Environmental Protection (MODATIMA) in the province of Petorca, Valparaíso region, have faced [recurrent threats](#) and harassment for their activism. They have campaigned against the drastic water scarcity faced by communities and smallholder farmers in Petorca, denouncing the impact of agribusiness and water privatisation. In February 2021, graffiti containing a [death threat](#) against MODATIMA member and human rights defender Verónica del Carmen Vilches Olivares was painted at a water treatment plant in Cabildo. In June 2021, a similar message was [painted](#) on the walls of the office of Cabildo's Rural Drinking Water Committee, which Vilches Olivares heads. She has [reported](#) facing harassment from unidentified assailants, including from people following her or showing up at her home.

In another case, in 2021 a journalistic investigation [uncovered](#) alleged surveillance of environmental defenders who oppose the Alto Maipo hydroelectric power project. According to Interferencia's [report](#), published in November 2021, leaked documents showed that electricity company AES Andes SA had contracted cyber-intelligence services to provide reports on perceived 'threats' to the Alto Maipo project. Between February and August 2020, a consultancy firm [provided](#) reports with information on environmental groups such as the No Alto Maipo Coordinator, the Metropolitan Network No Alto Maipo and the Movement for Water and Territories, as well as on the company's workers.

These reports included personal information on environmental defenders and leaders of such groups, some of whom were labelled as 'eco-terrorists'. The consultancy firm also claimed to have infiltrated environmental groups' messaging chats. In addition, the intelligence reports mapped people such as lawyers working for communities affected by the hydroelectric project and 'unsatisfied' Alto Maipo workers, calling them 'potential internal terrorists'. In December 2021, Chile's Supreme Court [declared](#) admissible a protective action brought by leaders and members of environmental groups against Alto Maipo for alleged espionage. Anthony Prior, a member of the Metropolitan Network No Alto Maipo, [told](#) news outlets that with the legal action, environmental defenders hope to obtain more detailed information on the monitoring conducted by the company and prevent the repetition of such practices by businesses.

In a positive development, in June 2022 Chile [ratified](#) the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, known as the Escazú Agreement. This is the first binding environmental treaty in the region, and the first in the world to include specific provisions on human rights defenders. The Agreement's objective is to promote better governance and guarantee the full and effective implementation of the rights of access to environmental information, public participation in environmental decision-making processes and access to justice in environmental matters.



FREEDOM OF EXPRESSION

Article 19 of Chile's Constitution recognises the right to freedoms of expression and opinion. In 2008, Chile [adopted](#) Law 20.285 on Transparency of Public Administration and Access to Information, establishing clear procedures to [ensure](#) the exercise of the right to access information. In practice, these rights are generally well respected in Chile, whose environment for expression is [considered](#) 'open' by global watchdog Article 19. Lack of [media pluralism](#) is a noteworthy issue and attacks on journalists occur sporadically, particularly in the context of protests.

Attacks on journalists

On 27 March 2021, unidentified assailants [opened fire](#) on the vehicle of a Chilean National Television crew travelling in the Arauco province, Biobío region. Journalist Iván Núñez was [injured](#) in the arm and camera operator Esteban Sánchez was severely injured in the chest, arm and head. As a result of the attack, Sánchez lost vision in his right eye. The attack took place when the media team were returning from meeting with a spokesperson for Indigenous organisation Arauco-Malleco Coordination. A year after the attack, Núñez [said](#) the investigation on the shooting had not progressed.

On 7 July 2021, journalists Felipe García, Vicente Rojas López and Agencia Panoptik were [injured](#) by rubber bullets shot by Chilean Investigative Police agents. The reporters were covering the funeral procession of activist Luisa Toledo Sepúlveda. When the procession approached the offices of the Investigative Police headquarters in Santiago, officers [shot rubber bullets](#) at people attending the event and members of the media. García was hit in the face and received stitches on his cheek. Rojas was hit on the foot and did not seek medical attention. Both journalists were wearing their press credentials and holding cameras at the time, Rojas [told](#) the Committee to Protect Journalists, 'They knew perfectly well that we were press... It was directed against us. They shot at us directly, they didn't shoot at the protesters'.

On 1 May 2022, during the annual Workers' Day march in Santiago, armed individuals [opened fire](#) on protesters in the Meiggs neighbourhood. Four people were injured, three of whom were journalists covering the march. [Francisca Sandoval](#), a 29-year-old journalist with La Victoria's Señal 3, was critically wounded and died from her injuries on 12 May 2022. Sandoval was the first journalist to be killed in the line of duty in Chile since the end of the Pinochet dictatorship.

According to an [investigation](#) by Ciper Chile, the shooters were involved in informal street trade in the area. Moments before the shooting, they had a verbal altercation with protesters. A suspect was [charged](#) with homicide and placed in pretrial detention, while two others were [arrested](#) for illegal possession and carrying of firearms and unjustified shooting in a public street. In a [public statement](#), the Metropolitan Council of Chile's Association of Journalists said that these events occurred while the Special Forces of the Carabineros police were on the scene but they 'did not intervene, and turned to repress demonstrators'.

On a related note, journalists in Chile [warned](#) RELE that attacks on the press are under-reported, because there are no detailed reports or statistics on these offences published by official bodies. The difficulties of registering and compiling cases are even greater in regions far from Santiago or where journalists' organisations do not have support and contacts on the ground. Reporters are also affected by the lack of progress in judicial investigations into the disproportionate use of force by police in protests.

In 2022, there have been positive efforts to create mechanisms to guarantee media workers' safety and integrity. On 10 May 2022, Chilean congresswoman Nathalie Castillo [introduced](#) a bill on the protection of journalists and media workers, [based](#) on a Model Law [developed](#) by UNESCO in collaboration with civil society and press groups. In June 2022, President Boric also publicly [announced](#) that a legal mechanism for the protection of journalists would be presented by his government in the second half of 2022.



Bill to regulate social media objected to by civil society

In September 2021, five senators presented a [bill](#) to regulate digital platforms in Chile. The controversial proposal was [criticised](#) by experts, who said the initiative [posed](#) risks to freedoms of expression and privacy. Among key issues [highlighted](#) by civil society groups, the draft law lacked coordination with existing regulations impacting on digital rights, used inappropriate mechanisms to regulate false information and established concepts such as ‘right to rectification and to be forgotten’ and ‘digital consumer’ without providing sufficient clarity on their application.

Free expression experts also [said](#) the bill was hastily presented and failed to ensure consultation with a diversity of actors that work on internet content regulation and engage in the area of digital rights. In November 2021, the Senate [sent](#) the bill back to the Congressional Commission on Future Challenges, Science, Technology and Innovation for further analysis. In April 2022, Chile’s Supreme Court [responded](#) to a Congressional request for an opinion on the bill. While recognising the need to improve the country’s regulation of digital platforms, the Court [pointed out](#) notable issues in the bill, including the need for more clarity on several aspects of its text.

RECOMMENDATIONS

To the government of Chile:

- Establish fully independent, prompt and effective investigations into the use of excessive force by law enforcement agencies and officers during protests, including during the 2019-2020 mass demonstrations. Bring to justice those suspected of criminal responsibility, including those with command responsibility.
- Promote comprehensive reform of the Carabineros police and amend security forces’ protocols to enable law enforcement institutions to carry out their work in accordance with international human rights law and standards, with strict control and accountability mechanisms in place.
- Consult with civil society and media groups on the development of mechanisms for the protection of human rights defenders, especially Indigenous activists and journalists, ensuring appropriate funding and resources for their operation.
- Guarantee the rights to freedom of association and expression for civil society organisations and ensure that no one is criminalised for exercising their fundamental rights or subjected to threats, attacks, harassment, smear campaigns, intimidation, or reprisals for their human rights work.
- Work with civil society and political actors across the spectrum to identify a way forward for the constitutional process that is inclusive and democratic, ensuring that a new constitution introduces important human rights advances in Chile.