

BALANCING NATIONAL PRIORITIES WITH LOCAL CONCERNS THROUGH TRANSPARENCY AND CONSULTATION IN CHILE



GUIDING PRINCIPLE 9: TRANSPARENT, INCLUSIVE, AND PARTICIPATORY DECISION-MAKING

Infrastructure development should be underpinned by transparent planning, information sharing and decision-making processes that facilitate meaningful, inclusive and participatory stakeholder consultation, and in the case of indigenous peoples, their free, prior and informed consent. National, sub-national, and project-level grievance mechanisms should be available for addressing stakeholder complaints and concerns.



BACKGROUND

Chile is regarded as the most competitive economy in Latin America, achieving relatively stable growth since the 1990s (World Economic Forum 2019, p.15). At the same time, the country has established large national parks and other protected areas and has increasingly incorporated different dimensions of sustainability into public policy. It is home to nine indigenous groups: Aymara, Atacameño, Quechua, Diaguita, Kolla, Rapa Nui, Mapuche, Kawéskar and Yagán, and the regions they inhabit often lie hundreds of kilometres from the capital and national decision-making centre, Santiago. The government has taken significant steps to govern the economy and infrastructure with transparency, but Chile also has a history of territorial conflict concerning indigenous communities and more peripheral regions. There remains a need for greater territorial integration and social inclusion. Meaningful stakeholder consultation is therefore especially critical for developing more sustainable infrastructure.

Prominent sectors in the country include mining (especially copper) and forestry, which have helped fuel national economic growth. However, the infrastructure associated with these sectors, such as ports, railways and roads, also presents acute local challenges related to negative social and environmental impacts. The government has introduced specific mechanisms for transparency and consultation, including infrastructure monitoring platforms, creation of sub-national institutions to improve indigenous participation, and adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007. These represent essential measures to build more inclusive infrastructure systems. In addition to the important progress made, there are also lessons to be learned in balancing national economic priorities and the “common good” with territorial considerations via meaningful consultation.

TRANSPARENT SYSTEMS

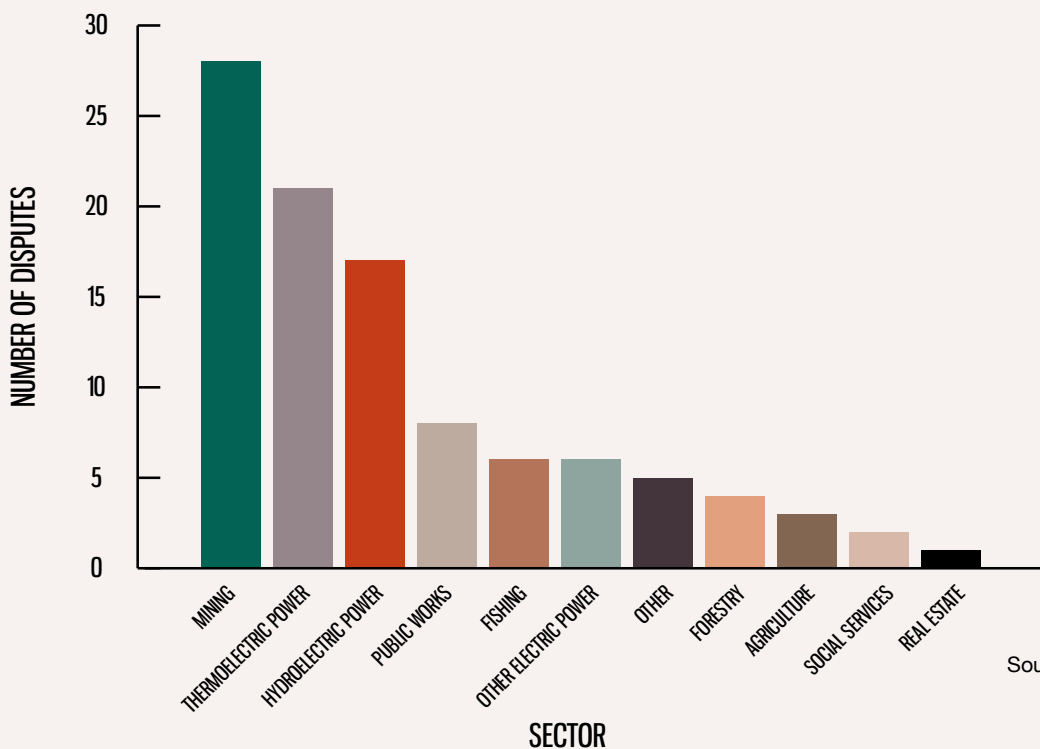
In recent decades, Chile has developed a business environment which is considered to be transparent and predictable for investors. The country is ranked 26th in the world for transparency; the second highest ranked country in Latin America after Uruguay (Transparency International 2019). To help build government transparency, a major piece of anti-corruption legislation was introduced in 2009 which created a national “Council for Transparency” to monitor the law’s implementation and to guarantee citizens’ access to public information (Schorr 2018, p. 6).

Chile’s “National Investment System” now provides information relating to the status and cost of public investments across all sectors and regions, and it publishes methodologies for undertaking social evaluations (OECD 2017, p. 48). For example, an online “Integrated Project Database” managed by the Ministry of Social Development and Family allows civil society, the private sector and the general public to monitor investments in different regions across sectors, throughout their lifecycle. Furthermore, central government also publishes comprehensive information on concessions during each phase of the lifecycle of infrastructure projects, with independent review (OECD 2017, p. 48).

TOWARDS MEANINGFUL CONSULTATION

While an emphasis on central planning and national-level transparency can bring economic stability and certainty, it can also impact the autonomy of sub-national government and present potential challenges for local participation in peripheral regions. Indeed, indigenous peoples are still not formally recognized in the national constitution, although a national plebiscite in 2020 approved a new Chilean Constitution, which is a promising sign that recognition will be achieved (Chile, Government 2020). The legislative branch has already approved reserved seats for indigenous people at the Constitutional Convention, ensuring their participation in the constitutional process (Chile, Senate 2020; Chile, Chamber of Deputies 2019).

However, territorial disputes – including those involving indigenous communities – persist, and are primarily related to infrastructure or extractive projects (see Figure 9 below). Some of these disputes are centred on the environmental externalities of infrastructure-related operations; some concern local heritage sites and the use of natural resources; while others arise due to perceived limited local participation in decision-making processes (Delamaza, Maillet and Martínez Neira 2017, p. 25).



Source: based on Delamaza, Maillet and Martínez Neira (2017, p.33)

FIGURE 9: DISPUTES BY ECONOMIC SECTOR IN CHILE, 2005-2014

In Chilean law, there is a general requirement to consult with indigenous peoples (ILO 2018), and the decentralized “National Corporation for Indigenous Development” (CONADI) holds official responsibility for promoting, coordinating and executing actions designed to foster the integral development of indigenous peoples (Chile, CONADI 2020). It seeks to increase the participation of the indigenous population in policy and legislative processes through dialogue, consultation and mass information. More widely, key steps forward in engaging all citizens in infrastructure development were achieved through *Law 20.500* in 2011 and the *Presidential Instructive for Participation and Public Management* in 2014, which provide for citizen participation, and require central government to maintain constant dialogue with the “Municipal Councils of Civil Society Organizations” (OECD 2017, p. 145). This highlights the efforts made to integrate decision-making across administrative levels.

Building on these arrangements, the Ministry of Public Works has established specific participation mechanisms through *Resolution 315* of 2015, which defines objectives and processes for bringing citizens closer to infrastructure, and for following a rights-based approach. According to the resolution, public participation must be ensured throughout entire projects, particularly in the early stages of planning,

paying due regard to the specific selection and profile of citizens according to their gender, disabilities and indigenous self-identification. The implementation of the resolution has resulted in an increase in public participation among certain groups, though challenges remain. For example, indigenous women have participated in important public consultations but are reported to be excluded from other public spaces (Chile, CONADI 2016, p. 61). Indigenous consultation is further evaluated through the *Official Document from the Public Works General Directorate 539*, which specifies that an official request must be made to the Ministry of Social Development and Family to draw up the indigenous consultation. Projects of the Ministry of Public Works then proceed based on what the Ministry of Social Development and Family recommends.

The Ministry of Public Works also requires project proposals in a given region to address wider regional plans and synergies with multiple infrastructure projects. Since 2017, the Ministry has been developing a framework specifically dedicated to “sustainable infrastructure”, and has experimented with the application of a project evaluation methodology with components covering inclusion, gender equality and indigenous and immigrant communities (Chile, Ministry of Public Works 2020).



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REPLICABILITY

Chile has made important progress in integrating stakeholders into infrastructure plans and processes through transparency systems, legal instruments and the creation of decentralized institutions. Moving forward, it has acknowledged that better understanding of the “human” variable and infrastructure siting preferences can lead to improved infrastructure planning and service delivery. While there are consultation arrangements in place, there is still conflict when it is not possible to reconcile the national priorities for infrastructure and the concerns of local communities. To help overcome the challenges, Chile is seeking to adopt a systems perspective across government ministries and levels of administration, but requires tools, “soft” infrastructure and enhanced state capacity to do so.

Consultation and conflict issues relating to indigenous and other communities are common across many Latin American countries, as well as globally. As countries strive to rapidly create jobs and kickstart economic growth to recover from COVID-19, it is essential that transparency and consultation processes are not bypassed. Rather, they must be strengthened to ensure that infrastructure is truly inclusive and needs-based.

KEY INSIGHTS

- Chile has built transparent tools for monitoring infrastructure investments at the national level, with a dedicated “Council for Transparency” and “Integrated Project Database”.
- The country has taken concrete steps towards inclusive and meaningful consultation, by approving and introducing specific legal requirements and creating decentralized institutions.
- Disputes represent an ongoing challenge, requiring a deeper systems perspective and further integration of communities and regions into infrastructure decision-making.

REFERENCES

- Chile, Chamber of Deputies (2019). Boletín N° 13129-07, 9 December 2019. https://www.camara.cl/legislacion/sala_sesiones/votacion_detalle.aspx?prmIdVotacion=32383. Accessed 30 November 2020.
- Chile, Government of Chile (2020). Constituent Process. <https://www.gob.cl/procesoconstituyente/>. Accessed 30 November 2020.
- Chile, Ministry of Public Works (2020). Sustainable infrastructure. http://www.dirplan.cl/Paginas/Infraestructura_sostenible.aspx. Accessed 21 September 2020.
- Chile, National Corporation of Indigenous Peoples (2016). *Informe final consultoría. Actualización diagnóstico participativo en temas de género de los pueblos indígenas, Región de Arica y Parinacot*. Chile. http://siic.conadi.cl/tmp/obj_472130/25200_informe_final_consultoria_diagnostico_y%20agenda%20genero.pdf.
- Chile, National Corporation of Indigenous Peoples (2020). Ministry of Social Development and Family: institutional mission. <http://www.conadi.gob.cl/mision-institucional>. Accessed 21 September 2020.
- Chile, Senate (2020). Boletín N° 13129-07, 7 July 2020. <https://www.senado.cl/appsenado/index.php?mo=sesionessala&ac=listaVotaciones&sesion=8581&boletin=13129-07>. Accessed 30 November 2020.
- Delamaza, G., Maillet, A. and Martínez Neira, C. (2017). Socio-territorial conflicts in Chile: configuration and politicization (2005-2014). *European Review of Latin American and Caribbean Studies*, 104, 23-46. <http://doi.org/10.18352/erlacs.10173>.
- International Labour Organization (2018). *Consultations with indigenous peoples on constitutional recognition: the Chilean experience (2016-17)*. Geneva. https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_651444.pdf.
- Organisation for Economic Co-operation and Development (2017). *Gaps and governance standards of public infrastructure in Chile*. Paris. <https://www.oecd-ilibrary.org/docserver/9789264278875-en.pdf?expires=1606239412&id=id&accname=guest&checksum=B2155C700986F67CD05FB8B1D8188202>.
- Schorr, B. (2018). Regulating the regulators: tracing the emergence of the political transparency laws in Chile. *United Nations Research Institute for Social Development Conference: Overcoming inequalities in a fractured world: Between elite power and social mobilization*. Geneva, 8–9 November. [https://www.unrisd.org/80256B42004CCC77/\(httpInfoFiles\)/9972AB476237B8F2C12583390051D0BF/\\$file/Overcoming%20Inequalities%205a_Schorr---Final.pdf](https://www.unrisd.org/80256B42004CCC77/(httpInfoFiles)/9972AB476237B8F2C12583390051D0BF/$file/Overcoming%20Inequalities%205a_Schorr---Final.pdf).
- Transparency International (2019). Corruption Perceptions Index. <https://www.transparency.org/en/cpi/2019/results/table>. Accessed 27 September 2020.
- United Nations (2020). Sustainable Development Goals. <https://sdgs.un.org/goals>. Accessed 20 September 2020.
- World Economic Forum (2019). *The global competitiveness report 2019*. Geneva. http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf.