

Assessing the Success of National Human Rights Action Plans through a Political Economy Lens

The Case of Chile

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Abstract

National human rights action plans turn state commitments on human rights into policy. After three decades of numerous countries implementing these plans, the few existing assessments of their success are inconclusive. This paper develops a political economy framework to complement previous studies. The approach hypothesizes that such action plans will be successful only if they are built on political consensus; their perceived political benefits exceed their costs; and governments have adequate resources to

design and implement them. The paper tests this hypothesis in Chile, a country with a recent history of human rights violations and sustained inequalities that is legally bound to produce human rights action plans. The findings show that these plans have not been successful in Chile, as none of the three conditions is satisfied. The paper contends that the proposed political economy framework can be replicated across multiple national action plans, countries, and contexts.

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Assessing the Success of National Human Rights Action Plans through a Political Economy Lens: The Case of Chile

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Introduction

At the 1993 World Conference on Human Rights in Vienna, states were urged to formulate National Human Rights Action Plans (NHRAP) to incorporate human rights treaties into domestic legislation and policies. Similar initiatives followed: National Action Plans for the implementation of the United Nations Security Council Resolution 1325 (UNSC, 2000); National Action Plans for Human Rights Education (UNGA, 1994); and National Action Plans on Business and Human Rights (UNHCHR, 2002). Yet NHRAP are distinctive in that they encourage states to develop a comprehensive policy that includes all groups of rights – political, civil, social, economic, and cultural – on an equal footing.

Take-up of NHRAPs has been impressive – 66 countries have adopted at least one such plan; about half have developed a second – but they remain understudied. As observed by Lorion (2022), only a handful of scholars have evaluated NHRAPs, including Chalabi (2014, 2015, 2018), Xu (2018) and Kandel, Kandel, Gottero, and Jaramillo (2021). Other research has more narrowly monitored specific policies on (for example) women’s rights, children’s rights, and workers’ rights. This literature posits a series of conditions as prerequisites for successful NHRAPs, ranging from the capacity of domestic civil society to political costs and benefits associated with adopting rights-based public policies.

Most NHRAPs also lack their own monitoring and evaluation frameworks, making quantifying their success even more challenging. A UN handbook belatedly offered guidelines for states developing their human rights plans (UNHCHR, 2002). It suggests states first identify the targets to be achieved and tie them to performance indicators. In practice, states rarely include all these components. For instance, the 12 NHRAPs currently in place in Latin America include goals and objectives, but only five include specific indicators for each action.¹

In the absence of being able to measure impacts across economic, social, cultural, civil, and political rights, establishing criteria for success appears a good second-best strategy. But the criteria provided by the Handbook are insufficient and not compellingly articulated. Existing studies can provide insights as to when and how human rights policies are adopted. But there does not currently exist a theoretical framework that helps us systematically understand what conditions make NHRAPs successful.

In this paper, we advance a systematic approach to assessing the success of NHRAPs based on a political economy model: to our knowledge, for the first time. We first review the literature on how NHRAPs are conceptualized and implemented in section 2. In section 3, we develop a methodological framework to assess the NHRAP, highlighting the political economy process associated with public policies for human rights. Building from political economy frameworks in other contexts, we develop one suitable for NHRAPs. We determine the necessary and sufficient conditions for NHRAPs to be considered successful, regardless of the extent to which the NHRAP’s original objectives are satisfied.

¹ Reviewed NHRAPs include Argentina, Bolivia, Brazil, Chile, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru, Uruguay, and the República Bolivariana de Venezuela.

We then apply this political economy approach to Chile, an apt case study for multiple reasons. In 2016, Chile adopted a national law that made NHRAPs mandatory and created an Undersecretary to design and monitor the NHRAP. Subsequent governments have supported the implementation of two NHRAPs: one in 2018-21, and other in 2022-25. Recent Chilean history also makes it a particularly salient example. The country emerged comparatively recently from the military dictatorship of Augusto Pinochet (1973-90), which tortured and murdered thousands of opponents. And while the first plan was being implemented in 2018-21, mass street protests against inequality met with serious human rights abuses at the hands of police: a crisis that was partly defused by the proposal to draft a new, rights-based constitution to replace that of the Pinochet era.

Section 4 sketches the genesis of the country's two NHRAPs and underlines the lack of appropriate tools to determine their success. Section 5 applies our proposed political economy approach to Chile's NHRAPs. Section 6 concludes by summarizing the key findings and briefly discussing how the proposed approach may be replicated across countries and contexts.

2. A literature review on the success of NHRAP

Surveying seven African countries, Xu (2018) argues that the success of NHRAPs is associated with the integration of these plans into development strategies, economic development processes, and national governance structures, and societal debates over human rights. Similarly, Kandel, Gottero, and Jaramillo (2021) evaluate the challenges of advancing different human rights plans in the Latin American context in areas such as education, business, and via NHRAPs.

Azadeh Chalabi conducted a comparative analysis across 53 countries to assess the process of planning and implementing an NHRAP (2018). As well as identifying challenges and best practices, she advances a theory of public policy planning, stressing that top-down government planning without elite and civil-society participation can limit the success of human-rights plans. This international evidence is consistent with Chabali's previous work on political will and NHRAPs in Australia (2016). She notes that while authoritarian governments openly oppose human rights, democratic governments can be reluctant to adopt participatory models of planning, instead applying top-down approaches.

Jacobsen (2023), comparing Denmark and Sweden, similarly argues that political aspects of NHRAPs need to be considered when evaluating their formulation and impact. As most of Sweden's political parties saw the adoption of an NHRAP as beneficial – including by improving the country's international reputation – it was adopted unanimously. In contrast, in Denmark, an NHRAP proposed by the Danish Center for Human Rights failed to persuade politicians and civil society, who felt that human rights concerns were already addressed by the political system.

National action plans (NAP) that enhance human rights compliance in business, education, and other areas also provide relevant insights. These can often become box-ticking exercises with few meaningful impacts (Björkdahl and Selimovic, 2015; Yadav, 2020; Sheperd, 2016; Swaine, 2009; Márquez Carrasco, 2022). However, NAPs can enable domestic and external stakeholders to take part in the public policy process and pressure states to adopt meaningful changes (Cantu,

2017). Recent studies of NAP for Business and Human Rights suggest their benefits are largely derived from the shared process of formulation, implementation, and monitoring (O'Brien, Ferguson and McVey, 2021).

Other recent research finds that the complexity of such plans requires a more nuanced view that makes visible other types of impact (Drumond and Rebelo, 2020). Thomson and Whiting (2022) argue that international prestige was a powerful motivation for otherwise-conservative governments in Brazil and Poland to adopt National Plans for Women, Peace and Security. Even if their immediate impact is limited, NAPs can have additional benefits such as raising awareness about human rights among domestic audiences and even state bureaucracies.

Existing research highlights multiple challenges in quantifying the effectiveness of plans. First, NAPs vary in length and specificity. States embark on this process as they see fit. The limited guidance available recommends states involve domestic and external stakeholders so that political pressure contributes to the realization of the plan. It has been argued that the success of NAPs and NHRAPs depends on a truly participatory process (Felice and Graf, 2015). Yet research on NAPs for Women, Peace and Security also highlights the need for funding and political will for plans to be efficient and sustainable (Swaine, 2009; Björkdahl and Selimovic, 2015; Shepherd, 2016).

Relatedly, the evidence on the impact of human rights treaties on state practice is mixed. Some studies found little to no evidence of a substantial change (Hafner-Burton and Tusui, 2005, Cingranelli and Filippov, 2018). State compliance with human rights treaties is instead often associated with domestic factors: their capability to implement legislation, the quality of democracy, levels of accountability, and the strength of social movements (Creamer and Simmons, 2020). The adoption of human rights domestic legislation is similarly influenced by political bargaining between political elites, civil society organizations, and other actors (Htun and Weldon, 2012; Blofield, Ewig and Piscopo, 2017; Fontana and Grugel, 2017).

3. A political economy framework to analyze NHRAPs

The notion of a political economy of NHRAP builds on the existence of political costs and benefits accruing from the design and implementation of strategies to fulfill a state's human rights commitments. This interplay of political costs and benefits—distinct from economic, social, or judicial perspectives—is discussed extensively in the political economy literature in other arenas (Bueno de Mesquita, 1995; Burgess et al, 2015; Ostrom et al, 2005). For example, political economy approaches have been applied to the design of subsidies, tax reforms, welfare measures, and antipoverty programs (Inchauste and Victor, 2017; Ito and Krueger, 1992; Schüring and Gassmann, 2016). Yet the development and adoption of national human rights actions plans has not yet been evaluated with a political economy lens.

Previous political economy works analyzed political conditions and interactions among politicians, program administrators, local and national elites, and their constituencies, including the poor. The resulting balance of power is defined as political settlement, or alternatively, polity (Di John and Putzel, 2009). In practical terms, polity captures the political structure in a given

country. Policy conditions and interagency engagements, for example, are shaped by pressures from other countries, donors, the fear of unrest, and domestic institutions (Armijo, Biersteker and Lowenthal, 1994; Keefer, 2011; Therkildsen, 2000). Transparency, incentives, voice, and power also affect these interactions (Cole, 2012). Whether benefits flow to special interest groups, citizens, or both also shapes the political system along clientelist or competitive lines (Acemoglu and Robinson, 2006). Capacity constraints like human, informational, organizational and financial resources need also to be considered (e.g., Pritchett and de Weijer, 2010).

Figure 1: A political economy approach to NHRAP

Source: authors

The political debate around human rights action plans is characterized by the presence of different stakeholders (A) that together with international human rights norms (B) influence national politics, thus framing political consensus (C). Political consensus, also known as dominant ideology (Lavers and Hickey, 2015), affects the way the entire NHRAP exercise is conceptualized. These dynamics challenge the political structure (D). In particular, there are political costs and benefits associated with the different steps involved in NHRAP: developing, consulting, agreeing upon, designing, promoting, implementing and monitoring. Political will to realize such action plans should be expected only if the political benefits exceed the costs. In theory, more precise evidence, perceptions of enhanced accountability, and pressures from donors and international organizations may turn the balance in favor of the benefits. Political costs might include a backlash from those who hold traditional views on gender or child labor, or greater scrutiny on a government's human rights record once such a plan is announced. The cost/benefit evaluation will either lead to a firm commitment to finance (E) the development and implementation of the national action plan or not. This commitment must also be supported by technical consensus (F), technical capacity (G) and effective execution practices (H). The political cost-benefit analysis will also determine the actual use of national action plans (I) in new policies or strengthening existing interventions.

From this framework, we develop a testable hypothesis: a country will design and effectively use an NHRAP in policymaking only if all three conditions coalesce: political consensus, a conducive political structure, and technical capacity. Political consensus refers to the adoption of human rights as a political priority. This condition is affected by whether domestic politics are favorable to general consensus (points A, B, C in Figure 1). A conducive political structure means the political benefits of implementing NHRAP exceed the costs (point D). Technical capacity refers to financing and the technological, human and analytical skills (points E, G, H). It also includes technical consensus: agreement on what an NHRAP should contain, how it will be implemented, and by whom (Point F). Table 1 below summarizes all these conditions.

Table 1: Necessary and sufficient conditions for the successful implementation of an NHRAP

<i>Hypothesis, conditions</i>	<i>Conditions to be satisfied</i>	<i>When is the condition satisfied?</i>
Political consensus	Is the development and implementation of an NHRAP agreed to be a political priority?	HRs are a critical political issue in the country historically and/or at the time of deciding on the development of an NHRAP. HRs are part of the political landscape, bringing together citizens, civil society and other stakeholders. There is a clear legal commitment to conducting an NHRAP that goes beyond a single administration.
Political costs and benefits	Do the political benefits of developing and implementing an NHRAP exceed the political costs?	Satisfied when the estimated, predicted or perceived political benefits exceed the political costs around the action plan.

Technical capacity	Are the agreed NHRAs being financed and sustainably executed by an able governmental or multistakeholder counterpart(s)?	A technically capable, well-financed and politically strong ministry leads the development and implementation of NHRAP in coordination and partnerships with other ministries, civil society or donors.
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Source: Authors

In the remainder of the paper, we apply our framework to the experience of Chile in developing, implementing, and monitoring two NHRAPs.

4. Chile's NHRAP

4.1. A polarized context for Chile's NHRAP

The discussion around NHRAPs in Chile dates back to 2009, when the United Nations Human Rights Council recommended Chile implement a national human rights plan. This recommendation was reiterated in the 2014 Universal Periodic Review, which urged Chile to promptly establish an office of the undersecretary of human rights, elaborate and implement a national action plan with civil society, including via the passage of related legislation (UNGA, 2014). All these recommendations proved critical to the development of the first (and second) NHRAP in Chile.

In previous decades, state commitment to human rights varied in the wake of the Pinochet dictatorship. President Patricio Aylwin (1990-1994) supported a human-rights agenda “as much as he could” (Borzutzky, 2017: 68).² He established the first National Commission on Truth and Reconciliation (the Rettig Commission), which found Chilean society tended to “blame the victim and not the perpetrators” (1993: 461). Eduardo Frei (1994-2000) further distanced his administration from human rights issues, arguing they were judicial not political matters. Under Ricardo Lagos (2000-2006), some 28,000 victims of torture and political imprisonment were instead encouraged to come forward and give evidence to the Valech Report, and received compensation. Paradoxically, his attempts to end trials against the military meant that progress made towards the truth was not followed by progress towards justice (Collins, 2014).

The first administration of Michelle Bachelet (2006-2010) reopened the Valech commission, certifying a further 9,795 cases of torture and 30 disappearances or executions. The Bachelet administration also built museums and memorials to honor the victims and created new human rights bodies. President Piñera (2010-2014), much like Frei, tried to steer away from human rights issues and focus on economic management (Borzutzky, 2017). However, Chile's the 40th

² The 1973 coup interrupted a comparatively long tradition of civilian rule. The coup led to torture, extrajudicial killings and forceful incarceration and disappearances (Loveman, 1998). Successive truth commissions in Chile have recognized 40,018 victims of human rights violations under the Pinochet dictatorship, including 3,065 people killed or forcibly disappeared (Hourcade et al, 2022). In response to the repression, human rights organizations emerged, first based on religious organizations, and subsequently organized by family members and political parties (Orellana and Hutchison, 1991).

anniversary of the 1973 coup that brought Pinochet to power revived debate over historic human rights abuses. Piñera's administration apologized for previous state crimes, and denied pardons to perpetrators, but promoted military officers involved in dictatorship-era abuses. In her second administration (2014-2018), Bachelet worked on a proposal to develop a new Constitution to replace the Pinochet-era document and enshrine the protection of human rights. The proposal was discarded by Piñera at the start of his second administration (2018-2022).

Chile's recent history is marked by remarkable economic growth that raised living standards for many, along with growing social dissatisfaction on entrenched inequalities, poor-quality and expensive public services, and a high cost of living.³ Brewing discontent came to a head on October 18, 2019. Protests against a rise in Metro fares in the capital, Santiago, soon turned violent amid heavy police repression, with subway stations and business looted and burned. Piñera declared a state of emergency in several cities. Demonstrations against the cost of living and inequality mounted, with over a million people joining a peaceful rally in Santiago on October 25 (International Crisis Group, 2023).

By the time the state of emergency was lifted on 27 October, some 20 people had been killed nationwide. According to the National Institute for Human Rights, 546 people suffered firearms injuries. The UN High Commissioner for Human Rights, former president Bachelet, announced a "verification mission" to examine allegations of rights violations (with the Piñera government's consent). It recommended Chile end the excessive use of force, provide access to justice for those whose rights had been violated, and maintain respectful and open dialogue with human rights organizations (IACHR, 2022). The public prosecutor meanwhile reported over 2,000 allegations of human rights violations by security forces. As violent protests continued, a cross-party agreement led to the announcement of a referendum on creating a constituent assembly to draft a new Constitution (Human Right Watch, 2022, International Crisis Group, 2023).

The COVID-19 pandemic caused delays to the constitutional reform process. In a referendum on 25 October 2020, 78 percent voted in favor of drafting a new constitution. In December 2022, congressman Gabriel Boric – one of the main architects of the constitutional reform – was elected president on a promise to end neoliberalism and promote human rights. With a first NHARP fully implemented by 2018-2021, and a second one on its way, it appeared as though human rights had become entrenched as a societal priority. However, growing public concern over crime and the economy, and missteps by the drafters of the new constitution, led to it being rejected by a margin of 62 percent to 38 percent in the exit referendum on September 4, 2022. A new constitutional council was elected in May 2023.

4.2. Chile's First and Second NHRAP

³ Chile is a high-income economy and a member of the OECD. The country's headcount poverty rate plummeted from 62.1 to 8.0 percent from 1987 to 2020 (USD 6.85 PPP 2017 poverty line, World Bank, 2023). However, Chile is well below global averages when it comes to trust in people, confidence in government, confidence in police and tolerance of sexual and gender diversity (according to Cuesta, Madrigal and Pecorari, 2023). And Chile's income inequality remains among the highest in Latin America, itself the most unequal region in the world (only after Brazil, Panama, and Colombia). Critics have blamed this on the Pinochet-era constitution which established Chile as a neoliberal market economy with a tightly circumscribed role for the state.

The formulation of the first NHRAP was linked to institutional changes in 2016 under President Bachelet. Law 20.885 (approved on January 5, 2016) changed the name of the Ministry of Justice to the Ministry of Justice and Human Rights, and created the Undersecretary of Human Rights and the Inter-ministerial Committee on Human Rights. The law specifically mentions the creation of the NHRAP and even identifies the main sections that the plan should have. The process of approval took four years, as some legislators questioned the very notion of an NHRAP. Amnesty International, the UN High Commissioner for Human Rights, and domestic rights organizations such as the INDH addressed congress on several occasions to reiterate their support for the creation of the Undersecretary (Biblioteca Nacional del Congreso de Chile, 2018; Palacios, 2015).

Despite a lack of consensus in Congress, the Undersecretary began formulating the NHRAP in 2017. This process entailed a diagnosis stage in which the Undersecretary office took stock of national human rights legislation and existing recommendations by human rights treaty bodies. In addition, from July-August, the Undersecretary conducted a national consultation process with NGOs, Indigenous peoples, and digital consultations open to all. In total, 993 individuals participated in the consultations (Subsecretaría de Derechos Humanos and ClioDinamica Consulting, 2021). The Undersecretary then coordinated the formulation of the targets and actions for different parts of the government.

The draft plan submitted to Office of the Comptroller in December included the 15 priority themes required by Law 20.885 – one per specific population groups of special protection⁴ – and 634 actions. In 2018, the Undersecretary appointed by the new Piñera administration withdrew the plan to adopt the Comptroller’s preliminary observations and adjust some of the actions to ensure its implementability (Baeza, 2019). A revised plan was submitted in 2019, with 15 themes, 50 goals, 608 actions, and 958 indicators. The plan was approved by the Comptroller in December 2019 (INDH, 2020).

The Undersecretary provided technical support to all public employees so that they could upload reports on an online platform to monitor the plan’s implementation. Between 2018 and 2021, the Undersecretary office issued eight monitoring reports on the implementation of the actions. The last report indicated that only 63 percent of actions had been fully implemented (Subsecretaría de Derechos Humanos, 2022). The assessments did not evaluate compliance with human rights targets per se.

In September 2020, the Undersecretary started work formulating the second NHRAP. As before, the formulation process included a diagnosis stage. Actions, targets, and goals were classified along three new axes of equality and nondiscrimination; universal human rights; and human rights promotion. In addition, each action would be linked to the fulfillment of a specific human right. These changes were adopted to improve monitoring. Second, the theme on Torture was expanded following recommendations by human rights monitoring mechanisms after the 2019

⁴ These included victims of historic crimes against humanity; education on human rights; people with disabilities; migrants and refugees, older persons; children; Indigenous Peoples; women; LGTBQ individuals; Economic, Social and Cultural Rights; human trafficking, people deprived of liberty; torture, Human Rights Treaty Bodies; and Business and Human Rights (Subsecretaría de Derechos Humanos 2020).

protests. The Human Rights and Business theme was removed since Chile now had a stand-alone plan on Business and Human Rights. Finally, three new themes were added: access to justice; digital human rights; and the human rights approach. The new structure was adopted by the Inter-ministerial Committee of Human Rights in 2021 (Subsecretaría de Derechos Humanos, n.d.). A final change was the removal of budgetary information for each action, which had been included in the first NHRAP.

In 2021, the Undersecretary office created an advisory committee with the National Institute of Human Rights and the Children's Rights' Ombudsman (*Defensoría de los Derechos de la Niñez*). The advisory committee helped formulate the consultation processes. Due to the pandemic, the consultations were conducted online and by phone. Two groups were added to the consultations: children and adolescents, and persons deprived of liberty. The consultations took place during May and July of 2021. Some 2,835 children and adolescents, 216 members of national NGOs, 157 Indigenous and Afrodescendant representatives, and 103 persons deprived of liberty participated. Between July and September, the Undersecretary office worked along 68 governmental agencies to formulate the different actions and indicators for the new plan. The proposed second NHRAP had 17 strategic themes, 185 actions, and 502 indicators (Subsecretaría de Derechos Humanos, n.d.) The plan was submitted for approval in December 2022, and adopted in January 2023. At the time of writing, Chile's second NHRAP was being implemented but a monitoring report had not yet been published.

5. Assessing Chile's NHRAPs with a political economy lens

5.1. Political consensus around NHRAP in Chile

While multiple stakeholders agreed on the need for an NHRAP in Chile, there was no consensus about how best to proceed. The NHRAP was formulated during the administration of President Bachelet. The original plan aimed at ensuring access to truth, justice, reparation, and historic memory. The changes subsequently introduced by the Piñera administration suggest that such an aspiration was not shared by all. The originally submitted NHRAP was withdrawn and reviewed by Piñera's appointees to the Undersecretary. A different version of the plan was adopted in 2019, which removed and adjusted several actions. In particular, a specific commitment to create a national plan for the search of disappeared persons was removed (INDH, 2021).

In addition, the political debate prior to the creation of the Undersecretary office and the NHRAP was indicative of a lack of political consensus about these new institutions. The Undersecretary office is key to institutionalizing a culture of human rights in Chile: not only is it tasked with designing and implementing public policy on human rights, it reviews the government's compliance with human rights obligations and raises public awareness. Yet, it has remained a small governmental unit with a mainly technical role and scant personnel that is broadly unknown to the public.

The lack of consensus was also manifested by limited citizen engagement. Fewer than 1,000 people participated in consultations for the first NHRAP, rising to 4,251 for the second (Subsecretaría de Derechos Humanos and ClioDinamica Consulting, 2021; Subsecretaría de Derechos Humanos, n.d.). Very few individuals from NGOs took part in the consultations designed for these organizations: 525 in the first plan, and 216 for the second. Several factors

may have contributed to this: the limited role traditionally conferred to civil society in Chile, a perceived lack of transparency in the feedback process, the logistical challenges posed by the pandemic, and the unpopularity of the incumbent Piñera administration during 2019-20 (Villaseca Rebolledo and Azúa Herrera, 2021).

On one level, the constitutional plebiscites suggested a broad support for the institutionalization of human rights. In the October 2020 plebiscite, 72 percent of voters backed a rewrite of the constitution, on a strong turnout of 51 percent. However, turnout dropped to 43 percent in the May 2021 referendum which elected the Constitutional Convention's delegates. The Convention – elected on a gender-parity basis, with 17 out of 155 seats reserved for Indigenous peoples – delivered a draft text that explicitly enshrined human-rights protections, established the Chilean state as plurinational, and outlined parallel justice systems for Indigenous peoples (Titelman and Leighton, 2022). Yet in September 2022, voters rejected the draft by 62 percent to 38 percent.

Analysts have attributed this massive rejection to some of the convention's delegates being more interested in building their profile and attacking historic abuses than drafting a viable constitutional text (Meléndez and Rovira Kaltwasser 2019). More concretely, a lack of consensus-building and the emphasis on sensitive issues such as plurinationalism and Indigenous rights also contributed to the swing in public attitudes (Titelman and Leighton, 2022).

5.2. The political costs and benefits of developing NHRAP in Chile

Every Chilean administration since the return to democracy has engaged in human rights policy, albeit in very distinctive ways: reflecting how the outcomes of political cost and benefit comparisons are highly contextual (Borzutzky 2017). In Chile, human rights policy is not entirely determined by a tug of war for and against social justice but conditioned by the specific “preferences, calculations, and opportunities” of policy makers (Fuentes, 2000: 113). Early post-Pinochet governments used human rights as a way to bind their governing coalitions, negotiate concessions with the conservative opposition, and rally their base (Evans, 2006).

Presidents Frei and Piñera tried to keep rights issues at arm's length, but ended up conceding ground in the human rights arena. Conversely, presidents Aylwin, Lagos, Bachelet and Boric sought to deliver increasingly ambitious human rights agendas (including changing the Constitution and implementing NHRAPs) yet were restrained by circumstance. President Piñera reluctantly organized the 2020 constitutional plebiscite to defuse the protests in 2019. In response to increasing international pressure he ushered in both the first and second NHRAPs, the latter approved days before his departure from office. The Boric administration, while more outspoken on human-rights issues, meanwhile appears cautious to implement the second NHRAP on the grounds that it is insufficiently bold.

Cost-benefit calculations also played a role in voters' decisions to reject the proposed constitutional text, often for counterintuitive reasons. One pollster found that 37 percent of respondents rejected the text with a view to reforming it in a more ambitious direction, while 32 percent approved it, also expecting the end result to be more progressive. Another 17 percent plainly rejected it, while only 12 percent accepted the draft as it was (Martinez, 2022). The new

constitutional text being drafted at the time of writing (Constituent Assembly, 2023) is much more circumspect about human rights.

The Chilean experience shows that building consensus is fairly uncertain in societies polarized along vertical lines (“elites” versus “the people”) and horizontally (right-wing versus left-wing). This complex interplay of political costs and benefits is consistent with the paradoxical outcome in Chile, whereby progressive presidents have often fallen short of institutionalizing human rights policies to the extent they envisioned while their conservative counterparts have gone further than they initially intended.

5.3. Chile’s technical capacity for developing NHRAP

From its inception, several factors have eroded the capacity of the Undersecretary. One is the lack of enforcement mechanisms. The Undersecretary is in charge of designing the NHRAP and implementing it via coordinating with multiple government bodies. However, the law that created the Undersecretary fails to outline mandatory compliance. In practice, the Undersecretary office can only *invite* other government bodies to comply with its recommendations (Subsecretaría de Derechos Humanos and Pontificia Universidad Católica de Chile, 2019).

A second technical challenge is the size of the Undersecretary office. Designing the NHRAP and training all public employees in its technical components require time and expertise. According to Villaseca-Rebolledo and Azua Herrera (2021), the Undersecretary office had 24 employees in 2017, rising to 60 in 2021 (DIPRES, n.d.). Multiple studies and expert reports commissioned by the Undersecretary have highlighted the need to increase staffing levels (Villaseca Rebolledo and Azua Herrera, 2021; Subsecretaría de Derechos Humanos and Clio Dinámica Consulting, 2021; Subsecretaría de Derechos Humanos and Pontificia Universidad Católica de Chile, 2019).

The working relationship between the Undersecretary and public offices is challenging: whereas some contact points provide information in a timely manner, others fail to report on the progress of the plan, often due to lack of capacity. Staff turnover also causes problems due to the steep learning curve associated with the NHRAP’s reporting system, and/or lack of knowledge about the NHRAP and human rights (Subsecretaría de Derechos Humanos and Clio Dinámica Consulting, 2021). These factors may help explain why 7 percent of the actions included in the first plan were not reported: 41 actions had unclear indicators that could not be reported on; and 43 actions lacked indicators altogether.

Most resources are focused on the formulation of the plan, leaving little to report and communicate about the plan itself. During the formulation of both plans, even public officials were unaware of the process and only knew the plan’s content once it was public (Villaseca Rebolledo and Azua Herrera, 2021).

A third capacity challenge is time. According to the law, NHRAPs should be formulated within a year. Legally, the plan only becomes law after approval by the Comptroller’s office. While pending approval, the Undersecretary office cannot disseminate any promotional and educational

material on the plan or disburse resources. This creates unnecessary hurdles. For instance, public employees report progress in their action(s) via a form on the Undersecretary's website. However, until the plan becomes official, the Undersecretary cannot design or update the website, upload the form, or train contact points on navigating the online system.

Bringing together our assessment of each of the necessary conditions for a successful NHRAP, we conclude that none of the three conditions was satisfied in Chile. Table 2 summarizes the arguments of this section within our proposed political economy framework.

Table 2: Testing the NHRAP success hypothesis in Chile.

<i>Hypothesis, conditions</i>	<i>Conditions to be satisfied</i>	<i>Was the condition satisfied?</i>
Political consensus	Is the development and implementation of an NHRAP agreed to be a political priority?	No. Awareness among stakeholders about the Plan and the role of the Undersecretary remains low, preventing officials and public from supporting the plan. While public participation in the consultation process has increased, civil society participation remains low. A majority supports the need for a new constitutional text that more explicitly protects human rights, but no consensus was reached on the proposed constitutional draft.
Political costs and benefits	Do the political benefits of development and implementing an NHRAP exceed the political costs?	No. Paradoxically, Chilean voters rejected a new constitutional text firmly anchored in the protection of human rights after massively approving the drafting of such new constitution. Similarly, the development and implementation of the first NHRAP (and the drafting of a second plan) were delivered by a reluctant Piñera administration, while the Boric administration is cautious about implementing the second plan on the grounds that Piñera watered it down.
Technical capacity	Are the agreed NHRAs being financed and sustainably executed by an able governmental or multistakeholder counterpart(s)?	No. The limited (albeit growing) size of the Undersecretary in charge of NHRAPs in Chile; a highly demanding mandate that requires coordinating among public agencies without enforcement mechanisms; and a cumbersome process for approval and reporting all severely constrain the capacity of the Chilean state to develop, implement, disseminate, monitor and learn from NHRAPs.

Source: Authors

6. Conclusions

NHRAPs are the most comprehensive instrument to encourage states to enshrine human rights in policy, by including all political, civil, social, economic, and cultural rights on a level footing. Nearly 70 such NHRAPs have been developed in the last 30 years, but the evidence as to whether they have been successful, and why (not), remains inconclusive. Rigorous impact evaluations and cost-benefit analyses are routinely applied to financial investments or development projects, for example, but the reviewed evidence base is thin when it comes to NHRAPs. Analyses that identify conditions for success are insightful but lack a systematic way to analyze such conditions.

Given the importance that such studies place on political will, cost-benefit calculations and a participatory consultation process, we develop a political economy approach that systematically identifies critical conditions for successful NHRAP adoption. Under our simple political economy framework, NHRAP will be successfully designed and implemented only if the plan results from a political consensus-building process, the political benefits of implementation exceed the costs, and the state has sufficient technical capacity (mandates, procedures, resources) to implement it.

The successful NHRAP hypothesis is tested in Chile. The country's short history with NHRAPs came soon after the massive rights violations of the Pinochet dictatorship, and unfolded alongside a fresh spate of human rights abuses during mass demonstrations in 2019-20. It also coincided with the drafting of a new constitution that would, if approved, replace Pinochet's constitution, associated by many critics as the foundation of entrenched inequality in Chile 30 years on. Yet we find that Chile fails to meet the necessary conditions: amid deep polarization, it has serious gaps in political consensus building; the political costs of implementing an NHRAP exceed its benefits; and key government bodies in Chile lack the personnel and mandate to implement NHRAPs with real chances of success.

This is not to deny that human rights policies have otherwise become more institutionalized in Chile. Two truth commissions documented widespread Pinochet-era abuses. The draft constitutional text produced in 2022 outlined an expansion of individual and community rights. Two NHRAPs have been formulated in quick succession via administrations on both the right (Piñera) and left (Boric). Yet the Piñera administration approved the first NHRAP only reluctantly amid international pressure, and adjusted the second.

Nevertheless, the Undersecretary has carved out a space amid notable constraints to advance its work. The holding of a specific consultation for children and persons deprived of liberty is a positive step towards including and empowering these communities in the NHRAP. Yet further research on the design, implementation, and outcome of this consultation experience is needed, to determine the conditions under which other vulnerable groups will be chosen for consultation.

In line with previous literature, our framework highlights the role of specific actors in a successful NHRAP process, particularly in achieving political consensus. In Chile, support and scrutiny from the INDH has helped advance the NHRAP, as have international human rights

monitoring mechanisms. Pressure from these stakeholders has created political costs that have forced the government, however reluctantly, to incorporate their requests.

The proposed political economy framework can be replicated beyond Chile and to other human rights policies beyond NHRAPs. Some governments fully engage in policies pursuing the realization of human rights, fighting impunity for human rights violations, and ensuring the inclusion of rights-based principles in their domestic policies. Others ignore them completely, violate human rights, and provide impunity to perpetrators. Which approach a given government takes likely reflects consensus, cost/benefit considerations, and capacity.

In particular, some of the cost/benefit considerations when it comes to policy decisions on human rights include the desire to mobilize supporters, divide the opposition, encourage/discourage the judiciary or legislature from taking independent decisions, preventing social unrest, and complying with international pressure. Context matters too: political regime, proximity to elections, domestic and international financial or political crises, and the presence of separatist or nationalist movements, may all tilt the cost-benefit balance. Which set of benefits dominate likely varies across context, time and specific issues. A political economy framework provides a simple, hypothesis-based way to approach this open question. An area of further analysis refers to process, namely, how countries can advance the delivery of human rights action plans in a more piecemeal fashion when these conditions do not hold (as it is being observed in other developmental agendas such as climate change).

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