

Limits of international treaties to the constituent power? Analysis of the Chilean case

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Abstract

Chile is undergoing a constituent process to replace its Constitution. Within the rules that regulate the process, it is established that the text of the new Constitution must respect the international treaties ratified by Chile. Some authors have pointed out that this rule entails a substantive limit to the process underway. This paper argues that the rule has another constitutional function: to ensure the exclusive dedication of the Constitutional Convention. It does not follow, however, that international treaties - especially human rights treaties - will not serve as a standard or guideline for the process. Such soft approach, which is a way to respect international law, is fully consistent with a democratic version of the constituent power. © 2022 The Author(s) 2022. Oxford University Press and New York University School of Law. All rights reserved. For permissions, please e-mail: journals.permissions@oup.com.

Author keywords

Chile; Chile; constituent process; derecho internacional; international law; limits on the constituent power; límites al poder constituyente; proceso constituyente