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**LEGISLATING PEOPLE INTO EXISTENCE: THE IDEA OF  
CITIZENSHIP IN CHILEAN LEGAL AND POLITICAL THOUGHT  
(1812–1925)**

**ЗАКОНОДАТЕЛЬНОЕ ОФОРМЛЕНИЕ «ЧЕЛОВЕКА»: ИДЕЯ  
ГРАЖДАНСТВА В ЧИЛИЙСКОЙ ЮРИДИЧЕСКОЙ И  
ПОЛИТИЧЕСКОЙ МЫСЛИ (1812–1925)**

*В работе исследуется эволюция идеи гражданства в чилийской юридической, политической и общественной мысли со времени опубликования первой Конституции Чили 1812 г. до ратификации Конституции 1925 г. Рассматриваются события и дискуссии, оказавшие заметное влияние на формирование чилийской национальной идентичности как культурной конструкции. Этот процесс, хотя и является независимым, все же тес-*

*но связан с идеей гражданства как юридической концепцией. Источниковой базой исследования являются многочисленные законотворческие и конституционные документы, а также газеты, памфлеты данного периода, показывающие пути осознания чилийцами идеи гражданства и их опыта соединения национальной идентичности и гражданства.*

This work examines how the idea of citizenship evolved in Chilean legal and political thought from the promulgation of Chile's first constitution by José Miguel Carrera in 1812 to the ratification of the 1925 Constitution under Arturo Alessandri. During this period, new constitutions were enacted in 1818, 1822, 1823, 1826, 1828 and 1833; however, the 1833 and 1925 constitutions were the most enduring and significant. The debates and political conflicts that swirled around these constitutional reforms, especially those relating to the tension between the executive and congressional branches of government, provide a revealing look at how Chileans understood citizenship.

During the period under investigation, Chilean legislators experimented with various notions of citizenship. Philosopher, Juan Engaña, who penned the 1823 Constitution, proposed an idea of citizenship that was moralistic and philosophically abstract. While the 1823 Constitution was ultimately abandoned because of its perceived paternalism and concerns over its impractical enforcement, Engaña's quest to add a social conscience to the Constitution reflected at least one strand of Chilean thought that viewed citizenship in legal as well as moral terms, for the two are not always coincident.

The 1833 Constitution made Catholicism the official State religion. For decades this was a bone of contention for many Liberals and when the Constitution was rewritten in 1925, an establishment clause was inserted. Another distinguishing feature of the 1833 Constitution was its glaring omission of constitutionally protected norms of criminal procedure. This reflected the

conservative but stable character of the Constitution and the era that it governed. During this period, due process, the right to confront one's accuser, the right not to be arbitrarily detained, and other criminal procedure rights found in many western constitutions were enacted or repealed simply by majority legislation.

The 1833 Constitution clearly reflected a system that valued the security and stability of the nation over individual rights. This attitude in Chilean constitutional history changed with the 1925 Constitution. It is curious, however, that many owe Chile's historic economic and political success (the Pinochet era aside) to the 1833 Constitution. It has been argued that this document provided a stable and orderly environment in which nation-building could take place. This phenomenon was absent in most other Latin American countries at the time. Whether or not one subscribes to this theory, it is a celebrated national myth that has shaped Chilean national identity. Many Chileans see themselves as unique in Latin America for their predisposed respect for law and order.

The primary architect of the 1925 Constitution, President Arturo Alessandri, sought to correct the 1833 Constitution's individual rights deficiency. He entrenched fundamental rights and freedoms including criminal procedure rights and property rights and made it impossible for the President to dissolve Congress. Where the 1833 Constitution envisioned an overly powerful and patriarchal Executive branch, the 1925 Constitution returned power to the masses by putting Congress on an equal footing, not quite implementing American style checks and balances, but something very close to it.

During the period under investigation there were many external and internal events that influenced the development of Chilean national identity, a process distinct but intimately tied to the idea of citizenship, the latter being a juridical concept and the former being a cultural construct. Chile's long history of war and production popularized the national myth that Chile was a nation of warriors, entrepreneurs and diplomats. Drawing on Social Darwinism and Positivism, these myths even adopted a racial dimension leading some Chileans to believe in their nation's racial uniqueness.

In addition to legislative and constitutional documents, this work relies on newspapers and pamphlets of the era to illustrate the ways in which Chileans perceived competing notions of citizenship. These documents tell a story of how Chileans married national identity with citizenship. The connection between these two ideas takes different forms throughout the period under investigation.

This work is an important contribution to Latin American history, legal history and more importantly to the study of citizenship. In recent years, globalization and concerns over corporate responsibility have generated new interest in the ideas of diversity, pluralism and citizenship particularly amongst legal scholars and political scientists. As the idea of citizenship goes through exciting changes, people are becoming more interested in its history and experience in different parts of the world. This work adds to that growing literature by offering a Latin American, historico-juridic perspective.