

*Constitutional Renewals:
The Lineage of Democratizing Constitutions*

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Abstract

New constitutions are often created to inaugurate or deepen democracy, yet their effects vary widely. Using an original global database of 128 constitutional renewals from 1900 to 2020, we examine how constitution-making features influence democratic institutional design and enforcement, focusing on three key aspects: plural approval by competing political forces, citizen consultation mechanisms, and popular participation through referenda. We argue that processes requiring politically plural approval and enabling direct citizen participation produce constitutions that simultaneously restrain executive power, expand citizen rights, and empower democratic majorities. Difference-in-differences analyses show that plural processes lead to constitutions with stronger executive constraints, greater legislative powers, and broader civil rights. Citizen consultation also promotes the formal expansion of rights. The effects of constitution-making modalities are generally stronger on formal design than on enforcement, though plural approval enhances effective horizontal accountability, and referenda promote more frequent use of direct democracy mechanisms post-enactment. In the long run, constitutional implementation depends on the strength of political opposition and civil society organizations.

1 Introduction

New constitutions are often created to inaugurate or deepen democracy, yet their effects vary widely. During regime transitions, some constitutions break with the authoritarian past and establish enduring liberal democracies; others, however, give rise to fragile electoral democracies that experience erosion or breakdown within a few years. Similarly, in existing democracies, constitutional replacement has at times helped overcome deep representation or governability crises, while at other times has paved the way to autocratization. When do constitutional renewals foster democracy?

We argue that variations in constitution-making modalities significantly impact both constitutional design and enforcement post-enactment, thereby shaping the prospects for democratization through constitutional change. We identify two key dimensions of variation in constitution-making. First, while some processes require approval of the new constitution by representatives of competing political forces—thus involving elite deliberation and bargaining—others are dominated by majoritarian political movements or authoritarian actors. Second, whereas some cases restrict the drafting and approval phases to political elites, others allow citizens to engage directly through participatory channels. These channels include consultation mechanisms such as public hearings and proposal submissions, as well as voting in referenda at different stages of the process, typically for constitutional ratification.

We propose that democratizing constitutions are more likely to emerge from constitution-making processes that involve the endorsement of representatives from competing political forces and direct citizen participation. When agreement among diverse political actors is necessary, negotiating parties seek rules that enable effective decision-making when in power while also protecting their rights and competitive opportunities when in opposition. The resulting institutional

framework allows democratic majorities to govern without excessive countermajoritarian constraints while incorporating checks on executive overreach and broad civil and political rights. Direct citizen involvement further strengthens rights protections by empowering citizens to advocate for their interests and incentivizing political elites to adopt provisions that enhance social buy-in. These design features are crucial for constitutions to serve as effective democratic coordinating devices.

Constitutional bargains, however, are vulnerable to ex-post opportunism. As political actors and circumstances change, future incumbents may renege on the original agreements, either openly or subtly. We argue that a constitution originating from a politically plural settlement can enhance short-term enforcement, as the initial distribution of power and balance of forces that facilitated a pluralistic agreement tends to remain stable in the early years of a constitution's lifespan. In the long term, however, we expect constitutional enforcement to depend on factors external to the constitution-making process, such as a balanced distribution of electoral power between government and opposition, as well as the strength of independent civil society organizations.

Our empirical analysis supports these arguments. Using an original global database of 128 episodes of constitution-making from 1900 to 2020 and a difference-in-differences approach, we find that plural political approval produces constitutions with stronger executive constraints, greater legislative powers, and expanded civil rights. Direct citizen participation through consultation further enhances rights protections. We also find that a politically plural origin strengthens the enforcement of limits on executive power. In turn, direct citizen participation in constitution-making, especially through voting, leads to increased use of direct democracy

mechanisms post-enactment. Nonetheless, the strength of the political opposition and civil society organizations appears to have the greatest impact on long-term adherence to the constitution.

Our theory and findings contribute to the literatures on constitutional political economy, comparative constitutional politics, and democratic institutions in two significant ways. First, unlike previous studies that focus exclusively on constitutional choice or constitutional enforcement, we advance a unified theoretical framework that links constitution-making processes to both institutional design and enforcement. By tracing how plural political approval and citizen participation shape both the choice of institutions and their subsequent effectiveness, we provide new insights into the conditions for creating and sustaining democratic orders.

Second, we test these relationships using an original dataset and a causal identification strategy that significantly improve upon existing studies. By focusing on constitutions adopted or in force during democratic years, our analysis ensures meaningful comparability while maintaining comprehensive historical and regional coverage. By implementing rigorous methods for causal inference, we provide credible evidence about the effects of constitution-making features on democratic institutional design and implementation.

2 Modalities of constitution-making, constitutional choice, and democracy

This section develops a theory of democratizing constitutional designs, understood as institutional arrangements that simultaneously protect citizens and opposition groups from arbitrary power, expand rights, and empower democratic majorities to govern effectively. We then outline hypotheses regarding the emergence of these designs and their effective enforcement beyond the constitution-making phase.

The relationship between institutional design and democratic stability remains contested.

While an influential literature long suggested that parliamentarism enhances democratic durability, recent studies find no systematic evidence for this claim (see Hicken et al., 2022). Research on power-sharing institutions—including proportional representation, bicameralism, judicial review, and federalism—yields similar mixed results. Though some argue these arrangements foster democratic consolidation (Lijphart, 1999; Norris, 2008), others find that only institutions protecting ordinary citizens and vulnerable groups, rather than rigid systems of mutual vetoes, consistently support democratic outcomes (Graham et al., 2017).

These mixed findings have led some scholars to conclude that formal constitutional design has limited impact on democratization (see Alexander, 2001; Eisenstadt et al., 2017, 604). However, this view overlooks the capacity of constitutions to establish clear standards of behavior and structure incentives in ways that support a democratic order. The concept of constitution as a self-enforcing convention captures this dynamic. Under this framework, constitutions serve as focal points and coordinating devices enabling citizens to detect and mobilize against democratic transgressions, thereby incentivizing incumbents to respect institutional constraints (see Hardin, 1989; Ordershook, 1991; Weingast, 1997). Critical to this coordinating function is the establishment of explicit and clear limits on executive power.

Although separation-of-powers frameworks can be traced back to the origins of constitutionalism, not all democratic constitutions impose clear constraints on the executive. In Latin America, for example, many constitutions have historically granted executives discretionary powers to enact laws or suspend rights during economic or political emergencies. These prerogatives have persisted even during democratic periods (see Loveman, 1994). Such provisions have advantaged incumbents over opposition forces, facilitated covertly undemocratic behavior, and undermined citizens' ability to coordinate against the arbitrary use of power. As a result, these

constitutions have struggled to foster self-enforcing democracies.

Executive constraints alone, however, are insufficient to sustain a lasting, self-sustaining democratic equilibrium. While they serve as critical reference points for monitoring incumbents and preventing tyranny, governments must also be able to avoid paralysis and effectively respond to voter demands (see Mueller 1996). In a constitutional democracy, this means that legislative majorities must be able to make authoritative decisions without undue roadblocks. Excessive minority vetoes can block broadly supported decisions, undermining democratic legitimacy and potentially prompting incumbents to bypass the constitution. Thus, extreme power-sharing arrangements with multiple veto points may compromise, rather than reinforce, democratic order over the long run (see Levitsky & Ziblatt, 2025).

A similar logic applies to citizen rights. For constitutions to sustain democracy, they must protect both negative and positive rights. Like formal executive constraints, basic civil rights—including freedoms of expression and assembly, due process, and property rights—constrain incumbent power and provide focal points for collective action against government overreach. However, equally important are positive participatory rights, such as the right to vote, to petition, propose initiatives, or demand that fundamental decisions be subject to popular vote. These rights enable citizens and opposition groups to influence decision-making through institutional channels while helping align government policy with the views and interests of democratic majorities.

In sum, constitutions that work as effective coordinating devices in a democratic regime must balance four major elements: constraints on executive power, protection of civil liberties, majority rule, and citizen participation. Such constitutions reconcile democracy's liberal dimension, which emphasizes power constraints and negative liberties, with its majoritarian and participatory dimensions, which stress effective majority rule and citizens' right and potential to

act politically (see Held, 1987; Coppedge & Gerring et al., 2011).

What conditions produce constitutions with these democratizing features remains a crucial question. While international factors and the diffusion of constitutional ideas matter (e.g., Elkins, 2010), they logically operate through domestic political actors making choices in specific national contexts. Therefore, focusing on the process through which a constitution emerges and the actors who negotiate it is a plausible starting point for exploring the genesis of basic political institutions and the sources of their variation. If constitutional origins matter at all, they should matter in shaping the institutional design that structures democratic political life immediately after enactment (see Ginsburg, Elkins, & Blount, 2019).

Expanding on prior research, we argue that constitutions that both constrain executive power and enable majority rule emerge from politically plural constitution-making bodies where power is dispersed among representatives of different social interests and no single force can unilaterally dictate institutional choices (see Negretto and Talanquer, 2021). In this situation, negotiating elites representing opposite political camps are likely to settle on a set of basic executive constraints that render the constitution minimally acceptable when they lose elections. At the same time, when at least some of the negotiating parties anticipate alternating in government under competitive conditions, reformers are also likely to agree on institutions enabling democratically elected governments to govern without undue vetoes. Thus, a balance of forces during constitutional negotiations produces democratizing institutional designs that reconcile mutual guarantees with effective majority rule.

This balancing dynamic breaks down when constitution-making is controlled by a single organized actor, whether an executive commission appointed by the incumbent or a majority party. If this actor expects to be a permanent minority or is uncertain about its ability to compete in

democratic elections, as is often the case with outgoing authoritarian elites, it will tend to establish veto powers that entrench the interests of privileged minorities and hinder majority rule. Conversely, if the political force with unilateral control over constitution-making enjoys the support of a strong electoral majority, as is typically the case with a dominant democratic party, it will tend to establish weak constraints on executive authority and lock in competitive advantages, at the expense of the interests of the political opposition. In both scenarios, the absence of pluralistic negotiation and deliberation hinders the adoption of institutions critical to a democratic political order.

Our argument builds on foundational works on democratization that identify elite constitutional compromises as critical for establishing liberal democratic institutions (see Rustow, 1970; Dahl, 1971). However, unlike these works, we do not assume that these compromises will be enforced in the long term. Our analysis also aligns with Buchanan and Tullock's (1961) idea that the larger the number of actors deciding on constitutional rules, the more likely those rules are to protect the interest of all. We depart from their view, though, by arguing that agreement among the main contending political groups, rather than unanimous consent, is sufficient and indeed preferable: strict unanimity can undermine democracy by incorporating excessive minority vetoes that nullify majority rule.

Our conception of political pluralism in the constitution-making process differs from the concept of 'inclusion' commonly used in the literature on constitutional creation. Scholars often employ this term ambiguously, counting the number of participants without distinguishing between the types of actors—whether political or social, elite or citizen. For example, Carey (2009) defines inclusion by the number of participants, including citizens in referendums, while Elkins et al. (2009) focus on the breadth of participation, whether from political parties, interest groups, or

the public. Eisenstadt and Maboudi (2019), in turn, use the term 'group inclusion' to refer to the sheer number of groups, both social and political, that take part in a constitution-making process.

We offer a more precise framework that distinguishes between elite-level political pluralism and citizen participation. We also contend that the key aspect of a plural constitution-making process is not just the number of actors involved, but whether political groups must reach an agreement to pass the constitution. A constituent body may include many actors but depending on the balance of power and decision-making rules, only a few or one may control the drafting. We therefore agree with Horowitz (2021), who asserts that inclusion matters only if consensus or compromise among politically diverse constitution makers is necessary. This emphasis on structured political pluralism leads to our first hypothesis about institutional design:

H1: Constitution makers are likely to increase institutional constraints on the executive and empower legislative majorities when the drafting process requires negotiation and deliberation among representatives of contending political forces.

While plural approval can be expected to shape the allocation of institutional powers, different dynamics likely drive the expansion of rights. An agreement among contending political forces may include basic liberties, such as freedom of assembly, which work as safeguards for the opposition. Yet, it is not apparent why such an agreement would include rights of direct citizen participation, which parties expecting to control the legislature may resist. The expansion of rights may also respond to broader historical trends and legitimacy concerns. Indeed, since World War II, constitutions have consistently expanded their protection of civil, political, and socio-economic rights (see Law & Versteeg, 2013; Jung, Hirschl, & Rosevear, 2014; Elkins & Ginsburg, 2022).

One feature of constitution-making that is likely to be decisive for rights expansion is direct citizen involvement in the drafting and approval phases. When enabled, citizens can use these

participatory channels to press reformers to add new rights. Implementation of participatory mechanisms has increased over time, as contemporary norms of democratic constitution-making emphasize public participation (Hudson, 2021). However, it remains uneven, shaped by factors like prior social mobilizations and political parties' relative need to enhance legitimacy.

Existing work has already linked direct citizen involvement in constitution writing to rights expansion (see Samuels, 2006; Elkins, Ginsburg, & Blount, 2008; Ginsburg, Elkins, & Blount, 2009; Voigt, 2004). However, this literature often overlooks how the broader political context shapes the impact of citizen participation. Since political elites control the terms under which citizens engage in constitution-making, they always hold significant power to mold the outcomes of citizen participation. Nevertheless, elite control over participatory mechanisms is high under autocratic regimes but diminishes significantly during democratic transitions or within democracies—the institutional contexts examined in this study.

When citizens and civil society organizations have greater political autonomy, they can use public consultations and proposal submissions to effectively advocate for expanded rights. Reformers who enable citizen participation—whether due to social pressures or legitimacy concerns—will become at least somewhat constrained by citizens' demands. Similarly, when incumbents lack control over the outcome of a referendum to promulgate the constitution, this incentivizes rights expansion to secure popular approval. Based on this argument, we propose the following hypothesis:

H2: Constitution makers are likely to expand civil rights and liberties and incorporate direct democracy mechanisms into the new constitution when the drafting process involves direct citizen participation.

The preceding hypotheses link specific constitution-making features to institutional

outcomes that can support democratic governance. However, one cannot assume that institutions that appear conducive to democratization on paper will achieve this in practice (see Law & Versteeg, 2013; Ginsburg & Huq, 2016; Chilton & Versteeg 2020; Voigt, 2021). To enhance enforcement, constitution makers can incorporate clear procedures and specific mechanisms for detecting and punishing constitutional violations. Nevertheless, ambiguous provisions and evolving social interpretations often allow incumbents to subvert constitutional principles while maintaining formal compliance (see Vanberg, 2011).

To what extent do constitution-making features influence the effective implementation of constitutions after enactment? There are reasons to think that a plural agreement among contending political forces at the genesis of constitutions may have positive effects on their effectiveness, particularly during the early years after enactment. When diverse societal interests, through their representatives, cooperate in constitution-making, they develop enduring stakes in constitutional enforcement.¹ This, in turn, strengthens the credibility of initial commitments (see Horowitz, 2021).

The actors who secured a politically inclusive constitutional agreement typically maintain significant influence for some time after the process concludes. Most constitutions are adopted by legislatures that continue as regular law-making organs after enacting a new text (see Negretto, 2017). Thus, if political power was dispersed in this body at the time of drafting and approving the constitution, this dispersion generally persists through the early implementation phase. During this period, opposition parties are likely to retain sufficient strength to induce incumbents to comply with constitutional commitments regarding government powers and citizens' rights, through both institutional channels and social mobilization.

¹ Elkins et al. (2009) make a similar argument for constitutional endurance.

Some scholars argue that citizen involvement in constitution writing may enhance enforcement by raising public awareness of constitutional norms (see Widner 2008: 1516). This idea is intuitively plausible; however, awareness alone does not guarantee the collective action needed to deter violations by incumbents. Popular engagement in constitution writing represents episodic, structured participation, which does not ensure sustained capacity for autonomous social mobilization. This leads to the following hypothesis:

H3. The enforcement of democratizing constitutions in their early years depends primarily on whether they emerged from a plural agreement among contending political forces.

Over time, constitutional effectiveness cannot rest solely on founding conditions. The political leaders who crafted the original agreement will gradually exit the political stage and lose influence (see Albertus & Menaldo, 2018). Political organizations involved in the constitution's creation will face shifting fortunes, while new parties potentially hostile to the initial settlement may emerge. Even the social movements that originally demanded constitutional change will eventually wane.

Sustained enforcement of constitutional provisions—whether executive constraints, civil liberties, or participatory rights—requires organizations capable of coordinating collective action. Strong opposition parties and coalitions with substantive institutional influence are crucial for dissuading constitutional breaches by powerholders and for activating available monitoring and sanctioning mechanisms when violations occur. Still, a balanced distribution of electoral and institutional power between incumbents and opposition parties may not be enough.

Because incumbents can use their power to manipulate or erode institutions, opposition parties must remain able to mobilize their support bases and forge alliances with civil society to

resist constitutional transgressions. When political parties themselves face declining electoral support and lose social legitimacy, only robust and inter-connected civil society organizations can coordinate citizens in defense of their rights and the constitution (see Della Porta, 2020). As Acemoglu and Robinson (2019) argue, without a mobilized society, constitutions are not worth much more than the parchment they are written on. In the end, both a strong political opposition and an autonomous civil society work as countervailing political and social powers that facilitate continuous constitutional enforcement in an open social order where democracy can flourish (see North, Wallis, & Weingast, 2009). Thus, in the long term, constitutional effectiveness depends more on enduring opposition and civil society strength than on constitution-making features at the founding.

In sum, we identify two critical conditions for democratizing constitutions: plural political representation and approval and direct citizen involvement in constitution-making. Of these, a plural agreement is the crucial feature for early enforcement. Yet long-term effectiveness requires maintaining robust opposition forces and civil society organizations as countervailing powers.

3 The making, design, and implementation of constitutions around the world, 1900–2020

To test our arguments about the relationship between constitution-making features and constitutional outcomes, we constructed the *Comparative Constitution-Making Database*. This dataset covers constitutions adopted worldwide between 1900 and 2020. It includes all constitutions adopted during democratic years in independent countries with populations over one million and those that, though adopted under authoritarian rule, governed democratic systems for

most of their legal lifetime.² Thus, most constitutions in our database were adopted either on or after the inauguration of democracy, or during a transition from autocracy to democracy.³ The total number of constitution-making processes is 135, of which we were able to fully code 128.⁴

For each constitution, we code comprehensive data on the formal and political features of its creation process, focusing on factors that might have affected its design and future implementation. These include the regime context (democratic, authoritarian, or transitional), the legality of the process, constitution-making body characteristics, decision rules, the political groups represented, and direct citizen participation mechanisms.

Our database improves upon existing datasets, which are each limited in particular ways. Some focus exclusively on specific contexts, such as post-conflict settings (Widner 2008), or cover only recent decades (Eisenstadt, Levan, and Maboudi 2017). Others primarily code a limited set of formal rules, such as the type of constitution-making body, and the constitution's mode of adoption (Ginsburg, Elkins, and Blount 2009; Wheatley and Mendez 2013). While valuable, these databases also group constitution-making processes from both authoritarian and democratic contexts, mixing constitutions meant to regulate authoritarian regimes with those intended for democratic governance. Except for Ginsburg, Elkins, and Blount's (2009), most also lack clear coding criteria to distinguish constitutional amendments from wholesale replacements. By contrast, our dataset is broad in scope, rich in detail on constitution-making features, and follows clear, conceptually grounded criteria for case selection.

² The only exception is the inclusion of Iceland's 1944 constitution.

³ Transitions were generally negotiated or imposed, and a few took place after a revolution. For the impact of revolutions on constitutional design and democracy, see Callais & Young (2024).

⁴ As we explain in the next section, the number of observations in the database is much larger than the number of constitution-making processes because our analysis considers country trajectories before the initiation of constitution-making and after the enactment of the new constitution.

Our database begins with a careful selection of constitutions, defined as the highest law of the land whether formally titled as a constitution or given another name (such as Sweden's 1809 Instrument of Government). We focus on constitutional replacements rather than amendments, defining the former based on two criteria: an explicit declaration of the revision as a new constitution by its drafters, and recognition of the text as such in official sources. To determine whether a constitution was adopted or implemented in democratic years, we use Boix, Miller, and Rosato's (2022) dichotomous coding of democracy, extending their criteria to fill gaps in coverage. Country-years are coded as democratic if the majority of the male population was enfranchised and the executive and legislature were elected in free and fair elections. However, we also consider that a constitution was adopted in a democratic year if the constitution-making body was selected in an election broadly considered as free and fair.

Two variables in the database, essential for our analysis, capture whether constitution-making is pluralistic at the elite level and participatory at the citizen level. These variables differentiate between citizens' indirect influence in constitution-making through their representatives and their direct engagement in the process through electoral (referenda) and non-electoral mechanisms. Table A1 in the Electronic supplementary material (ESM from now on) provides an overview of how cases in our sample are distributed across these two dimensions and various world regions.

We consider the founding constitutional agreement to be politically plural when two conditions are met: 1) two or more independent political parties or groups are represented in the constitution-making body, whether through elections, appointments, or mixed selection methods; 2) collaboration between at least two of these parties or groups was required to determine the constitution's content and enact it, based on the seat share of each party or group and the decision

rule governing the constitution-making body. This indicator is factual rather than formal and restricts plural origins to cooperation among representatives of distinct, organized political groups with genuine bargaining and voting power, regardless of whether other social groups without such power are included in the process. Our measurement thus differs from other approaches that assess 'inclusion' based solely on the number of social and political groups represented, without considering their actual influence (see Eisenstadt & Maboudi, 2019).

Note also that a constitution-making process can be politically plural not only in democratic but also in authoritarian years. The latter occurs, for instance, when representatives of the outgoing authoritarian regime negotiate the new constitution with the democratic opposition during a transition to democracy. Our criterion thus differs from the approach of Albertus and Menaldo (2018), who classify constitutional origins based solely on whether a democratic or authoritarian regime was in power in a given year, without examining the specific constitution-making modality actually employed (plural or non-plural). According to our measurement, 71 of 128 constituent processes in our dataset (55%) are coded as plural and 61 (45%) as non-plural.

As regards direct citizen involvement, we distinguish between non-electoral and electoral forms. Non-electoral channels may include collective deliberation forums held prior to the reform process to shape the agenda, as well as reform proposals or comments submitted by ordinary citizens and civil society groups during the writing and approval stages. Electoral channels consist of constitutional referenda, which may occur either before or after the drafting process. In the former case, voting is used to decide on a particular matter (e.g., whether the constitution should be monarchic or republican), while in the latter, a popular vote ratifies or rejects the new text after approval by a representative body.

Citizen participation through both electoral and non-electoral mechanisms took place in 75

(59%) cases. Most (66) occurred after 1950, confirming a trend toward greater participatory constitution-making over time. However, many processes (53) relied solely on representative mechanisms, with 26 cases before 1950 and 27 afterward. Among participatory processes, we observe 56 instances of either public consultation or voting. Although citizen consultation and voting are sometimes used together (in 19 processes), the correlation between these forms of participation is weak and not statistically significant, supporting the decision to treat them as distinct variables.

4 Research Design and Empirical Strategy

To test the hypotheses listed above, we adopt a difference-in-differences identification strategy that exploits longitudinal variation in constitutional design and enforcement. Our design addresses a fundamental inferential challenge in evaluating constitution-making effects: the potential endogeneity of process features to preexisting conditions or trends that might also explain institutional choices and their enforcement.

Our unit of analysis is the constitution-making process. For each process feature or “treatment” (plural approval by distinct political forces, citizen consultation mechanisms, or popular participation through referenda), we compare outcomes between processes with and without that feature. The control group consists exclusively of processes lacking the respective feature (never-treated units). The process is considered to begin with the election or appointment of a constitution-making body and end with the legal promulgation of the new constitution. Each unit is observed in a 20-year window: the ten years before the process begins and the ten years

after the new constitution is adopted.⁵ This extended timeframe enables us to study both the choice and implementation of constitutional provisions, while also accounting for potential trends that may lead to replacement.

Our identification strategy proceeds in three steps. First, we estimate DiD models treating each constitution-making feature as a separate treatment and using the full sample. Second, we address potential confounding from multiple treatments through restricted sample analyses. Third, we examine dynamic effects and test the robustness of our main results through event studies that account for potential heterogeneous treatment effects across treatment cohorts. Our core models follow this structure:

$$Y_{it} = \alpha + \beta_1 \text{process feature} + \beta_2 \text{period} + \beta_3 (\text{process feature} \times \text{period}) + \gamma X_{it} + \delta_i + \delta_t + \epsilon_{it},$$

where i indexes constitution-making processes and t indexes years relative to the beginning and end of the process. The coefficient β_3 captures the effect of having a specific constitution-making feature. *Period* represents an indicator equal to zero for years before the process begins and equal to one for years after constitutional approval. δ_i denotes constitution-making process fixed effects accounting for time-invariant characteristics. δ_t comprises year-in-the-process fixed effects capturing any common shocks affecting units at each point in their process. The outcome variable Y_{it} represents institutional measures for process i in year t , reflecting various aspects of formal constitutional design and enforcement, as detailed below.

Our fully specified models include controls to account for potential confounding. X_{it} represents time-varying covariates, including the age of democracy, GDP per capita (logged), and

⁵ The years between process initiation and constitutional approval are excluded, as they represent the transition period during which institutions are being negotiated and designed and thus cannot be clearly classified as pre- or post-treatment.

population size (logged). In addition, we add interactions between previous regime type (a constant pre-treatment characteristic) and the *period* indicator. These interactions account for potential selection into treatment and heterogeneous post-constitution trends in outcomes based on the type of political regime anteceding constitution-making.⁶

Finally, we identify five global waves of constitution-making (1900-1919, 1920-1945, 1946-1973, 1974-1989, 1990-present) and add historical-wave fixed effects in our main specifications. Constitution-making standards have varied over time due to shifting global norms, geopolitical conditions, and other historical factors. These shifts in the global-historical environment may also shape institutional choice and the enforcement of constitutional provisions across historical periods. Historical-wave fixed effects help remove potential confounding of the treatments (constitution-making features) from these broad historical trends.

Below, we present results from models using the full sample and where a single feature separates treatment and control groups (e.g., plural approval vs. not). These rest on the standard common trends assumption: counterfactually, in the absence of treatment and conditional on the covariates, units with the constitution-making feature under examination would have experienced the same trends in outcomes as those observed for units without it.

Two potential concerns arise in our empirical analysis. First, treatment effects might be dynamic and vary across processes occurring at different historical times in ways that are not well-captured by the wave-fixed effects (i.e., heterogeneity across cohorts, due to the staggered nature of the treatment). Second, in the models below, which compare cases with and without a given

⁶ The type of regime prevalent before constitution-making may affect the probability of adopting specific constitution-making features and, simultaneously, shape institutional choice and enforcement. The interactions remove this potential source of confounding, thus helping isolate the effects of constitution-making features. We code pre-constitution-making regime type using Cheibub, Gandhi, and Vreeland's typology (2010), which distinguishes between parliamentary democracies, mixed semi-presidential democracies, presidential democracies, civilian dictatorships, military dictatorships, and royal dictatorships. We added a category for independence constitutions adopted in formerly foreign-occupied polities.

constitution-making feature (e.g., plural vs. non-plural approval) using the full sample, each treatment and control group includes units with different combinations of the other constitution-making features.⁷ Table A3 in the ESM details the eight groups resulting from different combinations of constitution-making features and the number of units in each.

To address these concerns, we implement two complementary analyses. First, we complement our DiD analysis with event studies employing Sun and Abraham’s (2021) interaction-weighted estimator, which considers dynamic treatment effects and formally accounts for potentially heterogeneous effects across historical cohorts. Event studies are presented in Figures A1 to A6 in the ESM, and our discussion of results incorporates their key takeaways. Second, following Roller and Steinberg (2023), we run models on restricted subsamples where treatment and control groups differ in one and only one constitution-making feature at a time.⁸ Tables A4 to A7 in the ESM present results from these additional analyses, which rest on amended parallel trends assumptions. While this method enables cleaner identification, it reduces sample size, potentially lowering statistical power. Therefore, we base our main conclusions on the full-sample models, noting that results are generally robust to the restricted sample approach.

4.1 Measuring Outcomes: Constitutional Design and Enforcement

We examine two sets of outcome variables: measures of formal institutional design and indicators of post-enactment enforcement. To probe the association between the modality of

⁷ For example, when identifying effects of a plural vs. non-plural approval, some cases in the “treated” plural group jointly allowed for direct citizen participation while others did not. The same occurs in the control group.

⁸ This adjusted difference-in-differences approach involves two types of comparisons to identify individual treatment effects, neutralizing other simultaneous treatments: a) comparing units exposed exclusively to one constitution-making feature against units with no features (conventional DiD); b) comparing units exposed to the feature of interest plus others against units with the exact same combination of features, except for the feature of interest (adjusted DiD). Under a modified common trend assumption, the approach in b) identifies the average treatment effect on the treated (ATET); with additional common trend assumptions and additive (i.e., non-interactive) treatments, it also identifies the average treatment effect (ATE). See Roller and Steinberg (2023).

constitution-making and institutional choice, we begin by assessing the strength of formal executive constraints and the formal power of the legislature.

Executive constraints fall into three dimensions that define the powers of chief executives (heads of government or heads of state sharing government powers): electoral, governmental, and legislative. In the electoral dimension, constraints vary from minimal, where the chief executive is independently elected with no term limits, to maximal, where the legislature elects the executive, imposing term limits. Chief executives may also have the authority to appoint and dismiss cabinets at discretion or be constrained by the legislature's exclusive or concurrent power to do so. In the legislative dimension, chief executives may possess the power to initiate, decree, and veto legislation, or they may lack any of these powers.

Based on these dimensions, we created a formal executive constraints index ranging from 0 to 10, drawing on information from the Comparative Constitutions Project (CCP), the Varieties of Democracy (V-Dem) database, and our own analysis of national constitutions. The formal powers of the legislature were measured using an index score drawn from the CCP, ranging from 0 to 1, with higher scores indicating a more powerful legislature.

We then examine how constitution-making influences formal citizen rights. First, we focus on civil rights and liberties, constructing an index ranging from 0 to 53 that matches the V-Dem's civil liberties index with the corresponding rights of the CCP database. Second, we consider the mechanisms for direct citizen participation included in constitutions. To do so, we combine, in a single variable, different provisions regulating citizen initiatives for legislation, citizen referendums (activated through a citizen petition process to place on the ballot laws approved or discussed by parliament), and plebiscites (activated by the legislature and/or the executive). It derives from the addition of the variables on initiatives, referendums, and plebiscites from the V-

Dem database, and ranges from 0 to 6, where 0 indicates that no instrument is allowed by law and 6 that all are allowed and lead to binding outcomes.

To gauge the practical implementation of institutional arrangements after the enactment of the new constitution we examine several outcome variables that align with the design features just outlined. We rely on two variables to measure *de facto* implementation of the formal distribution of powers. First, we use Polity V's executive constraints index, which measures the extent to which the decision-making powers of chief executives are limited by other branches of government or influential political groups. The original variable is an ordinal scale ranging from 1 to 7. We then use V-Dem's horizontal accountability index, a continuous variable that ranges from 0 to 1 and captures the extent to which the legislature, the judiciary, and autonomous agencies can oversee the government and make it accountable in practice.

Finally, we assess the implementation of citizen rights and mechanisms of direct popular participation using the V-Dem's civil liberties index and an index measuring the utilization of direct democracy mechanisms, respectively. The first ranges from 0 to 1 and captures the extent to which formal personal integrity rights and civil liberties are observed in practice. The second index measures the easiness with which each of three different direct democracy institutions—citizen initiatives, plebiscites, and referenda—are initiated and approved. An individual index that receives a maximum score of two is available from V-Dem for each mechanism. By adding the three scores, the resulting index ranges from 0 to 6.

To ease the interpretation of coefficients and the comparability of effect sizes, we have standardized all these variables so that they range from negative to positive, with a mean of zero and a standard deviation of 1. Table A2 in the ESM provides descriptive statistics.

4.2 Treatment Variables: Constitution-Making Features

Following our theoretical argument and identification strategy, we code three constitution-making features as treatment variables. We measure representative pluralism in constitution-making using an indicator that equals 1 when constitutional approval required support from two or more independent political parties or groups, and 0 when a single political force (e.g., an executive commission or a dominant party) could pass it unilaterally. This is a factual measure based on the composition and decision rules of constitution-making bodies.

The two other treatment variables capture different forms of direct popular participation, which can take place through electoral and non-electoral mechanisms. The latter are captured using a dummy variable (citizen consultation) that takes the value of 1 if ordinary citizens were involved in the formulation, discussion, or submission of reform proposals at any stage in the process. The voting alternative is measured through a dummy variable (citizen voting) coded as 1 if citizens participated in popular referendums either at the beginning or at the end of the process.

4.3 Additional Factors in Constitutional Enforcement

While our DiD strategy identifies the causal effects of constitution-making features, our theoretical framework emphasizes that constitutional enforcement also depends on ongoing political and social conditions. Specifically, we argue that the durability of initial commitments hinges on the continued strength of political opposition and civil society organizations. We therefore include two additional time-varying factors in our enforcement models.

First, we measure the resilience of the political opposition using electoral competitiveness. The variable is derived by subtracting from 100 the percentage of votes received by the most-voted party in the most recent parliamentary election or by the winning candidate in presidential

elections.⁹ It serves as a proxy for the balance of forces between contending political camps over time. Second, we include the “core civil society index” from V-Dem to capture the robustness of civil society. It is coded yearly from 0 to 1 and reflects the number of civil society organizations, citizens’ participation within them, and the degree of government control or repression of these organizations. While we cannot make strong causal claims about these factors, their inclusion helps assess our argument about the sources of constitutional enforcement while testing whether constitution-making features retain an independent influence in the post-enactment period.

5 Results¹⁰

Tables 1 and 2 present the results for formal constitutional design, while Tables 3 and 4 show results for post-enactment enforcement. For each outcome, we estimate three separate models, each using a single constitution-making feature as the treatment variable. We present results from fully specified models only, though results remain stable without covariates.¹¹

In the ESM, we present two sets of analyses that demonstrate the robustness of our findings. First, following Roller and Steinberg (2023), we address potential confounding from multiple treatments by restricting the estimation samples so that only one constitution-making feature varies across treatment and control groups. Second, we conduct event studies using Sun and Abraham’s (2021) interaction-weighted estimator to account for potential treatment effect heterogeneity across historical cohorts. As shown in Figures A1-A8 in the ESM, these analyses reveal clean pre-trends, supporting the parallel trends assumption, while allowing us to examine dynamic treatment

⁹ It comes from Vanhanen (2016). For most recent elections not included in Vanhanen’s dataset, we computed the indicator using official elections results. We standardized this variable with a mean of zero and a standard deviation of 1.

¹⁰ Replication data is available at <https://doi.org/10.7910/DVN/YXXIOD>

¹¹ For baseline models estimated in the full sample and including constitution-making process and year-in-the-process fixed effects and no covariates, see column 1 in Tables A4, A5, and A6 in the ESM.

effects.

The main finding regarding institutional powers is that plural approval is associated with both stronger formal constraints on the executive and a more powerful legislature. When two or more distinct political forces collaborate in constitution-making, we observe a 0.67 standard deviation increase in formal executive constraints and a 0.68 standard deviation increase in the powers of the legislature (Table 1), as predicted by H1. Event studies show these effects are immediate and persist throughout the observed post-constitution period (Figure A1, ESM).

Importantly, these effects do not come at the expense of majority rule—we find no evidence that plural approval enhances the blocking powers of upper chambers (see Table A8 in the ESM). This finding has significant implications for theories of constitutional origins. Because our plural approval cases include constitutions that emerged from negotiations between outgoing authoritarian elites and democratic forces, the results suggest, in contrast to Albertus and Menaldo (2018), that even constitutions adopted under authoritarian rule may enable democratic governance when authoritarian elites must bargain with pro-democratic forces.

As regards citizen rights, we find evidence supporting H2. The use of non-electoral forms of direct citizen involvement during constitution-making is associated with a 0.60 standard deviation increase in the number of civil rights and liberties included in the new text. Interestingly, plural approval also has a positive effect on formal rights expansion (0.56 SD increase). The restricted sample analyses in the ESM further reveal that citizen consultation enhances rights protections more consistently when combined with plural approval (see Table A5). This makes sense intuitively because in a non-plural process, citizen consultation mechanisms are more likely to be manipulated by the dominant political actor, whereas political pluralism creates conditions for meaningful citizen input to influence constitutional design.

Direct citizen consultation shows some positive association with the introduction of formal participatory institutions in the constitution in baseline models (see Table A5, ESM). However, this effect is not robust—it falls short of statistical significance in the fully specified model (column 5 in Table 2) and in event studies using the interaction-weighted estimator. This null finding contradicts both our expectations and previous findings in the literature (see Elkins, Ginsburg, & Blount 2008; Ginsburg, Elkins, & Blount 2009).

Table 1. Constitution-making and constitutional design. Difference-in-differences estimates.

	Formal executive constraints			Formal power of legislature		
	(1)	(2)	(3)	(4)	(5)	(6)
Plural approval × after constitution	0.67*** (0.19)			0.68*** (0.18)		
Citizen consultation × after constitution		-0.25 (0.18)			-0.01 (0.20)	
Citizen voting × after constitution			0.001 (0.20)			-0.42* (0.20)
After constitution	-0.30 (0.28)	0.22 (0.30)	0.15 (0.29)	-0.54 (0.34)	-0.08 (0.37)	0.18 (0.36)
Controls	✓	✓	✓	✓	✓	✓
Constitution-making process FE	✓	✓	✓	✓	✓	✓
Year-in-the-process FE	✓	✓	✓	✓	✓	✓
Historical-wave FE	✓	✓	✓	✓	✓	✓
Observations	2162	2162	2162	2163	2163	2163
Constitution-making processes	128	128	128	128	128	128
R-squared	0.54	0.49	0.49	0.27	0.21	0.23

Outcome variables standardized with mean zero and standard deviation one. Standard errors clustered at constitution-making process level shown in parentheses. Controls: age of democracy, GDP per capita (log), population (log), and interactions between previous regime type and the pre/post indicator. Historical waves: 1900-1919 (wave 1), 1920-1945 (wave 2), 1946-1973 (wave 3), 1974-1989 (wave 4), 1990-present (wave 5). +p<0.1, *p<0.05, **p<0.01, ***p<0.001.

Table 2. Constitution-making and constitutional design. Difference-in-differences estimates.

	Formal civil rights & liberties			Formal participatory institutions		
	(1)	(2)	(3)	(4)	(5)	(6)
Plural approval × after constitution	0.56** (0.17)			0.21 (0.18)		
Citizen consultation × after constitution		0.60*** (0.17)			0.31 (0.24)	
Citizen voting × after constitution			0.05 (0.16)			-0.01 (0.20)
After constitution	0.45+ (0.27)	0.68* (0.28)	0.80** (0.27)	0.81* (0.33)	0.88** (0.31)	0.95** (0.33)
Controls	✓	✓	✓	✓	✓	✓
Constitution-making process FE	✓	✓	✓	✓	✓	✓
Year-in-the-process FE	✓	✓	✓	✓	✓	✓
Historical-wave FE	✓	✓	✓	✓	✓	✓
Observations	2144	2144	2144	2280	2280	2280
Constitution-making processes	127	127	127	128	128	128
R-squared	0.63	0.63	0.60	0.38	0.38	0.37

Outcome variables standardized with mean zero and standard deviation one. Standard errors clustered at constitution-making process level shown in parentheses. Controls: age of democracy, GDP per capita (log), population (log), and interactions between previous regime type and the pre/post indicator. Historical waves: 1900-1919 (wave 1), 1920-1945 (wave 2), 1946-1973 (wave 3), 1974-1989 (wave 4), 1990-present (wave 5). +p<0.1, *p<0.05, **p<0.01, ***p<0.001.

Results for the implementation of constitutional arrangements show more modest but still significant effects. Models 1 and 4 in Table 3 show that the plural adoption of constitutions is positively associated with actual executive constraints post-enactment, as measured by Polity V (a 0.24 SD increase), and leads to substantially stronger horizontal accountability (0.31 SD extra increase in V-Dem's index, relative to non-plural cases). This supports H3. Event studies suggest these enforcement effects are strongest in years 4-7 after adoption (see Figure A2 in the ESM). By contrast, we find no evidence that direct citizen participation in constitution-making shapes these rule-of-law outcomes.

The effects on civil rights enforcement are more complex. While baseline models show a positive association between plural approval and the civil liberties index (see Table A4 in the ESM), this effect disappears in fully specified models that account for ongoing political competitiveness and civil society strength (column 1 in Table 4). Direct citizen participation, in turn, shows no systematic effects on civil liberties enforcement.¹² As we argued, this is not surprising—citizen involvement in constitution-making represents a one-time, structured event that differs from the sustained capacity for autonomous mobilization needed to prevent or punish constitutional transgressions.

However, both consultation mechanisms and referenda in constitution-making shape the use of participatory institutions post-enactment. As shown in models 5 and 6 of Table 4, popular participation through referenda has a particularly strong effect (0.69 SD increase) on the future use of direct democracy mechanisms. Event studies reveal these effects peak in the immediate post-enactment years but persist over time (see Figure A6 in the ESM).

¹² See a similar finding in Bologna & Young (2023).

Table 3. Constitution-making and constitutional enforcement. Difference-in-differences estimates.

	Executive constraints (Polity)			Horizontal accountability index		
	(1)	(2)	(3)	(4)	(5)	(6)
Plural approval × after constitution	0.24+ (0.13)			0.31** (0.11)		
Citizen consultation × after constitution		0.15 (0.14)			0.05 (0.12)	
Citizen voting × after constitution			0.10 (0.14)			-0.02 (0.11)
After constitution	-0.32 (0.23)	-0.21 (0.21)	-0.24 (0.19)	-0.02 (0.16)	0.17 (0.15)	0.20 (0.16)
Plural competition	0.41*** (0.05)	0.41*** (0.05)	0.41*** (0.05)	0.14*** (0.03)	0.14*** (0.03)	0.14*** (0.03)
Civil society strength	1.30*** (0.24)	1.34*** (0.24)	1.34*** (0.24)	2.15*** (0.20)	2.19*** (0.21)	2.19*** (0.21)
Controls	✓	✓	✓	✓	✓	✓
Constitution-making process FE	✓	✓	✓	✓	✓	✓
Year-in-the-process FE	✓	✓	✓	✓	✓	✓
Historical-wave FE	✓	✓	✓	✓	✓	✓
Observations	1929	1929	1929	2023	2023	2023
Constitution-making processes	127	127	127	128	128	128
R-squared	0.68	0.67	0.67	0.80	0.79	0.79

Outcome variables standardized with mean zero and standard deviation one. Standard errors clustered at constitution-making process level shown in parentheses. Controls: age of democracy, GDP per capita (log), population (log), and interactions between previous regime type and the pre/post indicator. Historical waves: 1900-1919 (wave 1), 1920-1945 (wave 2), 1946-1973 (wave 3), 1974-1989 (wave 4), 1990-present (wave 5). +p<0.1, *p<0.05, **p<0.01, ***p<0.001.

Table 4. Constitution-making and constitutional enforcement. Difference-in-differences estimates.

	Civil liberties index			Direct democracy utilization		
	(1)	(2)	(3)	(4)	(5)	(6)
Plural approval × after constitution	0.04 (0.08)			-0.10 (0.17)		
Citizen consultation × after constitution		0.12 (0.09)			0.33+ (0.17)	
Citizen voting × after constitution			-0.03 (0.08)			0.69*** (0.14)
After constitution	0.29** (0.11)	0.30** (0.09)	0.34** (0.11)	0.66+ (0.34)	0.52+ (0.30)	0.16 (0.26)
Plural competition	0.09** (0.03)	0.09** (0.03)	0.09** (0.03)	0.01 (0.05)	0.01 (0.04)	0.01 (0.05)
Civil society strength	2.65*** (0.13)	2.65*** (0.13)	2.66*** (0.14)	-0.18 (0.23)	-0.21 (0.23)	-0.17 (0.22)
Controls	✓	✓	✓	✓	✓	✓
Constitution-making process FE	✓	✓	✓	✓	✓	✓
Year-in-the-process FE	✓	✓	✓	✓	✓	✓
Historical-wave FE	✓	✓	✓	✓	✓	✓
Observations	2032	2032	2032	2023	2023	2023
Constitution-making processes	128	128	128	128	128	128
R-squared	0.91	0.91	0.90	0.18	0.19	0.25

Outcome variables standardized with mean zero and standard deviation one. Standard errors clustered at constitution-making process level shown in parentheses. Controls: age of democracy, GDP per capita (log), population (log), and interactions between previous regime type and the pre/post indicator. Historical waves: 1900-1919 (wave 1), 1920-1945 (wave 2), 1946-1973 (wave 3), 1974-1989 (wave 4), 1990-present (wave 5). +p<0.1, *p<0.05, **p<0.01, ***p<0.001.

Almost all models in Tables 3 and 4 support our argument about the crucial importance of ongoing political and social conditions for constitutional enforcement. While the impact of plural approval on effective executive constraints and horizontal accountability remains significant after controlling for plural competition and civil society strength, its magnitude decreases compared to baseline models (see Table A4 in the ESM). The actual exercise of civil liberties and the effectiveness of horizontal constraints show particularly strong associations with electoral competitiveness and civil society vitality.¹³ Only the use of direct democracy mechanisms appears unrelated to these evolving conditions.

Overall, our findings indicate that the democratizing effects of new constitutions critically depend on their politically plural origins. When such pluralism is present, direct citizen involvement, especially through consultation mechanisms, enhances them. Additional tests (see Table A7, ESM) on the additive impact of all three constitution-making features on constitutional choice and enforcement (compared to processes with none of these features), further support the benefits of complementing politically plural processes with participatory mechanisms. However, constitution-making is an ephemeral event. While it can provide initially solid foundations for democratic institutions, the survival and deepening of democracy in the long run inevitably depend on maintaining a social configuration and a balance of electoral forces that prevent liberal-democratic designs from becoming mere formalities. As different theories of democratization suggest, both a strong political opposition and an autonomous civil society serve as crucial countervailing powers that facilitate constitutional enforcement over time.

¹³ See Metelska-Szaniawska & Lewczuk (2022) on the impact of civil society strength on the enforcement of rights provisions.

6 Conclusions

The emergence and consolidation of a robust democratic order rests on a constitution that incorporates specific formal institutions and their effective implementation post-enactment. These institutions must not only constrain executive power but also empower legislative majorities, enshrine citizen rights, and enable direct citizen participation in collective decision-making. We have argued that this design is more likely to be adopted when a plurality of competing political forces endorses a new constitutional text and ordinary citizens are directly involved in the process. Additionally, we proposed that, while politically plural agreements are the bedrock of democratizing constitutions, long-term constitutional enforcement depends on the sustained strength of political opposition and civil society organizations.

We found strong support for the hypothesis that constitutional agreements among contending political forces lead to the adoption of institutions that constrain executive power and strengthen mechanisms of horizontal accountability without unduly impairing legislative majorities. Our evidence also supports complementing politically plural agreements at the elite level with the direct participation of citizens in constitution-making, particularly through non-electoral channels. This modality of constitution writing fosters the expansion of civil rights and liberties, may enhance their enforcement, and can establish a precedent for citizen involvement in key political decisions.

None of these salutary effects is observed, however, when participatory constitution-making occurs in a non-pluralistic environment. This underscores the risks of plebiscitary processes, such as the creation of Ecuador's 2008 constitution, where citizen participation was used to obscure political exclusion. It also supports the argument advanced in classic democratization studies that pluralistic negotiations among political elites take precedence over

citizen participation, which explains the success of politically inclusive yet minimally participatory processes, like the making of Spain's 1978 constitution. In sum, our analysis suggests that the blend of politically plural negotiations and widespread citizen consultation—exemplified by the making of South Africa's 1996 constitution—represents an ideal model for producing a democratizing constitution.

Constitutions, of course, matter for democratization only if state actors and citizens abide by their rules after enactment. The genesis of a constitution is a significant but transient political event. Our finding that only politically plural constitutional agreements lead to the effective implementation of formal institutions makes sense because those involved in the original bargain tend to remain as important political actors in the post-constitutional stage, at least for a time. Ultimately, however, only the continued participation of citizens outside formal institutions and the maintenance of an active political opposition can sustain the pluralism and participation achieved during constitutional founding and counterbalance the power of governing elites.

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