

ARTICLE

Public participation and constitutional compliance



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Abstract

Many constitutions are ratified by referendum, and public participation in earlier stages of constitution-making is increasingly common. Participation may increase the perceived legitimacy of a constitution and citizens' knowledge about it. If this is true, one expects participation to lead to greater constitutional compliance. We explore this hypothesis using data on public participation in constitution-making and compliance. Employing matching methods, we find little evidence of a positive effect of participation on compliance generally. However, there is compelling evidence of a positive effect on provisions specific to property rights and the rule of law.

Public participation in constitution-making has been on the rise, particularly during the last three decades. Since 1974, a quarter of new constitutions have been ratified by referendum. And this percentage increased to a majority after 1990 (Blount, 2011; Widner, 2008). Today, more than one-third of the constitutions in force are by virtue of a successful referendum (Elkins & Hudson, 2019).

Ratification is only one stage in constitution-making. Before that, a document must be drafted and debated, and public participation has become more prevalent in those stages too (Choudhry & Tushnet, 2020).¹ It has become a standard recommendation by experts and international organizations and also a right under international law (e.g., Bockenforde et al., 2011; Ginsburg et al., 2008; Tushnet, 2012).² It is important, then, to know whether participation matters for outcomes. Does it lead to differences in constitutional design? To subsequent political outcomes? And, as studied in this paper, does it matter for constitutional compliance?³

The most common argument for public participation is that it creates legitimacy (e.g., Choudhry & Tushnet, 2020; Eisenstadt et al., 2015; Hart, 2003; Tierney, 2012; Walker, 2003; Wing, 2008). But this is a tricky matter to address empirically. Country-level measures of constitutional legitimacy do not exist. However, an indirect way to consider the matter is via *constitutional compliance*. If a constitution is perceived to be more legitimate, then we expect compliance to be higher.

A meaningful constitution must be consistent with a society's norms and conventions—their shared beliefs. Citizens and political agents will inevitably face uncertainty regarding the extent to which those beliefs are shared with one another. A constitution puts those beliefs “out in the open; it allows individuals to coordinate their expectations regarding behaviors by political agents that are unacceptable” (Young, 2019, p. 285). To the extent that the codification is perceived to be legitimate, it will serve as a more effective coordination device.

The hypothesis linking participation to compliance can be empirically assessed. This paper is the first to do so. We employ two datasets. The Constitutionalism and Democracy Database (CDD) provides country-level panel data on public participation (Eisenstadt et al., 2015, 2017). We combine this

¹ Widner (2008) provides a more nuanced set of stages: *drafting, consultation, deliberation, adoption, and ratification*.

² Houlihan (2021) summarizes: “Public participation has become a core element of modern constitution-building. The question for leaders charged with designing a constitution-building process today is not *whether* the public should be engaged but *how, when and why* to engage the public at different stages of the process.”

³ Horowitz (in Plattner et al., 2014, p. 100) complained that “there is not even a scintilla of evidence that [public participation] improves the durability or the democratic content of constitutions.” The applied literature remains small.

Replication Materials: The materials required to verify the computational reproducibility of the results, procedures, and analyses in this article are avail-

able on the American Journal of Political Science Dataverse within the Harvard Dataverse Network, at <https://doi.org/10.7910/DVN/FPXUW5>.

The Cornell Center for Social Sciences verified that the data and replication code submitted to the AJPS Dataverse replicates the numerical results reported in the main text of this article.

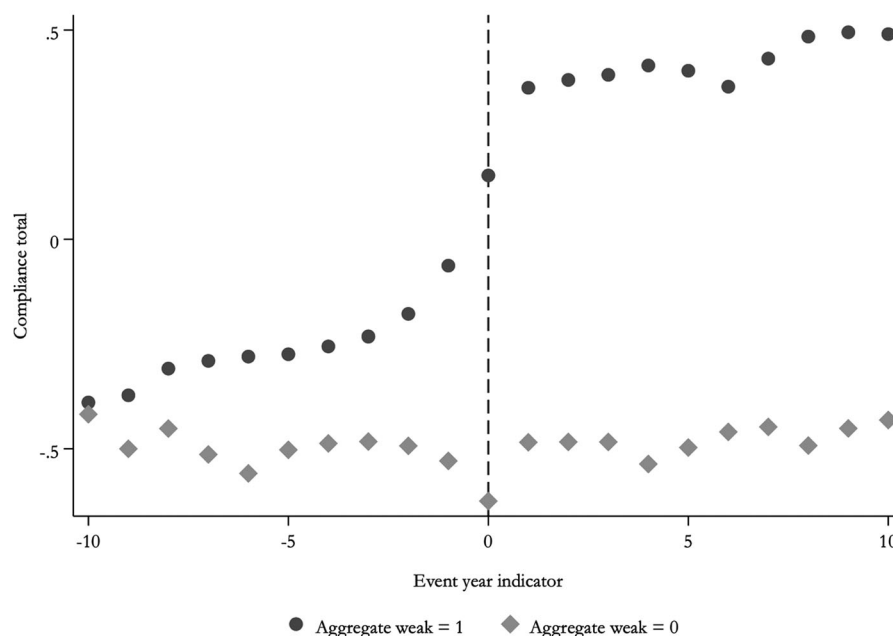


FIGURE 1 Compliance after constitutional adoptions: treated versus non-treated. *Note:* This figure is based on 44 weak aggregate participation treatment episodes and a control pool of 28 other constitutional adoptions. (Treatment definitions are given in the “Data” section.) Year 0 represents the year of constitutional adoption.

CDD with data from the Comparative Constitutional Compliance Database (CCCD; Gutmann et al., 2023, 2024a).

Scholars agree that deviations between de jure constitutional provisions and the de facto political world exist and are often large (Chilton & Versteeg, 2016; Gutmann et al., 2024a; Law & Versteeg, 2013; Voigt, 2021). But greater compliance in this context must be evaluated against both a nation’s prior constitution and the experiences of other nations that represent compelling counterfactuals. We do this by employing matching methods (Rosenbaum & Rubin, 1983).⁴

We start the set of (144) new constitutional adoptions included in the CDD. Then we categorize adoptions according to public participation levels in the convening, debating, and ratifying stages (and average participation across stages). We define discrete treatments according to two thresholds: (1) “weak” for some public participation involved in constitution-making and (2) “strong” for participation that was significant.⁵ For each treated country, we consider the change in compliance moving from the old constitution to the new. This change is compared to counterfactuals constructed from non-treated cases of constitution-making.

Our analysis is motivated by a look at the data. Figure 1 plots mean overall compliance scores for

episodes of constitutional adoption. It illustrates compliance 10 years prior to adoption and 10 years after. (Year 0 represents the adoption event.) Based on “weak” treatments for aggregate public participation (blue) versus non-treated adoptions (red), there is a clear increase in compliance for the former but not the latter.⁶

The empirical literature on constitutional compliance is recent and small. Law and Versteeg (2013) first provided country-level quantifications of gaps between de jure provisions and the de facto reality. They found compliance to be increasing in a country’s extent of democracy and income level; alternatively, decreasing in ethnic fractionalization, civil war incidence, and population. Subsequent studies suggest general conflict incidence and civil society strength as significant correlates (Metelska-Szaniawska, 2021; Metelska-Szaniawska & Lewczuk, 2022)⁷ also individualistic beliefs (Gutmann et al., 2021b) and historical representative assembly experiences (Bologna Pavlik and Young, 2023).⁸

Our work adds to a small number of empirical studies on the effects of public participation on constitutional design and other outcomes. Early work by Carey (2009) links public participation to higher quality democracy. Subsequently, Eisenstadt et al (2015)

⁴ Matching methods have been used to study outcomes associated with new constitutions (Bologna Pavlik et al. 2023; Callais & Young, 2021, 2022, 2023).

⁵ We define treatments in the “Data” section.

⁶ Similar plots for individual categories of constitutional provisions available in the Online Supporting Information (Figures SI.1–SI.4, pp. 11–12).

⁷ Metelska-Szaniawska and Lewczuk (2022) study cases of “constitutional overperformance.”

⁸ Grajzl et al (2024) report that earlier transition to “nation-statehood” is associated with higher compliance.

report similarly. Alternatively, Eisenstadt and Maboudi (2019) find no significant participation-democracy effect when controlling for group inclusivity. Lastly, Fruhstorfer and Hudson (2022) report a positive link between public participation in drafting and greater protection of minority rights.

We ultimately do not find a significant link between public participation and compliance. The exception is for compliance regarding property rights provisions. Alternatively, there is no evidence that public participation increases compliance with basic human rights provisions. (Indeed, the point estimates are often negative.)

WHY CARE ABOUT CONSTITUTIONAL COMPLIANCE?

Does public participation in constitution-making lead to greater compliance? Compliance is of interest to the extent that we believe a constitution can matter. (Conversely, to the extent that a constitution matters, it is only interesting if complied with.)

There are at least two reasons that a constitution can play an important role in society. First, it can embody credible commitments by a government. Such commitments can mitigate time consistency problems associated with governance (Elster, 1979; Holmes, 1995; Kydland & Prescott, 1977; Schelling, 1984). For example—and fundamentally—a government strong enough to provide public goods is also strong enough to trample on citizens' rights (Buchanan, 1975; Weingast, 1995). A credible commitment to avoid the latter can allow a government to increase its capacity to provide the former.⁹

Second, a constitution can provide a coordination device (Hardin 1989; Ordershook 1992; Elkins et al., 2009; Hadfield & Weingast, 2014; Weingast, 1997; 2005). It codifies constraints in a document available to all. This aids citizens in mitigating a “dilemma of collective action” that is “amplified [...] by the fact that citizens first need to agree that the government is indeed transgressing the [higher law]” (Gutmann et al., 2021b). Codification promotes shared expectations and “a focal solution [...] so that citizens gain the ability to act in concert and police their government” (Weingast, 2005, p. 105). Shared expectations also facilitate political agents policing one another (Young, 2019, 2021).

The above two reasons for constitutional relevance are related. Constitutional commitments are credible if a constitution is an effective coordination device. Also, all constitutional commitments are *col-*

lective commitments to coordination. In any case, such commitments are meaningless if not complied with. As hypothesized in the “Public Participation and Constitution-Making” section, a constitution's ability to coordinate—and therefore the credibility of the commitments it embodies—may be a function of public participation in its making.

Though most empirical studies of constitutional compliance have focused on its determinants, evidence of links between compliance and outcomes is beginning to appear. Based on country-level panel data, Lewczuk and Metelska-Szaniawska (2025) report that noncompliance is associated with lower gross domestic product (GDP) per capita. Schnelle (2024) finds that noncompliance is associated with a higher probability of a constitution being replaced.

PUBLIC PARTICIPATION AND CONSTITUTION-MAKING

Scholars, policy-makers, and international organizations often advocate for public participation in constitution-making because it will foster greater perceived legitimacy and, relatedly, greater trust in governance providers (e.g., Gluck & Brandt, 2015; Hart, 2003; Lenowitz, 2015; Moehler, 2008; Saunders, 2012). Based on this, one may expect that public participation leads to a constitution with higher compliance.

H1: public participation → (+) constitutional compliance

Intuitively, a constitution represents “higher law” and lacks a third-party enforcer; therefore, it must be self-enforcing (de Lara et al., 2008; Leeson, 2011; Mittal & Weingast, 2011; Ordeshook, 1992; Young, 2019). This can occur when a constitution provides a focal solution to a coordination problem. Perceived legitimacy facilitates this.

However, there are reasons to consider an alternative hypothesis.

H2: public participation → (−) constitutional compliance

For example, public participation in the ratification stage may weaken representative institutions (Elkins & Hudson, 2019, p. 145). This is because citizens may perceive participation as a substitute for checks and balances. This could result in a less constrained executive and, therefore, lower compliance.¹⁰

⁹ Ferejohn and Sager (2003) refer to this form of state capacity as “commitment capacity.”

¹⁰ Relatedly, Choudhry and Tushnet (2020, p. 175) note: “After a moment of public participation has passed, and representative democracy takes root,

Relatedly, Negretto (2020) points out that citizens, in their participatory input, may emphasize the codification of substantive rights at the expense of focus on the design of governance institutions. Numerous scholars have argued that *de facto* checks and balances across governance institutions may matter more than substantive provisions for the integrity of a constitution (e.g., Wagner and Gwartney 1989; Vanberg, 2011; Young, 2023). To the extent that public participation diverts attention from the former to the latter, it may also lead to lower compliance.

We provide empirical evidence that speaks to these hypotheses. We conclude this section by noting that our analysis is based only on cases where public participation led to the adoption of a constitution. That is not always the case (e.g., the recent cases of Iceland and Chile).¹¹ Choudhry & Tushnet, (2020, p. 175) note that public participation may prevent political elites from “buy[ing] into the new constitution”: “broad and deep popular participation [may make] a negotiated and stable constitutional transition impossible.”

MATCHING METHODS

We estimate the effect of public participation in constitution-making on compliance. In doing so, we cannot rely on unconditional comparisons of constitution-making episodes with public participation versus those without. We must address two related problems: selection bias and general endogeneity concerns.

Countries employing public participation are not randomly selected. A variety of factors weighing towards greater *ex post* compliance may also determine the likelihood of *ex ante* public participation. Matching methods were designed to mitigate this selection bias. Residual endogeneity concerns are mitigated by focusing on *changes* in compliance (from under old to new constitutions). Many important determinants of compliance are slowly evolving (e.g., ethnic fractionalization). By focusing on changes, these are differenced out, avoiding associated biases.

We identify successful constitution-making episodes as treatments based on the extent of public participation. Such episodes are relatively infrequent shocks to a country's sociopolitical order. We create a plausible counterfactual for each treated country, based on non-treated countries that are similar in terms of relevant covariates. We compare the change in compliance for treated countries versus their counterfactuals. We then report the average treatment effect on the treated (ATET).

Note that we are focused on country-level *constitution-making episodes*. Treated units (i.e., episodes with high public participation) are compared to counterfactuals (constructed from cases without such participation). This is important because constitution-making *per se* may affect compliance. Compliance will be higher when the document is well-aligned with the preferences of citizens and their environment. If existing constitutions over time become misaligned with those preferences/environment, then compliance may fall. Alternatively, new constitution-making may create an opportunity to produce a better aligned document (Bologna Pavlik et al., 2023; Mueller, 1999).¹² If so, constitution-making may have a direct effect on compliance.¹³ Because we match constitution-making episodes to constitution-making episodes, we remove such a direct effect from our estimates.

We employ both *propensity score matching* (PSM) and *Mahalanobis distance matching* (MDM).

Propensity score matching

PSM involves estimating a logit model of treatment probability, conditional on a set of covariates. We look at all constitutional adoptions coded in the CDD. Based on the logit model, each country is assigned a *propensity score*: the estimated probability of receiving the treatment (i.e., a certain extent of public participation). Based on these scores, each treated country is matched to one or more non-treated countries based on the closeness of propensity scores.

A standard way to refer to non-treated countries relative to a treated one is as the latter's “neighbors.” A treated country's “first nearest neighbor” is the non-treated country with the closest propensity score. Its “second nearest neighbor” has the second closest propensity score (etc.). Based on PSM, we report results based on matching treated countries to their (i) first nearest neighbor; (ii) average of two nearest neighbors, (iii) average of three nearest neighbors, and (iv) average of four nearest neighbors; we also

political elites could wield greater institutional authority and determine the success of a new constitutional dispensation.”

¹¹ See Landemore (2020) and Prieto and Verdugo (2021).

¹² This idea is implied by Thomas Jefferson's argument to James Maddison that “no society can make a perpetual constitution, or even a perpetual law. The earth belongs always to the living generation. [...] The constitution [...] extinguished then in their natural course with those who gave them being. [...] Every constitution then [...] naturally expires at the end of 19 years. If it be enforced longer, it is an act of force, and not of right” (quoted in Liolos, 2021, p. 338; see that paper for a discussion of the debate between Jefferson and Maddison). If Jefferson was correct, then an implication is that, due to changing preferences and environment, more fitting constitutions need to be periodically adopted.

¹³ Consistent with this, Metelska-Szaniawska (2021) reports a negative relationship between constitutional age and compliance. However, that study only examines post-Soviet cases. Alternatively, Law and Versteeg (2013) examine a broader country sample and find no significant age-compliance relationship. Also, Elkins et al. (2016) report that *de facto* rights protection is increasing in constitutional age.

(v) match based on a normal kernel function (which utilizes all neighbors but applies greater weights to nearer neighbors). To calculate p -values for the estimated coefficient, we use bootstrapping based on 250 replications.¹⁴

Matching by Mahalanobis distance

As an alternative to PSM, we also match directly based on covariate values. Specifically, we employ MDM. MDM is based on the Euclidian distance between one country's covariate vector and that of another. We report results comparing treated countries to their (i) first nearest neighbor; (ii) average of two nearest neighbors, (iii) average of three nearest neighbors, and (iv) average of four nearest neighbors.

A pro of this approach is that it does not rely on underlying logit model assumptions (King & Nielsen, 2019). Alternatively, one may be suspicious that the relevance of individual covariates is not determined by estimating some model. MDM also matches directly from all specified covariates—rather than first estimating their relative importance, as in PSM—so it is not reliable with a large covariate set (Gu & Rosenbaum, 1993). Given the pros and cons, we report both PSM and MDM results.

To calculate p -values for ATETs, we use the Abadie et al. (2004) robust standard errors. We also use the bias-adjusted model of Abadie and Imbens (2011) to estimate the ATETs.

Reporting strategy

We report results using both PSM and MDM. We begin with PSM results based on a full set of covariates. Then, based on the logit estimations, we report results using a limited (most important) set of covariates.¹⁵ Because we have several different treatment definitions, the limited covariate sets are different across treatment types. (We define a covariate to be “important” if it has a p -value < .3 in the logit model.)

Ordinary least squares with the standard and inverse propensity score weights

While matching methods are the focus, we first estimate cross-sectional ordinary least squares (OLS) esti-

mations. This sets benchmarks regarding correlations in the data.

In both OLS and matching, we consider both strong and weak treatments. For OLS, this is based on a dummy variable (= 1 if treated; 0 otherwise). Cross-sectional units are new constitutions, and the outcome is the change in a compliance measure from 1 year before adoption to 5 years after.

In addition to standard OLS, we report results using inverse propensity score weights (IPWs). Based on the full covariate set, a logit model is estimated to generate a propensity score for each country; that score is then used as a weight according to the formula: $w = 1$ if treated; $w = (\text{propensity score}) / (1 - \text{propensity score})$ otherwise. This is the standard ATET weighting scheme. This scheme only discounts untreated countries that were *not* predicted to be treated.

Data

Data are categorized in terms of (i) public participation, (ii) compliance, and (iii) covariates. We use (i) to define treatments, (ii) as the outcome, and (iii) to create counterfactuals.

Public participation

We employ the CDD (Eisenstadt et al., 2015). It covers 144 national constitutions, adopted in 119 countries, during 1974–2014.¹⁶

The CDD considers constitution-making in terms of a three-stage framework: *convening*, *debating*, and *ratifying*. *Convening* involves the selection of individuals directly and actively involved in choosing content. *Debating* involves the processes through which individuals decide if the content is ultimately included. Finally, a constitution is approved as higher law in the *ratifying* stage.

Referenda used in *ratifying* have received the most scholarly attention (Ginsburg et al., 2008). However, “a referendum is [...] a blunt instrument, seeking only approval or rejection”; the “quality of the constitution depends on the earlier process, whatever it is” (Saunders, 2012, p. 7). Furthermore, Eisenstadt et al. (2015) find that participation in drafting has a greater impact on the subsequent quality of democracy. Earlier stages, then, may be important for compliance.¹⁷

¹⁴ Given concerns with bootstrapping in nearest neighbor matching (e.g., Abadie & Imbens 2008), we also use the Abadie-Imbens estimator and compute robust standard errors (Abadie & Imbens 2016). (Results are presented in the Online Supporting Information (Tables SI.13–SI.20, pp. 7–10). In general, the bootstrapped errors are more conservative and therefore our focus.

¹⁵ To get an identical set of covariates for each treatment type, we estimate the logit model using all covariates less the lagged outcome and for the sample where we have total compliance data.

¹⁶ CDD data and codebook are available at <https://dra.american.edu/islandora/object/auislandora%3A75560>. Eisenstadt et al. (2015) build upon databases of Widner (2004) and Elkins et al. (2009).

¹⁷ Alternatively, Elster (2012, p. 169) argues generally that “ratification by the citizens, following a national debate, is more important” than direct input into drafting. Likewise, Ordeshook (1992) argues for narrow input into drafting to limit political transaction costs; then broad-based ratification.

TABLE 1 Treatment thresholds.

	Convening	Debating	Ratifying	Aggregate
Strong	= 2	= 2	= 2	≥ 4
Weak	≥ 1	≥ 1	≥ 1	≥ 3

Note: These are participation thresholds for particular stages of constitution-making, along with aggregate.

The CDD employs information on citizen input versus elite control during each stage. For each constitution-making episode, each stage is coded as “imposed” (0), “mixed” (1), or “popular” (2). (See Table A1, reproducing Table 1 from the CDD code-book.) Furthermore, an overall (*aggregate*) public participation score (in the 0–6 range) sums individual stage scores. Given the coding, the appropriate interpretation of each measure is the *degree* of citizen participation vis-à-vis elite control in each stage (or the aggregate).

We define treatments both in terms of individual stages—*convene*, *debate*, and *ratify*—and in terms of *aggregate* constitution-making. We also consider *strong* versus *weak* treatments. For any stage, a *strong* treatment has a public participation value of 2; for *aggregate*, it is defined as a value ≥ 4. Alternatively, for any stage, a *weak* treatment is a value ≥ 1; for *aggregate*, ≥ 3. Table 1 lists treatment thresholds; Table 2 reports *strong* and *weak* treatments for individual stages and *aggregate*.

Since we are defining both *strong* and *weak* treatments, it is important to be explicit about the control pools for each set. Each treatment is associated with a constitutional adoption. In all cases, the control pool will also consist of constitutional adoption episodes. For any set of *strong* treatments, the pool will include all such episodes where there was less public participation than meets the *strong* threshold. Likewise, for any set of *weak* treatments, it is episodes where participation did not meet the *weak* threshold. (For treatments considered in terms of individual stages, this implies a pool containing *no* public participation.) Importantly, in the cases of both *strong* and *weak* treatments, the counterfactuals are constitutional episodes that had less or no public participation.

Compliance

The compliance measures are based on the idea of a “non-congruence between provisions explicitly written down in the [constitution] and the behavior of the top representatives of the various government branches, such as cabinet members, legislators, and members of the country’s top court(s)” (Voigt, 2021, p. 1793).

TABLE 2 Treatment summaries.

Treatment	Number of treatments
Strong treatments	
Convene	18
Debate	24
Ratify	52
Aggregate	47
Weak treatments	
Convene	70
Debate	85
Ratify	98
Aggregate	72

Note: Treatments are reported for particular stages of constitution-making, along with aggregate.

These measures are from the CCCD (Gutmann et al., 2023, 2024a). The CCCD provides measures for four individual areas—(1) property rights and rule of law (*property rights*), (2) political rights (*political*), (3), civil rights (*civil*), and (4) basic human rights (*basic*)—as well as (5) *total* measure. Coverage is for 175 countries from 1900 to 2020.

CCCD measures are based on 14 types of provisions (grouped into the four areas). The underlying data are from the Comparative Constitutions Project (Elkins et al., 2009). Provisions are assessed relative to data on de facto adherence from the Varieties of Democracy Project (V-Dem) (Coppedge et al., 2023; Pemstein et al., 2023). For each provision type, country-year compliance scores are calculated. Based on factor analyses, compliance in each area is based on the extracted first factor. This yields the four area-specific measures (*property rights*, *political*, *civil*, and *basic*). *Basic* human rights consider constitutional provisions such as the right to life, slavery, and torture. *Civil* rights include freedom of speech, media, movement, and religion. *Political* rights focus on the freedom of association and assembly, and the right to form political parties. Lastly, *property rights* examine judicial independence, equality before the law, and private property rights. *Total* is the average over areas.

The outcomes for our estimations are changes in compliance from 1 year prior to a constitution’s adoption to 5 years after it. The participation data are available from 1974 to 2014. The compliance dataset is available from 1900 to 2020. This makes it possible to examine the subsequent 5-year change in compliance for each treatment (all occurring in 2014 or earlier). Table 3 reports summary statistics for compliance levels and changes. While a 5-year horizon may seem short, recall that our hypothesis involves public participation leading to a new constitution that has greater perceived legitimacy and better serves as a focal solution. These effects are likely to be most

TABLE 3 Outcome summary statistics for constitutional compliance.

	Observations	Mean	Standard deviation	Minimum	Maximum
Year of the new constitution					
Basic human rights	127	−0.263	1.220	−1.989	1.588
Civil rights	127	−0.083	1.066	−1.671	1.399
Political rights	124	−0.145	1.040	−1.407	1.812
Property rights	127	−0.345	1.015	−1.410	2.013
Total	127	−0.238	1.061	−1.862	1.972
Year before the new constitution					
Basic human rights	81	−0.205	0.951	−1.989	1.588
Civil rights	81	−0.215	0.962	−1.671	1.399
Political rights	80	−0.178	0.895	−1.407	1.812
Property rights	81	−0.411	0.788	−1.410	2.013
Total	81	−0.287	0.817	−1.666	1.821
6-year change: year before the new constitution to 5 years after					
Basic human rights	76	0.124	0.838	−2.863	1.788
Civil rights	76	0.115	0.759	−2.062	2.191
Political rights	75	0.216	0.884	−2.300	2.300
Property rights	76	0.179	0.739	−1.452	2.282
Total	76	0.182	0.642	−1.122	2.352

Note: Outcomes are constitutional compliance measures.

powerful in the wake of constitution-making when citizens most keenly feel that they have had input and the new constitutional text is freshest in their minds. The unconditional data (Figure 1) also suggests that if there is a casual participation–compliance effect, it manifests upon adoption.

A limitation of the CCCD is that it is based on substantive rather than structural constitutional provisions.¹⁸ Substantive provisions express rights that will be provided and/or not infringed upon. Alternatively, structural provisions define the structure of the government and the checks and balances within. To our knowledge, there is presently no compliance measure that takes into account structural provisions. This limitation is notable for at least a couple of reasons. First, there is the classic Madisonian argument that structural checks and balances are more important for protecting substantive rights than “parchment barriers.” Second, structural provisions may be more effective focal solutions since they embody historical practice with governance structures (Vanberg, 2011).

While acknowledging this limitation of the CCCD data, there are reasons to believe that compliance with substantive constitutional provisions represents lower bounds. Vanberg (2011)’s argument suggests, all else equal, that structural provisions are more likely to be

self-enforcing than substantive ones. There is another reason to believe this might be the case. For any de jure text “there will exist margins of contestation where political entrepreneurship is active in seeking alternative constitutional interpretations” (Salter Alexander & Wagner, 2018, p. 2810). Structural provisions are less open to interpretation than are substantive ones (e.g., *there shall be two legislative chambers* that are less open than *there shall be freedom of religion*).

Ultimately, though, the results of our paper must be considered knowing that the CCCD data are coded based on substantive (rather than structural) constitutional provisions.

Covariates

We choose covariates expected to correlate with the outcome and/or are likely determinants of participation. Based on this, we start with 17 covariates.

Within that set, we include two indicators of a country’s economic environment. These are real GDP per capita (2017 purchasing power parity US\$) and population (Penn World Table, v. 10.01; Feenstra et al., 2015).

Then we include two measures of political regime type/quality. First, we include Polity V democracy scores (Marshall & Gurr, 2020). Scores range from 0 to 10, with 10 representing the most democratic. We also include the V-Dem electoral democracy (pol-

¹⁸ In the economics literature, the latter are often referred to as *procedural* provisions (e.g., Vanberg 2011; Wagner & Gwartney 1989; Young 2023).

TABLE 4 Summary statistics.

Variable name	Observations	Mean	Standard deviation	Minimum	Maximum
Assembly experience	140	0.298	0.822	0.000	5.527
Individualism (weighted)	140	6.631	14.246	0.000	74.564
GDP per capita	134	6,968.897	9,737.752	476.044	86,562.37
Population	134	32.617	120.597	0.264	1014.022
Polity	129	−1.155	5.993	−10.000	10.000
Civil society	139	0.491	0.258	0.053	0.975
Civil liberties	139	0.494	0.257	0.062	0.969
Polyarchy	139	0.302	0.225	0.013	0.893
Conflict (Brecke)	143	0.066	0.124	0.000	0.729
Conflict (civil war)	141	0.153	0.239	0.000	1.000
Ethnic fractionalization	141	0.516	0.240	0.000	0.930
Age of constitution	111	18.162	24.828	0.000	162.000
Aid share	120	0.082	0.123	−0.001	0.944
Leadership—military	138	0.399	0.491	0.000	1.000
Leadership—extreme left	133	0.143	0.351	0.000	1.000
Dismissal	80	0.225	0.420	0.000	1.000

Note. These summary statistics are for variables included as covariates in the analyses. For variables that have time variation, they are based on values lagged 1-year relative to a new constitution.

yarchy) measure. V-Dem's measure is based on a more "maximalist" conception of democracy. While Polity V emphasizes executive selection and constraint, V-Dem considers a broader set of characteristics of the political environment (e.g., "associational autonomy" and "inclusive citizenship").¹⁹

Next, we include V-Dem's civil participation index (a measure of "Civil Society") and the "Civil Liberties" index, where the latter has higher scores in the absence of physical violence and government-imposed constraints of private/political liberties. The inclusion of these covariates is consistent with Lewkowicz and Lewczuk (2023), who find that the strength of civil society is associated with greater constitutional compliance. We also include the Alesina et al. (2003) measure of ethnic fractionalization and also two measures of conflict from Dincecco et al. (2019): (i) share of years in civil war, 1950–2000; (ii) share of years, 1400–1799, a country experienced conflict on home soil.²⁰ These covariates are motivated by studies such as Metelska-Szaniawska (2021) and Metelska-Szaniawska and Lewczuk (2022) that suggest conflict incidence correlates with compliance.

We also include the age of the prior constitution as a covariate because this may predict compliance moving forward. Cultural factors may affect past and future compliance similarly; furthermore, there may

be persistence in the effects of political-economic factors from prior compliance moving forward. Likewise, we control for whether the prior constitution included dismissal of the head of state as a sanction for non-compliance (Gutmann et al., 2024a); also whether, under that prior constitution, the head of state had a military background and/or had an "extreme left" (communist) ideology (Gutmann et al., 2024b).²¹

Foreign aid correlates with public participation in constitution-making (Eisenstadt et al., 2015). Fruhstorfer and Hudson (2022) also include aid as a control in their analysis of public participation and minority rights. We include the sum of net official development assistance and official aid as a percentage of GDP as a covariate. Data are from the World Bank's World Development Indicators.

We also include two covariates suggested by (Bologna Pavlik & Young, 2023) study of historical representative government and constitutional compliance today. The first of these is population shares descended from 15 European polities weighted by their experiences with medieval/early modern representative assemblies.²² The second is the same but weighted instead by individualism scores drawn from

¹⁹ We also provide results using the Bjørnskov and Rode (2020) extension of Cheibub et al. (2010) dataset. The results—reported in the Online Supporting Information (Tables SI.21–SI.32, pp. 13–16)—remain broadly consistent.

²⁰ The 1400–1799 measure is drawn from Brecke's (1999) database.

²¹ Gutmann et al. (2024a, 2024b) contain results suggesting that these variables *contemporaneously* correlate with compliance. However, covariates are chosen to be predictors of treatment and cannot be conflated with posttreatment outcomes (e.g., public participation might lead to increased compliance *because* it leads to a constitution having a dismissal provision). By using pre-treatment covariate values, we are focusing on posttreatment compliance changes *relative to* counterfactuals similar along these covariates.

²² This measure is developed by Bologna Pavlik and Young (2020, 2021).

TABLE 5 The effect of participation on compliance.

Compliance type	Convene		Debate		Ratify		Aggregate	
	Strong	Weak	Strong	Weak	Strong	Weak	Strong	Weak
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Basic	0.296 (0.457)	0.055 (0.384)	0.312 (0.316)	0.049 (0.355)	0.024 (0.320)	−0.216 (0.374)	0.060 (0.355)	0.041 (0.415)
Civil	0.565 [†] (0.330)	0.307 (0.262)	0.087 (0.224)	0.430 (0.299)	−0.166 (0.223)	−0.001 (0.281)	0.282 (0.250)	0.231 (0.262)
Political	0.146 (0.431)	0.375 (0.316)	0.052 (0.340)	0.198 (0.309)	0.245 (0.313)	0.424 (0.312)	0.134 (0.345)	0.427 (0.321)
Property rights	0.651 [†] (0.372)	0.586* (0.259)	0.157 (0.319)	0.369 [†] (0.205)	0.006 (0.286)	0.564 [†] (0.282)	0.238 (0.260)	0.573* (0.241)
Total	0.499 (0.405)	0.342 (0.274)	0.199 (0.269)	0.228 (0.250)	0.004 (0.275)	0.180 (0.268)	0.223 (0.286)	0.298 (0.265)

Note: The table presents estimates from ordinary least squares (OLS) regressions using the full set of covariates listed in Table 4 plus the lagged outcome level. Each row represents a different outcome (type of compliance), and each column represents a different treatment (public participation). The full set of coefficients is available upon request. Robust standard errors are in parentheses. $N = 53$ for convene, ratify, and aggregate; 54 for debate. [†] $p < .10$; * $p < .05$; ** $p < .01$.

Hofstede's (1980, 2001) and Hofstede et al. (2010) cultural indices. With these indicators, we capture two characteristics that European populations likely carried with them: representative assembly experiences and individualistic culture.

Lastly, we include the compliance score of the *previous* constitution. This allows us to match on adoptions that started from a similar level of compliance but experienced different levels of participation during adoption.

When possible, we use covariate values 1 year prior to a new constitution being adopted. Covariate summary statistics are presented in Table 4.²³

RESULTS

As benchmarks, we first report OLS results. Matching results follow.

Ordinary least squares

Table 5 reports standard OLS estimates of public participation in compliance with the full covariate set. Rows designate results according to compliance measures and columns according to public participation stage and treatment type.

Point estimates are generally positive, but not always. Most are statistically insignificant; however, when significant ($\leq 10\%$ level) they are positive. The most striking pattern is associated with the *property*

rights compliance area. Estimates are significant in every *weak* case and one out of four *strong* cases.

OLS results based on the IPW schemes are reported in Table 6. (Estimations do not include additional controls because covariates are used in the logit estimations.) Results are broadly consistent with standard OLS. In particular, the striking pattern of significance regarding *property rights* is maintained.

Propensity score matching: Full covariate set

Complete PSM results based on the full covariate set are reported in Online Supporting Information (Tables SI.1–SI.4, pp. 2–3). We summarize only the statistically significant effects ($\leq 10\%$ level) from these tables in Figures 2 (*strong* treatments) and 3 (*weak*); effects are drawn with 95% confidence intervals. All but one of the statistically significant estimates are positive; of those, nine of 10 are for *property rights*.²⁴ These effects on *property rights* are present in each stage of participation—two in *convene* (*strong*), four in *debate* (*weak*), one in *ratify* (*weak*), and two in *aggregate*. The other positive and statistically significant estimate is in *ratify* (*strong*) and for *political* rights. The lone negative and statistically significant effect is in *convene* (*strong*) for *basic* rights. However, this negative estimate seems to be an outlier and is only present in kernel matching.

Based on PSM and the full covariate set, public participation is not associated with greater compliance generally. However, it is associated with greater compliance in the *property rights* area specifically.

²³ For outcomes and covariates, variable details are presented in the Appendix (Tables A2 and A3).

²⁴ For *property rights*, there are an additional four estimates that are close to traditional thresholds ($\leq 13\%$ level).

TABLE 6 The effect of participation on compliance using inverse propensity weighting.

Compliance type	Convene		Debate		Ratify		Aggregate	
	Strong	Weak	Strong	Weak	Strong	Weak	Strong	Weak
Basic	0.436 (0.450)	0.283 (0.208)	0.043 (0.319)	0.192 (0.185)	0.004 (0.276)	0.112 (0.188)	0.303 [†] (0.156)	0.262 (0.168)
Civil	0.320 (0.452)	0.765** (0.251)	0.169 (0.291)	0.094 (0.407)	−0.261 (0.170)	−0.159 (0.202)	0.103 (0.261)	0.209 (0.347)
Political	0.178 (0.477)	0.490 [†] (0.259)	0.091 (0.343)	−0.031 (0.234)	0.163 (0.326)	−0.005 (0.194)	0.194 (0.211)	0.143 (0.271)
Property rights	0.689* (0.312)	0.398* (0.180)	−0.288 (0.332)	0.380* (0.152)	0.025 (0.300)	0.592** (0.142)	0.378* (0.178)	0.470** (0.147)
Total	0.499 (0.362)	0.575** (0.206)	−0.034 (0.316)	0.202 (0.227)	0.003 (0.170)	0.094 (0.131)	0.340 [†] (0.186)	0.402 [†] (0.218)
<i>N</i>	54	65	56	67	59	67	58	64

Note: The table presents estimates from weighted least squares regressions using inverse propensity scores weighting to get an estimate of the average treatment effect on the treated. Weights = 1 for treated countries; = (propensity score)/(1 − propensity score) for control countries. Each row represents a different outcome (type of compliance), and each column represents a different treatment (public participation). Political rights lose one observation in the ratification stage due to missing data. Robust standard errors are in parentheses. [†] $p < .10$; * $p < .05$; ** $p < .01$.

Focusing on *aggregate* participation, the significant point estimates fall between 0.551 and 0.578, translating into compliance effects between 41% and 78% of a standard deviation.²⁵

Propensity score matching and Mahalanobis distance matching: Limited covariate set

We now report results using limited covariate sets for PSM and MDM. As above, the complete set of results is available in the Online Supporting Information (Tables SI.5–SI.12, pp. 4–6). Because all treatments are different, limited covariate sets differ across specifications.²⁶ Again, we present statistically significant ($\leq 10\%$) estimates here in Figures 3–7.

All instances of negative effects disappear. Moreover, we again see the strongest evidence of participation increasing compliance with *property rights*. Of the 57 statistically significant and positive estimates, 44 are for *property rights* and another 11 for *total*. (There are only two significant estimates of participation in other compliance areas, and both occur for the *convene* stage on *civil* rights compliance.)

The effect of participation on *property rights* compliance is relevant to some degree in all constitution-making stages. For the *convene* stage, the effect is significant in all 10 estimates for PSM and 6–8 for MDM. For PSM, we also see significant effects in two

estimates for the *debate* stage; and for six using MDM. We find the least number of statistically significant estimates for *ratify*, but even so four MDM estimates are significant for *property rights*. Unsurprisingly, then, we see that *aggregate* participation significantly (and positively) impacts *property rights* in eight (of 10) PSM specifications and all eight for MDM.

Property rights and the rule of law

Given the above, compliance in the *property rights* area deserves discussion. That area is based on provisions regarding (1) the security of private property rights, (2) judicial independence, (3) equality before the law, and (4) the rule of law (Gutmann et al., 2024a, p. 8). The last of these indicates that laws are equally applicable and transparent to all individuals (Voigt, 2012, pp. 266–267).²⁷ And (1)–(4) are clearly related to one another (e.g., the rule of law is essential to citizens being secure in their property rights).

As to why participation is conducive to compliance in this particular area, we can hazard some conjectures. Provisions in this area may be relatively less open to interpretation. All provisions inevitably have some degrees of *ambiguity* and *time variance* (Young, 2023). The meanings of words are always subject to interpretation at any moment. Furthermore, the understood meanings are also subject to change over time as the social, economic, and/or political environment changes.²⁸

²⁵ We also consider an 8-year horizon on the compliance outcome. There is some loss in statistical significance because observations fall; but results are generally consistent and are reported in the Online Supporting Information (Tables SI.33–SI.36, pp. 17–18).

²⁶ Table A4 lists covariate sets for each treatment.

²⁷ Voigt draws upon Hayek's (1960) rule of law conception.

²⁸ Waismann (1945, pp. 122–123) refers to the “open texture” of such codifications.

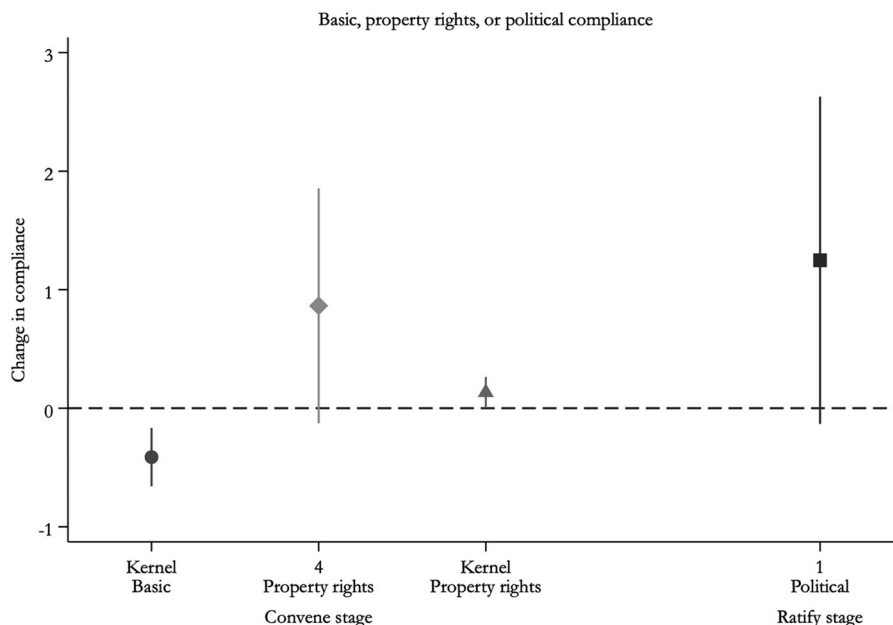


FIGURE 2 Statistically significant effects of strong participation on compliance for propensity score matching and full covariate set. *Note:* The first row of the x-axis label indicates the matching specification used (i.e., kernel matching or the number of nearest neighbors (1–4)); the second row lists the compliance category (outcome). The stage of participation (treatment) is listed last. Drawn with 95% confidence intervals.

Young (2023) comments specifically on substantive versus procedural provisions. Relatedly, Vanberg (2011) argues that procedural provisions are more likely to “tap into focal understandings that emerge out of a shared political history [and therefore] may offer better prospects of successful constitutional governance” (p. 317). Procedural provisions are con-

sistent with deep-rooted norms and conventions that are widely shared and stable. For both reasons, procedural provisions may be easier for individuals to coordinate around.

This may also be true for *property rights* provisions relative to other areas. For example, the CCCD includes provisions that speak to “protection from

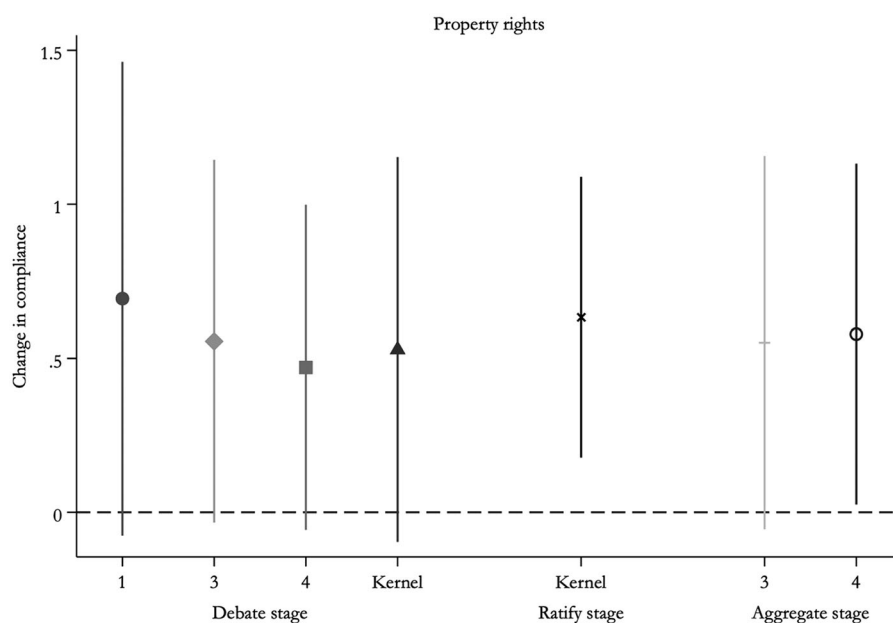


FIGURE 3 Statistically significant effects of weak participation on property rights compliance for propensity score matching and full covariate set. *Note:* The first row of the x-axis label indicates the matching specification used (i.e., kernel matching or the number of nearest neighbors (1–4)); the second row lists the stage of participation (treatment). All effects correspond to property rights compliance. Drawn with 95% confidence intervals.

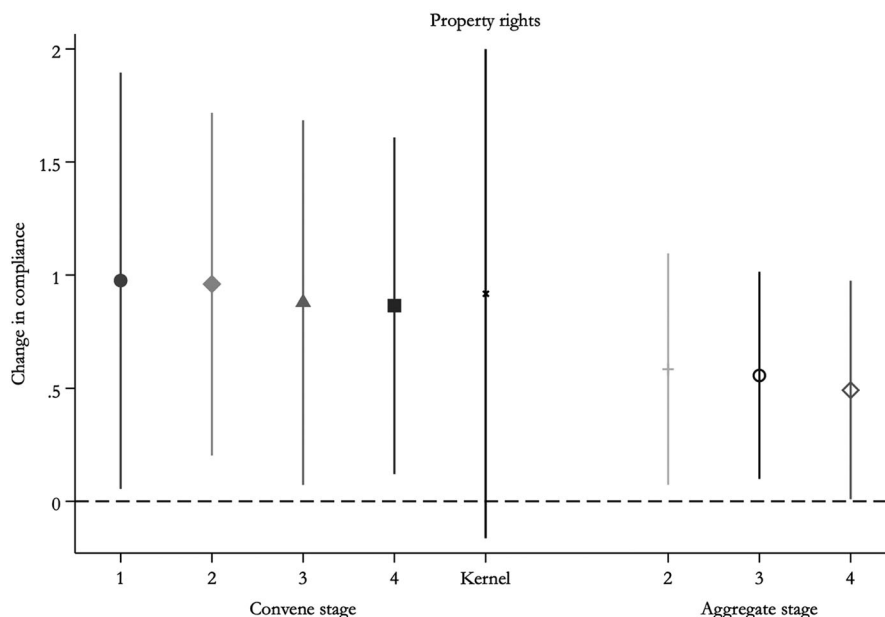


FIGURE 4 Statistically significant effects of strong participation on property rights compliance for propensity score matching and limited covariate set. *Note:* The first row of the x-axis label indicates the matching specification used (i.e., kernel matching or the number of nearest neighbors (1–4)); the second row lists the stage of participation (treatment). All effects correspond to property rights compliance. Drawn with 95% confidence intervals.

torture” under *basic* human rights. What is “torture” may be ambiguous and subject to change with perceived exigencies of the day. The same may be true for “free media” provisions under *civil* rights. (Related to the above, codifications of property rights and the rule of law may more effectively tap into ingrained norms and societal aspirations.)

Another conjecture is that *property rights* provisions are perceived as more fundamental. Security in one’s property and its protection under the rule of law may be perceived as fundamental to constitutionalism. Indeed, North and Weingast (1989) argue that the institutional changes in England following the Glorious Revolution promoted property rights

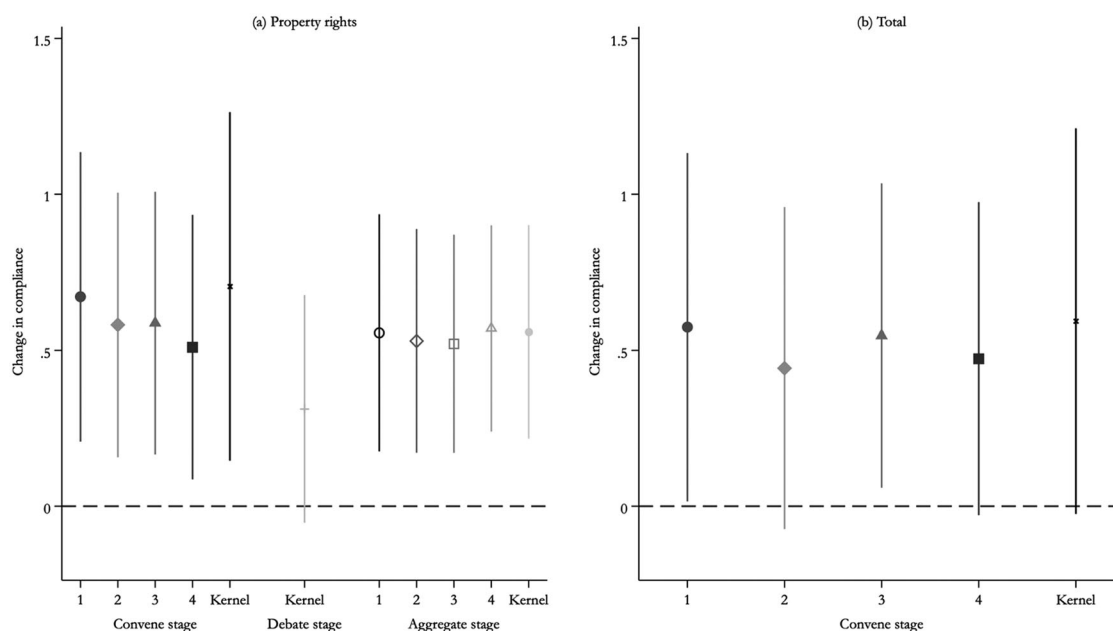


FIGURE 5 Statistically significant effects of weak participation on compliance for propensity score matching and limited covariate set. *Note:* The first row of the x-axis label indicates the matching specification used (i.e., kernel matching or the number of nearest neighbors (1–4)); the second row lists the stage of participation (treatment). Drawn with 95% confidence intervals.

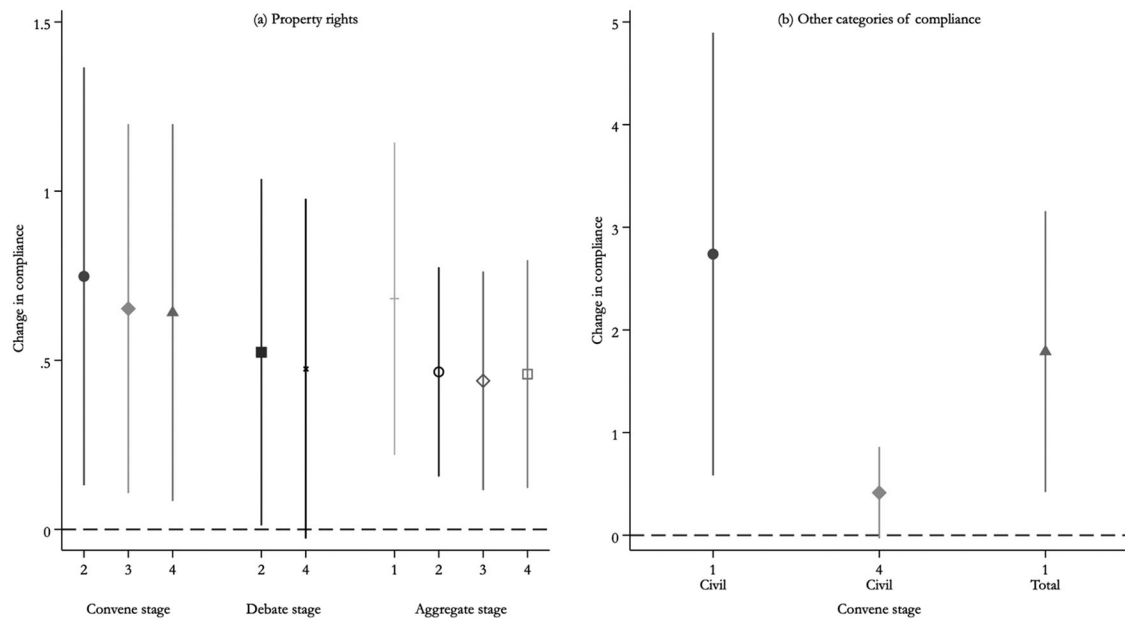


FIGURE 6 Statistically significant effects of strong participation on compliance for Mahalanobis distance matching and limited covariate set. *Note:* The first row of the x -axis label indicates the matching specification used (i.e., kernel matching or the number of nearest neighbors (1–4)). For panel b only, the second row lists the compliance category (outcome); panel a estimates are all for property rights compliance. The stage of participation (treatment) is listed last. Drawn with 95% confidence intervals.

under the rule of law and, in doing so, gave rise to a self-enforcing constitution. *Property rights* provisions, then, may be foundational to a constitutional order.

However, there are reasons to question the above conjectures. For example, the *political* area includes

provisions that speak to “freedom of assembly” and “association.” Are those more open to interpretation than something like the rule of law? Less foundational to a constitutional order? Additional study is clearly needed.

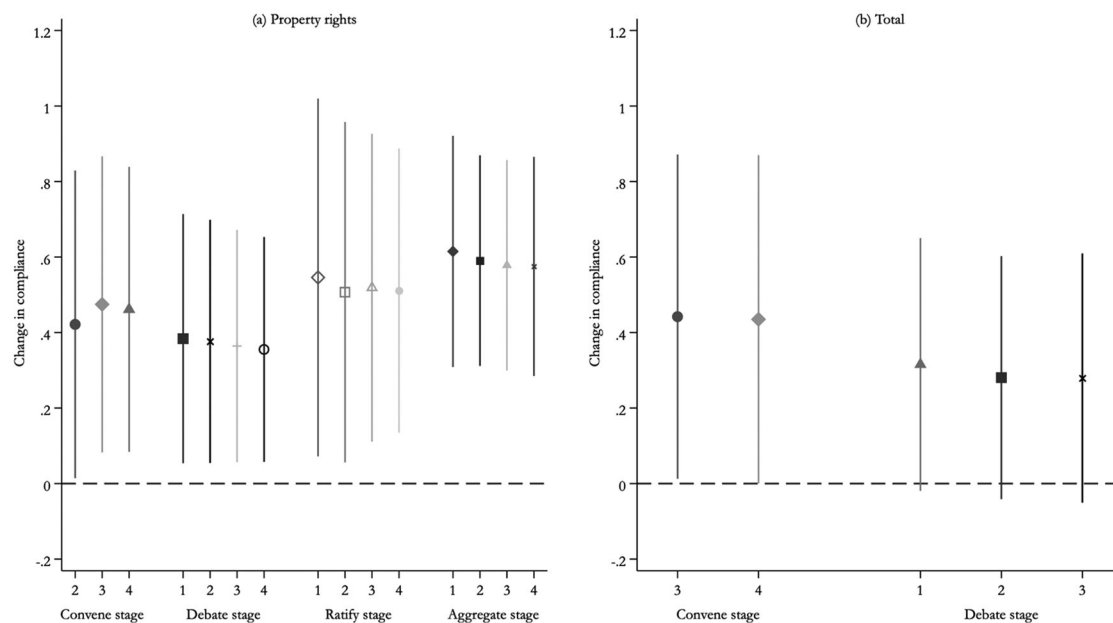


FIGURE 7 Statistically significant effects of strong participation on compliance for Mahalanobis distance matching and limited covariate set. *Note:* The first row of the x -axis label indicates the matching specification used (i.e., kernel matching or the number of nearest neighbors (1–4)); the second row lists the stage of participation (treatment). Drawn with 95% confidence intervals.

CONCLUSIONS

Public participation in constitution-making is increasingly common. By involving the public, the hope is that elite capture will be mitigated and legitimacy enhanced. If this is true, we expect participation to enhance compliance.

However, public participation may be perceived as a substitute for checks and balances, therefore weakening governance institutions. Participation may also divert attention from procedural matters to codification of substantive rights. Therefore, participation may lead to lower compliance.

It is important to understand the relationship between participation and compliance. We employ matching methods to identify it. We find no compelling evidence that participation improves compliance generally. However, there is evidence regarding property rights and rule of law provisions specifically.

We have offered some conjectures regarding the above. Property rights/rule of law provisions may be less open to interpretation. They may also be perceived as more fundamental to constitutionalism. However, there needs to be further research to understand the relationship between public participation and compliance.

Also, interesting research may involve whether public participation increases the probability of constitutional adoption. We only consider successful constitutional adoptions. To our knowledge, data are unavailable for public participation in unsuccessful episodes of constitution-making. Having such data could be productive moving forward.

Lastly, Eisenstadt and Maboudi (2019) build from the CDD to create more nuanced measures that separate public participation from what they call *inclusivity* (i.e., the extent to which political parties, interest groups, civil society organizations, and other political groups are involved in the three stages[.]) (p. 2146). For democracy as an output, they find that inclusivity is what matters. Future work that considers the same for compliance may be fruitful.

REFERENCES

- Abadie, A., D. Drukker, J. L. Herr, and G. W. Imbens 2004. "Implementing Matching Estimators for Average Treatment Effects in Stata." *The Stata Journal* 4(3): 290–311.
- Abadie, A., and G. W. Imbens 2008. "On the Failure of the Bootstrap for Matching Estimators." *Econometrica* 76(6): 1537–57.
- Abadie, A., and G. W. Imbens 2011. "Bias-Corrected Matching Estimators for Average Treatment Effects." *Journal of Business and Economic Statistics* 29: 1–11.
- Abadie, A., and G. W. Imbens 2016. "Matching on the Estimated Propensity Score." *Econometrica* 84(2): 781–807.
- Alesina, A., A. Devleeschauwer, W. Easterly, S. Kurlat, and R. Wacziarg. 2003. "Fractionalization." *Journal of Economic Growth* 8(2): 155–94. <https://link.springer.com/article/10.1023/A:1024471506938>
- Baturo, A. 2016. "Cursus Honorum: Personal Background, Careers and Experience of Political Leaders in Democracy and Dictatorship—New Data and Analyses." *Politics and Governance* 4(2): 138–57. <https://www.cogitatiopress.com/politicsandgovernance/article/view/602>
- Bjornskov, C., and M. Rode. 2020. "Regime Types and Regime Change: a New Dataset on Democracy, Coups, and Political Institutions." *The Review of International Organizations* 15: 531–51.
- Blount, J. 2011. "Participation in Constitutional Design." In *Comparative Constitutional Law*, edited by Ginsburg T and D, Rosalind, 23–46. Cheltenham: Edward Elgar.
- Bockenforde, M., N. Hedlin, W. Wahi. 2011. *A Practical Guide to Constitution Building*. Stockholm: International Institute for Democracy and Electoral Assistance.
- Bologna Pavlik, J., and A. T. Young. 2020. "Medieval European Traditions in Representation and State Capacity Today." *Economics of Governance* 21(2): 133–86.
- Bologna Pavlik, J., and A. T. Young. 2021. "The Legacy of Representation in Medieval Europe for Incomes and Institutions Today." *Southern Economic Journal* 88(1): 414–48.
- Bologna Pavlik, J., and A. T. Young. 2023. "Historical Representative Assembly Experiences and Constitutionalism Today." *Comparative Economic Studies* 65(4): 665–80.
- Bologna Pavlik, J., J. T. Callais, and A. T. Young. 2023. "Revolutionary Constitutional Compliance." Working Paper. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4606031
- Brecke, P. 1999. "Violent Conflicts 1400 A.D. to the Present in Different Regions of the World." Paper presented at 1999 Meeting of Peace Science Society. <https://brecke.inta.gatech.edu/wp-content/uploads/sites/19/2018/09/Brecke-PSS-1999-paper-Violent-Conflicts-1400-AD-to-the-Present.pdf>
- Brennan, G., and J. C. Pardo. 1991. "A Reading of the Spanish Constitution (1978)." *Constitutional Political Economy* 2(1): 53–79.
- Buchanan, J. M. 1975. *The Limits of Liberty: Between Anarchy and Leviathan*. Chicago: University of Chicago Press.
- Callais, J. T., and A. T. Young. 2021. "Does Constitutional Entrenchment Matter for Economic Freedom?" *Contemporary Economic Policy* 39(4): 808–30.
- Callais, J. T., and A. T. Young. 2022. "Does Rigidity Matter? Constitutional Entrenchment and Growth." *European Journal of Law and Economics* 53(1): 27–62.
- Callais, J. T., and A. T. Young. 2024. "Revolutionary Constitutions: Are They Revolutionary in Terms of Constitutional Design?" *Public Choice* 200: 423–55.
- Carey, J. M. 2009. "Does It Matter How a Constitution Is Created?" In *Is Democracy Exportable?*, edited by Z. Barany and R. Moser, 155–77. Cambridge: Cambridge University Press.
- Cheibub, J. A., G. Jennifer, and J. R. Vreeland. 2010. "Democracy and Dictatorship Revisited." *Public Choice* 143(1): 67–101.
- Chilton, A. S., and M. Versteeg. 2016. "Do Constitutional Rights Make a Difference?" *American Journal of Political Science* 60(3): 575–89.
- Choudhry, S., and M. Tushnet. 2020. "Participatory Constitution-Making: Introduction." *International Journal of Constitutional Law* 18(1): 173–78.
- Coppedge, M., J. Gerring, C. Henrik Knutsen, S. I. Lindberg, J. Teorell, D. Altman, M. Bernhard, et al. 2023. "V-Dem [Country-Year/Country-Date] Dataset v13" Varieties of Democracy (V-Dem) Project. <https://doi.org/10.23696/vdemds23>.
- de Lara, Y. G., A. Greif, & S. Jha. 2008. "The Administrative Foundations of Self-Enforcing Constitutions." *American Economic Review* 98(2): 105–9.
- Dincecco, M., J. Fenske, and M. G. Onorato. 2019. "Is Africa Different? Historical Conflict and State Development." *Economic History of Developing Regions* 34(2): 209–50.
- Eisenstadt, T. A., C. A. LeVan, and T. Maboudi. 2015. "When Talk Trumps Text: the Democratizing Effects of Deliberation Dur-

- ing Constitution-making, 1974–2011.” *American Political Science Review* 109(3):592–612.
- Eisenstadt, T. A., C. A. LeVan, and T. Maboudi. 2017. “Constitutionalism and Democracy Dataset, Version 1.0.” American University’s Digital Research Archive. <https://doi.org/10.17606/M63W25>
- Eisenstadt, T., and T. Maboudi. 2019. “Being There Is Half the Battle: Group Inclusion, Constitution-Writing, and Democracy.” *Comparative Political Studies* 52(13–14): 2135–70.
- Elkins, Z., and T. Ginsburg. 2021. “What Can We Learn From Written Constitutions?” *Annual Review of Political Science* 24(1): 321–343.
- Elkins, Z., T. Ginsburg, and J. Melton. 2009. *The Endurance of National Constitutions*. Cambridge: Cambridge University Press. <https://comparativeconstitutionsproject.org/>
- Elkins, Z., T. Ginsburg, and J. Melton. 2016. “Time and Constitutional Efficacy.” *Assessing Constitutional Performance*, edited by T. Ginsburg and A. Huq, 233–67. Cambridge: Cambridge University Press.
- Elkins, Z., and A. Hudson. 2019. “The Constitutional Referendum in Historical Perspective.” In *Comparative Constitution Making*, edited by D. Landau and H. Lerner, 142–164. Cheltenham: Edward Elgar University Press, 97–122.
- Elster, J. 1979. *Ulysses and the Sirens: Studies in Rationality and Irrationality*. Cambridge: Cambridge University Press.
- Elster, J. 2012. “The Optimal Design of a Constituent Assembly.” In *Collective Wisdom: Principles and Mechanisms*, edited by H. Landemore and J. Elster, 148–72. Cambridge: Cambridge University Press.
- Feenstra, R. C., R. Inklaar, and M. P. Timmer. 2015. “The Next Generation of the Penn World Table.” *American Economic Review* 105(10): 3150–82. <https://doi.org/10.34894/QT5BCC>
- Ferejohn, J., and L. Sager. 2003. “Commitment and Constitutionalism.” *Texas Law Review* 81(7): 1929–63.
- Fruhstorfer, A., and A. Hudson. 2022. “Majorities for Minorities: Participatory Constitution Making and the Protection of Minority Rights.” *Political Research Quarterly* 75(1): 103–17.
- Ginsburg, T., S. Chernykh, and Z. Elkins. 2008. “Commitment and Diffusion: How and Why Constitutions Incorporate International Law.” *Illinois Law Review* 201: 208–9.
- Gluck, J., and M. Brandt. 2015. “Participatory and Inclusive Constitution Making: Giving a Voice to the Demands of Citizens in the Wake of the Arab Spring.” Washington DC: United States Institute of Peace. [Participatory-and-Inclusive-Constitution-Making.pdf](https://www.usip.org/sites/default/files/documents/Participatory-and-Inclusive-Constitution-Making.pdf) (youthpower.org).
- Grajzl, P., J. Gutmann, and S. Voigt. Forthcoming. “The Nation-State Foundations of Constitutional Compliance.” *Constitutional Political Economy*, in press.
- Gu, X. S., and P. R. Rosenbaum. 1993. “Comparison of Multivariate Matching Methods: Structures, Distances, and Algorithms.” *Journal of Computational and Graphical Statistics* 2(4): 405–20.
- Gutmann, J., A. Lewczuk, J. Lewkowicz, and S. Voigt. 2021b. “Culture and Constitutional Compliance.” Working Paper. https://www.jura.fu-berlin.de/en/forschung/fuels/Events/GLEA-2021/GLEA-2021-Resources/GLEA21_paper_36.pdf
- Gutmann, J., K. Metelska-Szaniawska, and S. Voigt. 2023. “Comparative Constitutional Compliance Database v2.0.” Harvard Dataverse, V2, <https://doi.org/10.7910/DVN/TNSZ3N>.
- Gutmann, J., K. Metelska-Szaniawska, and S. Voigt. 2024a. “The Comparative Constitutional Compliance Database.” *Review of International Organizations* 19(C): 95–115.
- Gutmann, J., K. Metelska-Szaniawska, and S. Voigt. 2024b. “Leader Characteristics and Constitutional Compliance.” *European Journal of Political Economy* 84: 102423.
- Hadfield, G. K., and B. R. Weingast. 2014. “Constitutions as Coordinating Devices.” In *Institutions, Property Rights, and Economic Growth*, edited by S. Galliani and I. Sened, 121–50. Cambridge: Cambridge University Press.
- Hardin, R. 1989. “Why a constitution?” In *The Federalist Papers and the New Institutionalism*, edited by B. Grofman and D. Wittman, New York: Agathon Press.
- Harris, W. F. II. 1993. *The Interpretable Constitution*. Baltimore: Johns Hopkins University Press.
- Hart, V. 2003. *Democratic Constitution Making*. Washington, DC: United States Institute of Peace.
- Hayek, F. A. 1960. *The Constitution of Liberty*. Chicago: University of Chicago Press.
- Hofstede, G. 1980. *Culture’s Consequences: International Differences in Work-Related Values*. Thousand Oaks: Sage Publications.
- Hofstede, G. 2001. *Culture’s Consequences: Comparing Values, Behaviors, Institutions and Organizations Across Nations*. (2nd ed.). Thousand Oaks: Sage Publications.
- Hofstede, G., G. J. Hofstede, and M. Minkov. 2010. *Cultures and Organizations: Software of the Mind*. (3rd ed.). New York: McGraw-Hill USA.
- Holmes, S. 1995. *Passions and Constraint: On the Theory of Liberal Democracy*. Chicago: University of Chicago Press.
- Houlihan, E. C. 2021. “Unpacking the Forms and Functions of Public Participation in Constitution-Building: Practical Guidance for Process Designers and Advocates.” Institute for Democracy and Electoral Assistance. July 22. <https://www.idea.int/news-media/news/unpacking-forms-and-functions-public-participation-constitution-building-practical>
- King, G., and R. Nielsen. 2019. “Why Propensity Scores Should Not Be Used for Matching.” *Political Analysis* 27(4): 435–54.
- Kydland, F. E., and E. C. Prescott. 1977. “Rules Rather Than Discretion: The Inconsistency of Optimal Plans.” *Journal of Political Economy* 85(3): 473–91.
- Landemore, H. 2020. “When Public Participation Matters: the 2010–2013 Icelandic Constitutional Process.” *Journal of International Constitutional Law* 18(1): 179–205.
- Law, D. S., and M. Versteeg. 2013. “Sham Constitutions.” *California Law Review* 101: 863–952.
- Leeson, P. T. 2011. “Government, Clubs, and Constitutions.” *Journal of Economic Behavior and Organization* 80(2): 301–8.
- Lenowitz, J. A. 2015. “‘A Trust That Cannot Be Delegated’: The Invention of Ratification Referenda.” *American Political Science Review* 109(4): 803–16.
- Lewczuk, A., and K. Metelska-Szaniawska. 2025. “Economic Effects of (Non-) Compliance With Constitutions.” *Journal of Comparative Economics* (forthcoming).
- Lewkowicz, J., and A. Lewczuk. 2023. “Civil Society and Compliance With Constitutions.” *Acta Politica* 58:181–211.
- Liolos, J. J. 2021. “Should the Dead Bind the Living? Perhaps Ask the People: an Examination of the Debates Over Constitutional Convention Referendums in State Constitutional Conventions.” *Akron Law Review* 54(2): 329–99.
- Marshall, M. G., and T. R. Gurr. 2020. “Polity5: Political Regime Characteristics and Transitions, 1800–2018.” Center for Systemic Peace. <https://www.systemicpeace.org/inscrdata.html>
- Metelska-Szaniawska, K. 2021. “Post-Socialist Constitutions: The De Jure-De Facto Gap, Its Effects and Determinants.” *Economics of Transition and Institutional Change* 29(2): 176–96.
- Metelska-Szaniawska, K., and A. Lewczuk. 2022. “Constitutional Overperformance: an Empirical Study of De Facto Protection of Rights With No De Jure Equivalents.” *European Journal of Law and Economics* 53(2): 289–317.
- Moehler, D. 2008. *Distrusting Democrats: Outcomes of Participatory Constitution Making*. Ann Arbor: University of Michigan Press.
- Michelman, F. I. 1998. “Constitutional Authorship.” In *Constitutionalism: Philosophical Foundations*, edited by L. Alexander, 64. New York: Cambridge University Press.
- Mittal, S., and B. R. Weingast. 2011. “Self-Enforcing Constitutions: with an Application to Democratic Stability in America’s First Century.” *Journal of Law, Economics, and Organization* 29(2): 278–302.

- Mueller, D. C. 1999. "Fundamental Issues in Constitutional Reform: With Special Reference to Latin America and the United States." *Constitutional Political Economy* 10(2): 119–48.
- Negretto, G. L. 2020. *Redrafting Constitutions in Democratic Regimes: Theoretical and Comparative Perspectives*. Cambridge: Cambridge University Press.
- North, D. C., and B. R. Weingast. 1989. "Constitutions and Commitment: the Evolution of Institutions Governing Public Choice in Seventeenth-Century England." *Journal of Economic History* 49(4): 803–32.
- Ordeshook, P. C. 1992. "Constitutional Stability." *Constitutional Political Economy* 3(2): 137–75.
- Pemstein, D., K. L. Marquardt, E. Tzelgov, Y. Wang, J. Medzihorsky, J. Krusell, F. Miri, and J. Römer. 2023. "The V-Dem Measurement Model: Latent Variable Analysis for Cross-National and Cross-Temporal Expert-Coded Data." V-Dem Working Paper No. 21. 8th edition. Gothenburg: University of Gothenburg Varieties of Democracy Institute.
- Plattner, M., L. Diamond, F. Fukuyama, and D. Horowitz. 2014. "Discussion: Reconsidering the Transition Paradigm." *Journal of Democracy* 25(1): 86–100.
- Prieto, M., and S. Verdugo. 2021. "Understanding Chile's Constitution-Making Procedure." *International Journal of Constitutional Law* 19(1): 1–5.
- Rosenbaum, P. R., and D. B. Rubin. 1983. "The Central Role of the Propensity Score in Observational Studies of Causal Effects." *Biometrika* 70(1): 41–55.
- Salter Alexander, W., and R. E. Wagner. 2018. "Political Entrepreneurship, Emergent Dynamics, and Constitutional Politics." *Review of Social Economy* 76(3): 281–301.
- Saunders, C. 2012. "Constitution-Making in the 21st Century." *International Review of Law* 4(1): 1–10.
- Schelling, T. C. 1984. *Choice and Consequence: Perspectives of an Errant Economist*. Cambridge: Harvard University Press.
- Schnelle, T. 2024. "Non-Compliance as a Determinant of Constitutional Change? A Comparative Study." *Constitutional Political Economy*: in press. <https://link.springer.com/article/10.1007/s10602-024-09444-1>.
- Tierney, S. 2012. *Constitutional Referendums: The Theory and Practice of Republican Deliberation*. Oxford: Oxford University Press.
- Tushnet, M. 2012. "Constitution-making: an Introduction." *Texas Law Review* 91(7): 1983–2013.
- Vanberg, G. 2011. "Substance vs. Procedure: Constitutional Enforcement and Constitutional Choice." *Journal of Economic Behavior & Organization* 80(2): 309–18.
- Voigt, S. 2012. "How to Measure the Rule of Law." *Kyklos* 65(2): 262–84.
- Voigt, S. 2021. "Mind the Gap—Analyzing the Divergence between Constitutional Text and Constitutional Reality." *International Journal of Constitutional Law* 19(5): 1778–809.
- Walker, M. C. 2003. *The Strategic Use of Referendums: Power, Legitimacy, and Democracy*. New York: Palgrave Macmillan.
- Wagner, R. E., and J. D. Gwartney. 1989. "Public Choice and Constitutional Order." In *Public Choice and Constitutional Economics*, edited by J. D. Gwartney and R. E. Wagner. Greenwich: JAI Press.
- Weingast, B. R. 1995. "The Economic Role of Political Institutions: Market-Preserving Federalism and Economic Development." *Journal of Law, Economics, and Organization* 11(1): 1–31.
- Weingast, B. R. 1997. "The Political Foundations of Democracy and the Rule of Law." *American Political Science Review* 91(2): 245–263.
- Weingast, B. R. 2005. "The Constitutional Dilemma of Economic Liberty." *Journal of Economic Perspectives* 19(3): 98–108.
- Waismann, F. 1945. "Verifiability: II." *Proceedings of the Aristotelian Society, Supplementary Volumes* 19: 101–64.
- Widner, J. 2004. *Constitution Writing and Conflict Resolution Datasets One and Two*. Princeton, NJ: Princeton University. <http://pcwcr.princeton.edu/data/datasets.html>
- Widner, J. 2008. "Constitution Writing in Post-Conflict Settings: an Overview." *William and Mary Law Review* 49(4): 1513–42.
- Wing, S. D. 2008. *Constructing Democracy in Transitioning Societies of Africa: Constitutionalism and Deliberation in Mali*. New York: Palgrave Macmillan.
- World Development Indicators. Washington, D.C.: The World Bank; <https://databank.worldbank.org/source/world-development-indicators>
- Young, A. T. 2019. "How Austrians Can Contribute to Constitutional Political Economy (and Why They Should)." *Review of Austrian Economics* 32: 281–93.
- Young, A. T. 2021. "The Political Economy of Feudalism in Medieval Europe." *Constitutional Political Economy* 32(1): 127–43.
- Young, A. T. 2023. "The Limits of Generality for Constitutional Design." *Journal of Institutional Economics* 19(6): 837–51.

SUPPORTING INFORMATION

Additional supporting information can be found online in the Supporting Information section at the end of this article.

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APPENDIX: DEFINITIONS AND SOURCES

TABLE A1 Coding criteria from the Constitutionalism and Democracy Database database.

	Constitution-making stage		
	Convening	Debating	Ratifying
Imposed	Strong executive OR executive appointed committee OR party as a central committee	Strong executive OR executive-appointed committee OR party as a central committee. Debated in camera	No referendum OR decree by the executive body
Mixed	Strong elite influence AND (existing legislature OR specially elected body, but elites exercised some control over candidates/ electoral process)	Strong elite influence AND (existing legislature OR specially elected body) a debate at least partially open but that failed to overrule any elite preferences	Strong elite influence AND ratification by elected body OR ratification by a referendum with notable irregularities
Popular	Systematic civil society input OR strong transparency OR specially elected drafters “freely and fairly” elected	Public debate, with civil society, that visibly influenced draft content	Generally “free and fair” referendum

TABLE A2 Variable names, definitions, and sources (compliance and participation only).

Variable name	Definition
Constitutional compliance	Compliance index ranging from −2 (least compliance) to 2 (most compliance) in the following areas:
Basic human rights	The right to life, freedom from slavery, and protection from torture
Civil rights	Free media, speech, movement, and religion
Political rights	Freedom of association and assembly, right to form political parties
Property rights and the rule of law	Private property rights, judicial independence, equality before the law, and the rule of law
Total	Average of basic human rights, civil rights, political rights and property rights, and the rule of law
Participation	Public participation in the construction of a new constitution scored as 0 (none), 1 (mixed), and 2 (full) in the following stages:
Convene	Convening
Debate	Debating
Ratify	Ratifying
Aggregate	A measure capturing all three phases ranging from 0 (no participation in any stage) to 6 (full participation in all stages)

Source: Compliance—Gutmann, Metelska-Szaniawska, and Voigt (2023) and Gutmann, Metelska-Szaniawska, and Voigt (2024aa); participation—Eisenstadt, LeVan, and Maboudi (2017).

TABLE A3 Covariate names, definitions, and sources.

Variable name	Description
Assembly experience ^a	Historical assembly experience, weighted by descendency share
Individualism ^a	Hoefstede individualism index, weighted by descendency share
GDP per capita ^b	Output-side real gross domestic product at chained purchasing power parity per capita.
Population ^b	Population in millions
Polity ^c	Polity2 indicator
Civil society ^d	Measure of civil society
Civil liberties ^d	Measure of civil liberties
Polyarchy ^d	Measure of polyarchy
Conflict ^e	Share of years from 1400 to 1799 that a country experienced conflict on its own soil
Conflict civil war ^e	Share of years in civil war during 1950–2000.
Ethnic fractionalization	Alesina et al. (2003) indicator of ethnic fractionalization
Age of constitution ^f	Year—the year of the constitution
Aid share ^g	Net official development assistance and official aid as the percentage of GDP.
Leadership—military ^h	Indicator = 1 if a leader under the prior constitution had a military background; 0 otherwise.
Leadership—extreme left ^h	Indicator = 1 if a leader under the prior constitution had an extreme left background; 0 otherwise
Dismissal ^f	Indicator = 1 if the prior constitution had a dismissal provision; 0 otherwise.

Note: All time-varying covariates are lagged to the year prior to the adoption of the new constitution.

^aBologna Pavlik and Young (2023).

^bPenn World Table V10.01.

^cPolity5.

^dV-Dem V13.

^eDFO Database.

^fComparative Constitutions Project V4.

^gWorld Bank.

^hBaturo (2016).

TABLE A4 Limited covariate set for each treatment.

Convene, strong	Polity, civil participation, civil liberties, polyarchy, conflict, civil war, ethnic fractionalization, aid, military, and extreme left
Convene, weak	Polity, civil participation, civil liberties, civil war, aid, military, and dismissal
Debate, strong	Assembly experience, civil participation, and extreme left
Debate, weak	Individual, conflict, and extreme left
Ratify, strong	Military and extreme left
Ratify, weak	Individual, civil liberties, and age
Aggregate, strong	Assembly experience, individual, population, polity, civil liberties, polyarchy, conflict, military, and extreme left
Aggregate, weak	Polity, civil participation, military, and extreme left