

Consultation Without Consensus:
Lessons from Chile's Constitutional Convention (2021-2022)

Abstract

Constitutional crises increasingly emerge not from dictatorship's end, but from democracy's disappointments, generating demands for greater citizen involvement. Drawing on interviews with 30 delegates and staff from the Chilean Constitutional Convention, this research note examines why one of history's most ambitious participatory experiments faltered. The analysis reveals three interconnected tensions characterizing consultation without consensus: sequencing (when citizen input informs elite deliberation), aggregation (how input becomes actionable), and authority (what binding force participation has over representatives). The Convention attempted extensive citizen engagement without prior elite agreement on these core questions, producing mechanisms that struggled to link citizens to decision-making. The case reveals a paradox: conditions making consultation most necessary—acute fragmentation and representational failure—also make coherent implementation most difficult.

Keywords: Chile; consultation; constitution-making; elite consensus; public participation

Consulta Sin Consenso:
Lecciones de la Convención Constitucional de Chile (2021-2022)

Resumen

Las crisis constitucionales surgen cada vez más no del fin de las dictaduras, sino de las desilusiones de la democracia, generando demandas de mayor participación ciudadana. A partir de entrevistas con 30 delegados y funcionarios de la Convención Constitucional Chilena, esta nota de investigación examina por qué uno de los experimentos participativos más ambiciosos de la historia falló. El análisis revela tres tensiones interconectadas que caracterizan la consulta sin consenso: secuenciación (cuándo el aporte ciudadano informa la deliberación de las élites), agregación (cómo el aporte se vuelve accionable), y autoridad (qué fuerza vinculante tiene la participación sobre los representantes). La Convención intentó un compromiso ciudadano extensivo sin acuerdo previo de las élites sobre estas cuestiones fundamentales, produciendo mecanismos que lucharon por vincular a los ciudadanos con la toma de decisiones. El caso revela una paradoja: las condiciones que hacen la consulta más necesaria—fragmentación aguda y fracaso representacional—también hacen la implementación coherente más difícil.

Palabras clave: Chile; consulta; elaboración constitucional; consenso de élites; participación ciudadana

Introduction

The Chilean constituent process looks much more like the constituent processes to come in other countries... [Earlier] constituent processes were carried out at the end of a dictatorship... in societies that were relieved to have left the dictatorship behind, and looked with optimism and hope to a future of normal functioning of democratic institutions. The Chilean process, and I believe that the processes that are coming in general in our era... occur not at the end of a dictatorship, [but] at the end of 30 years of normal functioning of democratic institutions... They look with suspicion at that functioning, because it is that functioning that led to the crisis from which the constituent process emerges. It is a very strong irony. (CL_12)

This observation, made by a former member of the Chilean Constitutional Convention during interviews I conducted in late 2024, has proven remarkably prescient. Since then, the world has witnessed a growing number of constitutional crises in which citizens have demanded more substantive forms of engagement. In Nepal, “Gen Z protests” are demanding constitutional rewriting “with active participation from citizens, experts, and youth” (Srivastava, 2025). In Kenya, youth demonstrations are exposing the gap between constitutional requirements for public participation and perfunctory government implementation (Houghton, 2025). In Bangladesh, civil society is pushing for a participatory constituent assembly following the “July Revolution” (The Business Standard, 2025). These cases point to a nascent reality: constitutional crises born not from dictatorship’s end, but from democracy’s disappointments, generating demands for direct citizen involvement in the drafting of new social contracts.

Governments must now sustain popular legitimacy—and the constitutional order that depends upon it—from increasingly skeptical societies (Wike et al., 2025). Responding to these pressures, constitutional drafters have engaged citizens in ways that are “increasingly more direct and penetrate more deeply... in the process” (Elkins et al., 2008, p. 364). Participatory mechanisms have proliferated alongside technological advances (Geissel & Michels, 2018; Houlihan & Bisarya, 2021; Kies et al., 2023; Landemore, 2015, 2020; Popescu & Loveland, 2022), while international organizations treat robust citizen involvement as a democratic imperative for constitution-making (Brandt et al., 2011; Dann et al., 2011; Ebrahim et al., 1999; Gluck & Ballou, 2014; Hart, 2003, 2010). Yet elites often seek legitimacy through participatory institutions precisely when citizens’ suspicion of existing institutions makes such efforts harder

to implement credibly. Indeed, it is a “strong irony” (CL_12) that the very legitimacy deficits that necessitate elaborate participatory frameworks may reproduce the same representational pathologies that triggered the constitutional crisis in the first place (Martin, forthcoming).

Chile’s Constitutional Convention (2021-22) revealed, with unusual clarity, how consultation without consensus cannot replace substantive representation; citizen engagement meant to restore legitimacy instead exposed delegates’ fundamental disagreements about how participatory mechanisms should serve the broader representative system. Following the massive social unrest of 2019, the 155 elected delegates designed one of the most ambitious participatory frameworks in modern constitution-making history (Convención Constitucional de Chile, 2021a, 2021b). The process included citizen assemblies, indigenous consultations, regional dialogues, popular initiatives, and extensive outreach (Delamaza, 2014). Yet despite these unprecedented efforts—or perhaps because of their contradictions (Martin, forthcoming)—public participation failed to generate the legitimacy it sought; the resulting constitution was rejected by nearly 62% of voters. The entire process became widely criticized as chaotic and polarizing (Delucchi, 2024; Dixon & Landau, 2021; Ginsburg & Álvarez, 2024; Issacharoff & Verdugo, 2023; Larrain et al., 2023; Toro Maureira & Noguera, 2024), with the Convention becoming a symbol of institutional dysfunction rather than democratic renewal. This disconnect, however, provides analytical leverage: those who designed and implemented this ambitious participatory framework should offer valuable insights into why it failed to generate the legitimacy delegates sought.

What lessons do Convention members draw from their experience with public consultation, and what do their reflections reveal about the challenges of participatory constitution-making in contemporary democracies? Drawing on interviews with 30 Convention participants (27 delegates, 3 technicians), this research note examines three interdependent tensions that characterized Chile’s experience of consultation without consensus: sequencing (when citizen input informs elite deliberation), aggregation (how input becomes actionable), and authority (what binding force participatory mechanisms have). The analysis reveals that Chile attempted extensive citizen engagement without prior elite agreement on these foundational questions, transforming consultation from a complement to deliberation into a compensatory device absent consensus. Yet delegates’ reflections also suggest an underappreciated possibility: that properly structured consultation—with clear sequencing, independent aggregation, and defined authority—might help catalyze elite consensus rather than merely presuppose it. These

reflections matter not only for constitutional designers facing similar crises in divided democracies, but for the future of democratic constitution-making itself.

Conventional Assessments

Three years after the exit plebiscite, the scholarly post-mortem of Chile's Constitutional Convention has been substantial, a constitutional autopsy drawing insights from across fields. Academic assessments fall into three overlapping categories: (1) procedural analyses examining institutional design flaws; (2) evaluations assessing citizen engagement mechanisms; and (3) outcome-focused explanations for the ultimate rejection of the constitutional proposal. The following review focuses on the first two. These assessments reveal how representational failures operated along both horizontal (inter-elite coordination) and vertical (citizen-elite linkage) dimensions, though their interaction remains undertheorized.

In many ways, the procedural flaws of the Constitutional Convention reflect a form of horizontal representational failure—the inability of elites to coordinate among themselves about foundational rules governing the deliberative process. These “elite fractures” (Martin, 2025b) were evident even before the Convention began. As García-Huidobro (2024) argues, the Chilean Congress sowed the seeds of elite non-cooperation when it opted to have voters determine the nature of the convention. When the entry plebiscite resulted in a fully-elected convention, left-wing parties reopened the 2019 Constitutional Agreement to push for electoral rules favoring independents, gender parity, and 17 seats reserved for Indigenous peoples. The result was “a level of inclusion never before seen in a representative body in the country” (Heiss, 2021, p. 45) that came at the cost of greater elite polarization (Campos-Parra & Navia, 2025; Canzano et al., 2024; Palanza & Sotomayor Valarezo, 2024).

The procedural norms adopted by the Convention were the product of negotiations conducted without the political insurance needed to foster elite consensus-building (Dixon & Ginsburg, 2017; Finkel, 2008; Ginsburg, 2003; Hirschl, 2007). Ginsburg and Álvarez (2024, p. 184), focusing on the two-thirds quorum rule and circular voting mechanisms, identify incongruous decision-making procedures as the “fatal flaw” of the process, producing “a fragmented decision-making environment that lacked unity, consistency and organization.” The highly decentralized character of the drafting process created an environment in which “committees using simple majority voting were able to put forward radical proposals that had no

chance to be approved in the plenary” (Larrain et al., 2023, p. 234), demonstrating how elite disagreement about procedures prevented coherent institutional functioning (Fuentes, 2023; Prieto & Verdugo, 2021). Some scholars argue that these coordination failures exacerbated the particular brand of identity politics that would define the Convention’s “additive,” rather than consensus-based, approach to decision-making (Figueroa Rubio, 2023, p. 23; Svensson, 2022).

The literature also documents extensive vertical representational failure—the breakdown of meaningful connections between citizen input and elite decision-making. That the Convention was, at once, the most participatory (Heiss & Suárez-Cao, 2024) and one of the least consensual political process in contemporary Chilean history exemplifies this disconnect; massive citizen engagement failed to generate elite settlements about constitutional priorities. Issacharoff and Verdugo (2023) argue that participatory mechanisms contributed to “activation failure” precisely because they were used to bypass established institutional actors rather than strengthen representational linkages. The anti-establishment and anti-party character of the Convention, of course, reinforced this dynamic (see Verdugo & García-Huidobro, 2024), as 103 delegates had no prior affiliation with political parties.

The absence of systematic linkage between citizen participation and elite decision-making becomes clear in the implementation of specific mechanisms. More controversial mechanisms such as the “intermediate binding plebiscites” and the “national day of deliberation” were never implemented due to constitutional and budget constraints. Even the *iniciativas populares de norma* (“popular norm initiatives”), widely considered the most influential instrument (Delamaza, 2024; Heiss, 2023, 2025a; Soto Barrientos et al., 2025), including among Convention members (Martin, forthcoming, p. 9), achieved only limited success. Only 3.3% of the approximately 2,500 introduced to the Convention were considered, and many were rejected without any meaningful discussion (Escudero, 2024; Soto Barrientos et al., 2025). Due to processing issues, timeline pressures, and shifting political dynamics, moreover, it remains unclear to what extent the data generated by other mechanisms such as the *cabildos* (“town halls”) and public hearings influenced constitutional outcomes (Delamaza, 2024, pp. 121–122; Pogrebinschi, 2023, p. 9).

The scope of citizen engagement was nonetheless impressive: 1,005,771 citizens sponsored initiatives, 1,719 public hearings were held, and 16,424 *cabildos* with 154,541 participants were organized (Delamaza, 2024). By any measure of democratic participation,

these numbers represent unprecedented citizen mobilization not only in Chilean history but also on a global scale in contemporary constitution-making (Martin, 2025b). The Convention's participatory architecture succeeded in creating multiple channels for citizen input and generating massive public engagement with constitutional questions, drawing some lessons from past constitutional experiences (García, 2024). Yet this very success in mobilizing participation makes the ultimate failure of the constitutional proposal even more puzzling. While scholars have extensively analyzed why 62% of voters ultimately rejected the constitution—pointing to factors including controversial issues (e.g., plurinationality), “withdrawn citizens,” and misinformation campaigns (Bargsted, 2022; Fábrega, 2022; Palanza & Sotomayor Valarezo, 2024; Palestini & Medel, 2025; Saldaña et al., 2024)—these explanations, like the procedural and participatory critiques above, treat horizontal and vertical representational failures as largely separate phenomena rather than understanding their systematic interaction.

Taken together, this research suggests that horizontal and vertical failures were not independent but mutually reinforcing. The partisan dynamics of the Convention, particularly the exclusion of right-wing and some center-left delegates (Atria, 2022; Escudero, 2024; Issacharoff & Verdugo, 2023; Larrain et al., 2023), fundamentally shaped how participatory mechanisms were implemented. Martin (forthcoming) demonstrates how delegates “cherry-picked” public input along partisan lines: left-wing delegates used citizen voices to justify proposals, elevate certain issues, and legitimize the process, while right-wing opposition delegates invoked citizen voices to critique the Convention and its participatory mechanisms and reject certain proposals. This behavior embodies consultation without consensus—extensive citizen engagement occurring within an elite structure incapable of reaching agreement about key constitutional priorities.

Persistent disagreements over whether mechanisms should be *vinculante* (“binding”) or *incidente* (“advisory”) further elucidate how elite divisions undermined vertical representation. These disputes reflected fundamental disagreements about whether citizen voices should directly constrain elite decision-making or merely inform representative deliberation, making coherent processing of citizen voices impracticable. As Escudero (2024, p. 199) concludes, “the counterweights of participation and procedures failed to strengthen the Convention vis-à-vis the established democratic institutions that, in the end, successfully resisted the Constituent

Assembly's proposal." In other words, direct participation was treated not as a compass to determine public priorities but instead as ammunition to advance partisan positions.

While scholars have documented both elite coordination problems (García-Huidobro, 2024; Negretto, 2018, 2020) and participatory mechanism failures (Banks, 2007; Ginsburg et al., 2009; Partlett, 2012), the ways in which horizontal elite divisions systematically undermine vertical representational capacity are less adequately theorized. Scholars document what happened—institutional fragmentation, partisan cherry-picking, failed popular initiatives—but cannot explain the central paradox: why extensive citizen consultation was called upon to compensate for deficient substantive representation when the very elite divisions that created that disconnect made credible consultation virtually impossible. The reforms meant to overcome Chile's ongoing crisis of representation instead entrenched elite divisions, creating conditions where partisan conflicts obstructed the "upward transmission of popular demands" (Przeworski, 2020, p. 359).

Addressing this theoretical gap requires understanding not just outcomes but actors' expectations and evolving perceptions. Existing scholarly analysis has not examined whether Convention members recognized the contradiction between their anti-institutional mandate and the coordination necessary to process citizen input effectively, or how their legitimacy expectations evolved as participation failed to generate consensus. Insider perspectives are thus essential for understanding how delegates, now years removed from the end of the Convention, draw lessons from their experience. This research note begins to address these gaps through interviews with 30 Convention participants, offering preliminary insights into their assessments of the participatory process.

Materials and Methods

Research Questions

This study examines how Chilean Constitutional Convention participants retrospectively assess the participatory process and what lessons they draw for future constitution-making efforts. Two research questions guide the analysis: (1) What tensions do Convention members identify between citizen consultation and elite deliberation, and how do they explain these dynamics? (2) How do Convention members evaluate whether the consultation process, and what lessons do they draw for future constitution-making?

To address these questions, I conducted semi-structured interviews with Convention participants: both elected delegates and technicians. Retrospective interviews conducted approximately two years after the Convention's conclusion offer distinct analytical advantages. Temporal distance allows participants to reflect critically on dynamics that may have been obscured during the drafting process, when strategic positioning and immediate political pressures shaped public discourse (Selwyn, 2013). This separation enables more candid assessment of what worked, what failed, and why—insights particularly valuable for understanding how participants experienced the tensions between extensive citizen engagement and elite fragmentation.

Sample and Recruitment

In November 2024, I conducted interviews with 30 individuals involved in Chile's Constitutional Convention: 27 elected delegates and 3 technical staff members who assisted the participatory process. Participants were recruited through purposive sampling, a strategy well-suited for accessing elite populations with specialized knowledge (Mikecz, 2012; Tansey, 2007). I prioritized recruiting delegates with ideological diversity to capture varied perspectives on the participatory framework. Initial contacts were identified through public records of Convention membership and media coverage, with additional participants recruited through snowball referrals from early interviewees (Cohen & Arieli, 2011; MacLean, 2013).

Table 1 presents the distribution of participants across electoral lists. The sample captures perspectives spanning the political spectrum, from the left-wing *Apruebo Dignidad* and *Lista del Pueblo* to the right-wing *Vamos por Chile*, as well as independent delegates and one reserved seat representative. Technical staff provided complementary perspectives on the implementation challenges of participatory mechanisms. This sample size is consistent with established qualitative research standards for achieving data saturation in interview studies, where thematic patterns stabilize after 20-30 interviews (Guest et al., 2006; Hagaman & Wutich, 2017). While the sample includes voices from across the political spectrum, left-leaning lists are somewhat overrepresented relative to the Convention's actual composition—a reflection of differential access and recruitment dynamics. The inclusion of both delegates and technical staff enables triangulation between those who made constitutional decisions and those who managed citizen engagement infrastructure.

Table 1: Sample Distribution by Electoral List

Electoral List	N	% of sample	% of Convention
<i>Apruebo Dignidad</i>	6	20.0%	18.1% (28 seats)
<i>Independientes No Neutrales</i>	3	10.0%	7.1% (11 seats)
Independent	1	3.3%	7.1% (11 seats)
<i>Lista del Apruebo</i>	7	23.3%	16.1% (25 seats)
<i>Lista del Pueblo</i>	5	16.7%	16.8% (26 seats)
Reserved Seats	1	3.3%	11.0% (17 seats)
<i>Vamos por Chile</i>	4	13.3%	23.9% (37 seats)
Technical Staff	3	10.0%	0% (0 seats)
Total	30	100.0%	100.0% (155 seats)

I audio-recorded all interviews with participant consent and transcribed them using WhisperX, an automatic speech recognition tool optimized for multilingual audio (Bain et al., 2023). For this research note, I focus specifically on responses to the two research questions stated above regarding retrospective assessment and lessons learned. My analysis was structured around key theoretical concepts such as elite coordination challenges (horizontal failures), citizen-elite linkage problems (vertical failures), and their interaction.

I analyzed transcripts through systematic close reading focused on responses addressing the two research questions above. Given the limited scope of this research note, this approach enabled in-depth engagement with how delegates articulated their experiences with participatory mechanisms. I read each transcript multiple times, first identifying explicit references to consultation processes and their perceived effectiveness, then examining how participants explained implementation challenges and relationships between procedural choices and outcomes. This iterative process allowed me to identify recurring themes in how delegates described tensions between citizen input and elite deliberation. Close reading prioritizes depth over breadth, trading comprehensive coding of all interview content for nuanced interpretation of how Convention participants retrospectively make sense of consultation's failure to generate constitutional consensus (Schwartz-Shea & Yanow, 2012).

The present study has some limitations that should be acknowledged. First, retrospective interviews conducted approximately two years after the Convention's conclusion offer analytical advantages but also introduce potential recall bias. While temporal distance enables more candid reflection, it may also lead participants to reconstruct their experiences through the lens of the constitutional proposal's rejection, possibly overstating tensions they recognized at the time or

downplaying optimism they initially felt. Second, this research note presents preliminary analysis of a subset of interview responses rather than comprehensive examination of the full dataset. A more extensive study examining the complete interview protocol across both Chilean and Cuban cases is forthcoming. The findings presented here should be understood as initial insights into how Convention participants assess consultation processes retrospectively, not as definitive conclusions about participatory constitution-making more broadly. Finally, elite interviews capture perspectives of those responsible for managing consultation but not the experiences of citizens who participated in mechanisms such as cabildos and popular initiatives. Understanding the full dynamics of consultation without consensus would require complementary research examining citizen perspectives on how their input was received and processed (e.g., Vargas-Murillo, 2025).

Results

Tension 1: Sequential vs. Parallel Participation

Time was the Chilean Constitutional Convention's scarcest resource, but the problem ran deeper than duration. Convention members identified a fundamental design flaw: the absence of proper sequencing between participation and deliberation. The critical failure was that the vertical (citizen-elite) and horizontal (inter-elite) dimensions of democratic constitution-making operate according to distinct temporal logics. Public participation requires serial processing—consultation, synthesis, then incorporation—whereas elite deliberation requires iterative negotiation across multiple factions. The Convention's twelve-month timeline forced these processes into direct competition, preventing citizen input from informing consensus-building while consuming the time that inter-elite negotiation desperately needed.

Convention members repeatedly arrived at an alternative temporal model: participation should precede drafting, not run parallel to it. One *Apruebo Dignidad* delegate articulated this most clearly:

I think it would have been more productive and interesting if citizen participation in a constituent process had been prior... the constituent process should have begun with citizen participation in order to raise issues from the grassroots, but not in parallel or afterward... if all this citizen debate had been prior, and then the foundations of this

citizen participation were delivered for the convention to debate, I think it would have allowed us to channel that debate. (CL_01)

This logic assigns public consultation a specific function: agenda-setting. If citizens identify constitutional priorities first, delegates can deliberate about how to constitutionalize those priorities rather than simultaneously gathering and synthesizing mass constitutional preferences while drafting. This form of “pre-draft consultation” (Martin, 2025b, p. 4) holds particular value in contexts characterized by elite fragmentation and lacking pre-existing consensus beyond the commitment to replace the constitution. Prior consultation could have provided substantive focal points for negotiation among deeply divided factions, giving them shared ground on which to build compromises.

Several delegates emphasized that proper sequencing requires pre-establishing the rules themselves. An *Independientes No Neutrales* member insisted that “any constitutional process, before electing representatives, should have previously established what the participation mechanisms of that process as a whole would be” (CL_14). This argues for constitutionalizing participation rules before convening the drafting body, removing sequencing decisions from the Convention’s polarized arena. A *Lista del Apruebo* delegate made the operational requirements explicit: “It cannot be in parallel. It’s impossible for it to be in parallel... it should have involved stopping—hopefully the convention would stop and [we’d say] ‘let’s go do fieldwork and come back’” (CL_28). Another *Apruebo Dignidad* member emphasized: “The lesson is to promote beforehand a real participation... Not in parallel, not in parallel” (CL_06). The repeated insistence on pre-established frameworks and even pausing deliberation entirely for consultation phases underscores how fundamentally incompatible simultaneous operation proved to be.

The lack of sequencing meant participation actively consumed the time needed for deliberation. One *Vamos por Chile* delegate identified this trade-off precisely:

The parallel line of public audiences was a more rhetorical, even performative instance, that took a lot of discussion time away from the popular norm initiatives... [which] we had to review in like one or two weeks. So we had three months of public hearings... and that took time away from us having a serious possibility to analyze the norm proposals that were something concrete we could work on. (CL_26)

By this account, the mechanism designed to give citizens concrete influence (popular norm initiatives) was starved of analytical time by the mechanism designed to let citizens be heard

(public hearings). As Horowitz (2021, p. 172) observes, “Serious, sustained attention to widespread and frequent public participation, especially in time-limited processes, will inevitably come at the expense of internal deliberation and consensus formation.” The time allocation inverted the actual cognitive demands: gathering input requires less specialized capacity than synthesizing it into coherent legal language that balances competing demands.

Beyond misallocating time, competing pressures prevented the trust-building essential to elite consensus. One *Lista del Apruebo* delegate emphasized how compressed timelines contributed to “a language of not validating the other who is different from you as a valid subject with whom you had to converse, which I think was fatal” (CL_20). Enduring constitutional agreements require recognizing political opponents as legitimate interlocutors, a process that demands sustained interaction, not zero-sum competition. When delegates had to simultaneously manage public participation, process citizen input, draft constitutional provisions, and negotiate with adversarial factions, the quality of all interactions suffered.

Temporal compression also produced debilitating exhaustion. An *Independientes No Neutrales* delegate described how “the environment commission had hearings until two or three in the morning... you can’t do that. You have to say, there’s a work schedule from nine in the morning until six in the evening, it can’t extend beyond that” (CL_05). A Commission secretary corroborated that the combination of “allowing people to go and feel heard” while processing that information made it “very difficult to then clearly identify those proposals” (CL_10). Exhausted delegates and staff lacked the cognitive capacity to systematically process citizen input while managing intense political negotiations across deeply fragmented factions. Without time for joint synthesis, each faction developed its own reading: progressive delegates heard demands for transformative rights; conservative delegates heard attachment to existing institutions; indigenous delegates heard calls for plurinationalism (Martin, 2025a). This underscores the agenda-setting value of properly sequenced consultation in the eyes of the Convention members—it could have provided not only thematic priorities but shared textual anchors to constrain interpretive divergence.

The temporal squeeze not only exhausted delegates but created a deeper structural contradiction between the demands of public legitimation and private negotiation. A *Vamos por Chile* delegate proposed:

There should be reserved negotiation spaces... conversations should be reserved and six months after the plebiscite, independent of the result, these would be published... because if you have to negotiate with me on any matter, you have to answer to your bases. And therefore, if they're done with total transparency, you're hardly going to be willing to concede. (CL_15)

The democratic legitimacy of public consultation derives, in part, from radical transparency (e.g., live-streaming all sessions via [YouTube](#)), yet elite deliberation requires privacy even secrecy, to enable the concessions that produce enduring consensus (Elster, Jon, 2000, pp. 410, 413; Horowitz, 2021, p. 70). One *Apruebo Dignidad* delegate reflected: "I would have made the debates closed and then public only the agreements, because I think pieces of the debates were used to say that people said things they didn't say... I think that glass box worked against a population that wasn't accustomed to dialogue" (CL_01). The "glass box" metaphor captures how total transparency prevented the informal negotiation Chile's fragmented Convention needed. Vertical legitimation requires citizens to witness deliberation to trust it (Cozza, 2024; Hirschl & Hudson, 2024); horizontal negotiation requires elites to compromise without immediate accountability to factional bases.

Proper sequencing might have mitigated this tension: public participation phases to gather input and validate final agreements, with reserved negotiation periods in between to build compromises and collectively interpret citizen voices. But the Convention's design forced delegates to choose between transparency and dealmaking, between listening vertically and negotiating horizontally, in every moment—oftentimes satisfying neither demand.

Tension 2: Input Aggregation vs. Deliberative Synthesis

The Chilean Constitutional Convention generated extraordinary volumes of citizen input. Public hearings drew thousands of participants, town-hall meetings mobilized communities nationwide, and other mechanisms produced massive documentary records (Delamaza, 2024). Yet this participatory enthusiasm never translated systematically into elite deliberations, nor constitutional text (Escudero, 2024, p. 199). The core problem was not insufficient participation but rather the absence of any established methodology to convert participation into reliable data that could inform the drafting of constitutional provisions. As one *Lista del Apruebo* delegate concluded:

The formal mechanisms did not have the impact that we projected they would have. Why? I believe because of the lack of method. So, what is it that one, looking back, has found lacking? That there had existed a methodological design to permit... a real impact of citizen participation in the Convention process, which was enormous, but without method, and without method it gets lost. (CL_08)

The statement captures a transversal agreement among interviewees: participation mattered in principle, but without coherent methodology to track how citizen input shaped constitutional text, neither citizens nor delegates could verify whether participation actually influenced outcomes. This methodological vacuum undermined the legitimacy of both the participatory process and the deliberative outcomes it was meant to inform.

Public hearings epitomized the problem of input aggregation most clearly. One commission secretary described a six-hour session with an indigenous community that produced extensive testimony but no usable constitutional proposal:

We were in conversation with [an indigenous] community for six hours and not a single proposal emerged, not a single text proposal...because what they expressed were their demands for indigenous autonomy, which exceeded us as the [anonymized] Commission. (CL_10)

The structure created a mismatch; communities came to voice broad political demands, whereas thematic commissions needed specific proposals within their jurisdictional boundaries. No mechanism existed to translate between these registers—between lived political grievance and technical constitutional provision—consigning potentially rich testimony to irrelevance.

The sheer volume compounded the problem. An *Apruebo Dignidad* delegate reflected: “It’s so much information that one is incapable of processing. If there is a really long period of citizen participation, then, afterward that must be transformed into an input [that can be used]” (CL_01). Given adequate time, participation could have been transformed into actionable insights, but that transformation requires deliberate methodology, not simply more hours to listen. The Convention had neither the time nor the systematic process to convert testimony into constitutional language. By extension, the Convention lacked systematic processes to identify areas of consensus versus dissensus within society. As one *Lista del Pueblo* delegate put it, “we tried to cover too much,” preventing delegates from building momentum around “more essential topics” before tackling divisive questions (CL_07).

Hearings thus became what one technician called “a space for catharsis” (CL_10)—emotionally meaningful for participants but disconnected from negotiations and text proposals. Citizens could express frustration, articulate aspirations, and feel momentarily heard “in a therapeutic sense” (CL_12), yet this function served neither vertical representation (citizens shaping elite decisions) nor horizontal deliberation (elites using citizen input to build consensus). Instead, hearings consumed scarce resources while producing what drafters from across the ideological spectrum called a “performance” (CL_19), “reality” (CL_25), or “show” (CL_26), rather than constitutional substance.

Popular norm initiatives (IPNs) seemed to solve the aggregation problem by having citizens perform constitutional drafting themselves. With 15,000 signatures across four regions of Chile, a proposal arrived as finished constitutional text—no synthesis required. Individual citizens and civil society organizations had already translated their political demands into legal language, gathered mass support, and delivered ready-to-vote provisions via the Convention’s digital platform. Yet this apparent solution created the inverse problem: inflated expectations (Heiss, 2025a). Of the 78 concrete proposals that reached the Convention floor, only three were approved (one in full, two in part); the Secretariat of Participation, however, holds that the content of 12 IPNs were incorporated into the proposal, though adopted directly by the Convention (Secretaría Ejecutiva de Participación Ciudadana, 2023).

One *Lista del Pueblo* delegate explained the citizen experience:

We would meet as delegates to draft an article bringing together different perceptions, different initiatives, and in the end it was one. But the sensation of hundreds, thousands of people who voted in favor [of a new constitution] was rejection. That generates something super contrary because really it was one—we took your idea and proposed it, drafted it a bit differently, but that maintains it. (CL_29)

Citizens invested enormous effort producing specific constitutional language, mobilizing communities, gathering thousands of signatures through street campaigns and social media. Yet determining whether their proposals were actually incorporated proved remarkably complex. As Heiss (2025a, p. 8) notes, “determining whether an IPN has been approved or rejected is not as simple as it might appear at first glance,” generating “controversy and a wide variety of interpretations.” This interpretive ambiguity—whether “the spirit” (CL_29) of the proposals were incorporated or substantively rejected—itself constituted a methodological failure. Without

clear criteria for measuring incorporation, neither citizens nor delegates could agree on whether participation had actually influenced constitutional text.

The absence of such criteria was not inevitable. Multiple delegates referenced the country's other participatory experiments as methodologically superior. One commission secretary contrasted the Convention unfavorably with the Bachelet administration's participatory constitutional process:

I have a much better view of what we did with Bachelet and much better quality of information what we did there than what was done in the convention. We did it with a consulting firm with all the weight of the state, with quite a bit of people, with a couple years of time focused only on this. (CL_25)

Another independent delegate emphasized the resource differential: "The Bachelet process had around 3,000 million pesos; we had 500-600 million pesos. Yet proportionally, 10 times more people participated [in the Convention]" (CL_03). Similarly, Chile's second constitutional attempt—the 2023 Constitutional Council—improved on methodology despite far lower participation (Secretaría Ejecutiva de Participación Ciudadana, 2023). One *Lista del Apruebo* delegate explained: "In the second process it was much more ordered... the universities upon receiving this assignment had a very clear, very precise task... Everything was centered on streamlining the times, maximizing the times and avoiding loss of time in designing" (CL_02).

These processes shared what the Convention lacked, but perhaps most critically, they addressed a fundamental conflict of interest at the heart of participatory constitution-making: the same political actors who gather citizen input are often responsible for synthesizing it into actionable insights. The Bachelet process employed government ministries and consulting firms, but crucially relied on university research centers to provide independent processing of citizen voices (García, 2024). The Constitutional Council went further, contracting directly with Chile's public universities—institutions that rank among the most trusted in the country (Almabrand, 2020; Cooperativa.cl, 2024; Pontificia Universidad Católica de Chile, 2025)—to systematically manage participation within a framework pre-negotiated between Congress and parties (Heiss, 2023; Secretaría Ejecutiva de Participación Ciudadana, 2023). Universities could serve this mediating function precisely because they stood outside the immediate political conflicts dividing delegates, offering technical expertise without the partisan stakes that made internal processing so fraught.

The aggregation-synthesis tension reveals why sequencing alone could not have saved the participatory process. Even if citizen input had preceded deliberation, delegates still needed shared methodology to convert that input into constitutional text, and shared constitutional purpose to agree on what citizen voices meant. Without independent institutional capacity to credibly process participation, every methodological choice became contested terrain: determining which voices deserved priority, establishing thresholds for popular initiatives, and defining what counted as incorporation. Chile tried to use participation to resolve these disputes, but doing so required the very elite agreement that participation was meant to create.

Tension 3: Incidental vs. Binding Mechanism

The Chilean Constitutional Convention operated under profound ambiguity about whether citizen participation should be *incidente* (influential but not determinative) or *vinculante* (binding, constraining delegate discretion). This was not merely a technical question about mechanism design but an existential disagreement about the proper relationship between direct and representative democracy. Indeed, the Convention’s participatory procedure lists “incident *and* binding participation” as its first operative principle (Convención Constitucional de Chile, 2021a, p. 1, emphasis added). The result was that participation mechanisms promised more authority than the deliberative process could deliver, generating mutual frustration among citizens who felt betrayed and delegates who felt constrained by unrealistic expectations.

The difference between incidental and binding participation maps onto competing models of democratic legitimacy. Advisory mechanisms treat citizen input as information that should influence but not determine elite decisions—deliberation informed by participation. Binding mechanisms treat citizen preferences as commands that delegates must implement—deliberation constrained by participation. One *Vamos por Chile* delegate articulated the incidental position: “Citizen participation is very valuable, but it has to be administered in the correct doses... participation should be incidental and not binding. Incidental means that it influences, that it carries weight, but that it doesn’t oblige you” (CL_15). This formulation acknowledges both the democratic value of citizen voice and the practical necessity of elite interpretation and execution (Negretto, 2020).

The binding position emerged from frustration with representative institutions’ chronic failure to address popular demands, a key feature of Chile’s crisis of representation (Siavelis, 2016; Suarez-Cao, 2021). One *Lista del Pueblo* delegate argued:

It was important that binding mechanisms be established in the project... for constitutional reforms, for certain laws that involve citizens, and this was important because today we still see that health issues haven't been resolved, that social security issues that have been discussed for more than ten years haven't been resolved. (CL_11)

Another emphasized accountability: "You have to generate a binding mechanism to obligate convention members to maintain their relationship with the community" (CL_05). The logic moved beyond signatures as popular mandate to binding mechanisms as institutional constraint, forcing representatives to remain responsive rather than trusting them to exercise discretion on society's preferences. In short, binding participation appeared necessary to compel action on popular priorities that faced policy paralysis.

A subset of delegates, many of them independents with strong ties to civil society, approached participation not as complement to representation but as alternative to it—an attempt to realize direct democracy within a representative institution. One *Lista del Apruebo* delegate described this tension in detail:

Sometimes assemblyism seeks to replace representation... we were very naive and we were not pragmatic; we tried to replace the intervention that corresponded to us as representatives to justify our existence through... citizen participation mechanisms that ultimately did not yield the necessary fruit because the 'converts' ended up participating and not those who did not feel represented. (CL_02)

Ultimately, using participation to legitimate representative decisions differs fundamentally from using participation to bypass traditional political actors altogether (Escudero, 2024, p. 199; Issacharoff & Verdugo, 2023).

This substitution attempt reflected a deeper distrust of representative institutions. Another *Lista del Apruebo* delegate explained: "Many thought that participation was taking decisions through assemblies, as if those assemblies were the world... They spoke not of coming from provinces or regions but from their territories... like the space of those who think like me" (CL_23). The territorial language revealed an alternative geography of legitimacy. In the eyes of some independent delegates, assemblies defined by shared political consciousness possessed direct democratic authority that superseded representative mandates. But when multiple territories articulated conflicting demands, no democratic principle existed to adjudicate among them without returning to representative deliberation.

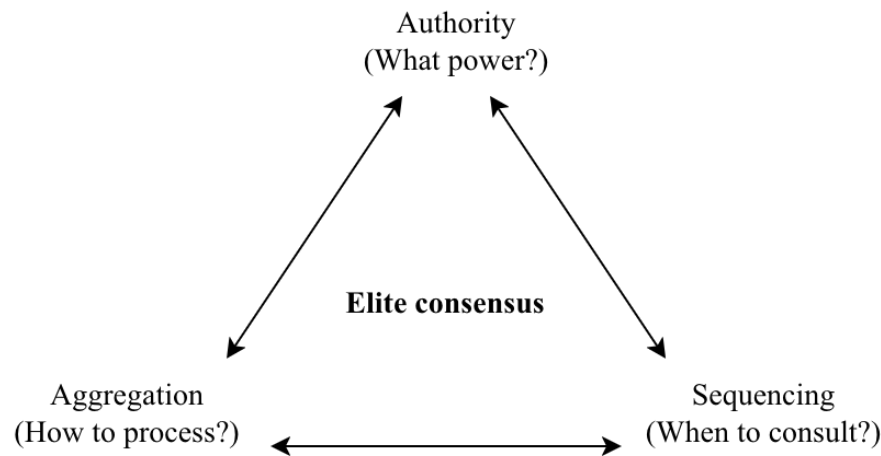
The logic of binding mechanisms rested on treating representatives as what one *Apruebo Dignidad* delegate called “transmission belts”—passive conduits for pre-formed popular will. Yet as that delegate explained, representatives “cannot be a transmission belt of positions or demands, but rather must manage to articulate those different interests to achieve a common position” (CL_09). Constitutional drafting requires resolving conflicts among competing goods, anticipating implementation challenges, and crafting language that operates systematically across hundreds of provisions. For these reasons, “political representation cannot be replaced, but it can be complemented with mechanisms that strengthen the connection between citizens and decision-making” (Heiss, 2025b). When citizens proposed provisions conflicting with other constitutional priorities, delegates made judgments remedying these tensions, but lacked institutional standing to explain modifications in ways citizens would accept.

The most-voted popular norm initiative exposed this tension acutely. *Con Mi Plata, No* (“Not With My Money”)—defending Chile’s private pension system—gathered 60,850 signatures. For delegates who viewed participation as substitute for representation, this created a glaring contradiction: if popular mandates supersede deliberative judgment, then the right-wing mobilization against pension reform possessed democratic authority equal to progressive assemblies demanding pension nationalization. The initiative became a flashpoint in Chile’s media landscape, marked by concentrated ownership and center-right editorial lines (Bahamonde et al., 2018; Gronemeyer & Porath, 2015; Núñez-Mussa, 2021; Saldaña et al., 2024), amplifying conservative opposition while progressive delegates struggled to explain why the most popular IPN was rejected, or what level of consideration it received in the Convention.

The binding-incidental tension reveals how vertical and horizontal dimensions of democratic constitution-making impose contradictory demands on participatory authority. Vertical legitimation requires transparency about how participation shapes outcomes; horizontal negotiation requires delegates retain flexibility to synthesize competing inputs and build coalitions. The Convention tried to satisfy both simultaneously, creating mechanisms that appeared binding to citizens (15,000 signatures, guaranteed consideration) while operating as incidental in practice (normal voting thresholds, synthesis discretion). The result was a participatory process that satisfied neither democratic model, lacking both the determinative force of direct democracy and the generative synthesis of informed representation.

Conclusion

Figure 1: Three tensions of participatory constitution-making



The Chilean experience reveals a fundamental tension in participatory constitution-making today: the conditions that make extensive consultation most necessary—acute elite fragmentation and representational failure—are precisely those that make its coherent implementation most difficult. Drawing on interviews with 30 Chilean Constitutional Convention participants conducted approximately two years after the process concluded, this study identifies three interconnected tensions that characterized consultation without consensus: sequencing, aggregation, and authority.

These tensions operated interdependently. As Figure 1 illustrates, each reflects a different dimension of the vertical-horizontal challenge inherent in participatory constitution-making. Sequencing determines *when* vertical consultation can inform horizontal negotiation—whether citizen input establishes the agenda for elite deliberation or competes with it for scarce time and energy. Aggregation determines *how* vertical input provides a shared informational foundation for horizontal deliberation—whether citizen voices are synthesized by independent institutions or filtered through partisan preferences. Authority determines *what* binding force participatory mechanisms have over elite deliberation—whether citizen input must be incorporated into constitutional text or simply informs representative judgment.

Critically, elite consensus—positioned at the figure’s center—could have assuaged all three tensions. The Chilean case reveals what happens when this mediating factor is absent: the Convention launched extensive citizen participation without prior elite agreement on what that

participation should accomplish or how it should operate. This inversion proved unsustainable; the Convention sought to use participation to generate the elite consensus necessary to structure participation itself. Proper sequencing requires knowing what authority participation will have, to allocate time appropriately. Clear authority requires functioning aggregation mechanisms, to identify which proposals merit binding status. Systematic aggregation requires adequate sequencing, to develop and implement credible methodology. The Convention's failure was not in each dimension alone, but in the compounding effects of leaving all three unresolved.

This pattern reflects a broader dynamic in contemporary constitution-making that existing scholarship has not fully theorized. Public consultation is increasingly called upon to substitute for the representational failures that political systems cannot otherwise resolve (Martin, forthcoming). When elite consensus is absent in divided democracies—that is, when fragmentation is acute—participation becomes what might be termed a “compensatory device”: a mechanism for claiming legitimacy without achieving substantive inter-elite agreement. The normative appeal of participation (Brandt et al., 2011; Ebrahim et al., 1999; Franck & Thiruvengadam, 2010; Hart, 2003, 2010) makes it an attractive response to legitimacy deficits created by representational breakdown.

Yet the empirical relationship between participation and legitimacy is considerably more complex than normative accounts suggest (Eisenstadt & Maboudi, 2019; Hirschl & Hudson, 2024; Maboudi, 2020; Moehler, 2006, 2007). The Chilean case demonstrates that the representational voids which make extensive consultation seem necessary also make its credible implementation most difficult. Chile's elite fragmentation created the legitimacy deficit that demanded unprecedented participatory mechanisms while simultaneously preventing the coordination necessary to structure and process that participation coherently. When consultation is asked to replace elite negotiation entirely—to bypass rather than inform deliberative processes—it confronts an impossible task.

This finding adds crucial nuance to the existing literature on participatory constitution-making. Scholars have produced conflicting results regarding the relationship between public participation and democratic outcomes. Some suggest that citizen involvement, particularly at the drafting stage, significantly impacts the resulting regime (Eisenstadt et al., 2015, 2017); others find no positive relationship, emphasizing elite cooperation as the decisive factor (Saati, 2015, 2017). Yet research also reveals a strong positive relationship between elite control over

constitution-making processes and the adoption of public consultation mechanisms, suggesting clear strategic value (Martin, 2025b). The Chilean case helps reconcile these contradictions by revealing a central scope condition: the sequencing of elite consensus relative to participatory design. The divergent findings in existing literature may thus reflect variation not in the inherent effects of participation but in the degree of elite coordination that precedes and structures participatory processes.

Yet the Convention members' advocacy for prior consultation may rest on an underappreciated mechanism. Shared exposure to professionally synthesized citizen input could facilitate elite consensus formation rather than merely presuppose it. The mechanism operates through reduced information asymmetry. When all factions receive identical, professionally processed information about citizen priorities simultaneously—processed by institutions standing outside immediate partisan conflicts—it creates credible focal points for negotiation that partisan politics alone cannot provide. These shared informational anchors have the potential to constrain interpretive divergence and expand negotiation space by establishing common ground that partisan conflict had destroyed.

This mechanism does not suggest consultation can substitute for elite consensus, but rather that properly structured consultation might catalyze consensus formation when elites remain minimally willing to negotiate. The distinction is critical: consultation cannot bypass the need for inter-elite deliberation, but it can provide the shared informational foundation that makes such deliberation productive rather than purely positional. Consultation functions not as an alternative to representative deliberation but as a complement to it (Heiss, 2025a, 2025b)—potentially reducing the information asymmetries and interpretive flexibility that allow partisan deadlock to persist. This explains why professional mediation matters; independent institutions can create shared data that all factions must acknowledge, transforming citizen voices from partisan weapons into negotiation resources.

At first glance, this insight seems to contradict Horowitz's (2021, pp. 180–181) observation that “participation is more likely to be helpful not at the beginning of the process but when there are actually constitutional proposals to discuss.” Horowitz identifies the value of mid-process participation for refining draft text. The Chilean case reveals a distinct function for pre-deliberation consultation in contexts lacking prior elite consensus: establishing substantive priorities that can structure subsequent negotiation. These are not competing prescriptions but

different participatory functions suited to different constitutional challenges. Mid-process participation refines proposals when basic consensus exists; pre-process participation may help generate such consensus when it is absent—but only if independent institutional infrastructure exists to aggregate and interpret properly sequenced participation in a credible manner. Without such infrastructure, each faction develops its own reading of citizen voices, transforming what could have been shared foundation into contested partisan claims (Martin, forthcoming).

These challenges make procedural clarity more, not less, urgent. Specifically, Chile's Constitutional Convention suggests that public participation requires elite agreement on three foundational questions before convening a drafting body: (1) Sequencing—When will citizen input be gathered relative to elite deliberation? (2) Aggregation—Which independent institutions will synthesize that input into actionable data? (3) Authority—What formal status will participatory mechanisms have in determining final text?

The lessons drawn here, however tentative, carry particular urgency given that the Chilean experience may portend the constitutional crises to come. These moments continue to emerge not from dictatorship's end but from democracy's disappointments—from sustained failures of representative institutions to address popular demands, from accumulated frustrations with political elites perceived as captured or unresponsive, and from crises born of democratic functioning rather than its absence. These contexts, some of which are discussed above, appear to share Chile's defining features: profound distrust of representative institutions, greater demands for direct citizen involvement in constitutional drafting, and political fragmentation as traditional elites struggle to respond.

The greatest risk is that consultation will continue to substitute for, rather than complement, substantive representation. If participatory mechanisms are implemented without resolving foundational procedural questions, they may produce the same outcome Chile experienced: extensive citizen mobilization that fails to generate constitutional consensus, ultimately prolonging rather than resolving the representational crises that necessitated constitutional replacement. The result would be democratic constitution-making that paradoxically undermines democratic legitimacy—extensive participation that produces rejected constitutions, citizen engagement that generates citizen frustration.

The alternative requires building on what worked in Chile and continuing to exercise the “muscle” of participation (Heiss, 2023). Mechanisms such as the popular norm initiatives

demonstrated real potential for linking collective will-formation to elite decision-making when properly structured (Heiss, 2025a; Soto Barrientos et al., 2025). The challenge is implementing similar mechanisms within a coherent procedural framework established before drafting begins. Future constitutional designers—both political elites negotiating procedural rules and NGO “participationists” (Horowitz, 2021, p. 174) seeking to promote constitutional ownership—have the opportunity to learn from Chile’s experience. The question is whether we will act on these lessons before confronting similar crises, or whether consultation without consensus will become the defining pattern of democratic constitution-making in an age of fragmentation.

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