

**Why Only Some New Constitutions Improve Levels of Democracy:  
The Centrality of Citizens in Drafting, but not Debate or Ratification**

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**Draft only – do not cite**

**Abstract:** The Third Wave of democratization brought regime transitions to scores of nations since 1974, but recent years have seen unmistakable reversions to authoritarianism by some countries. Using an original data set covering all 132 new constitutions in 118 countries between 1974 and 2011, we show that the promulgation of new constitutions played contradictory roles in our sample: while the level of democracy increased in 62 countries following the adoption of a new constitution, it decreased or stayed the same in 70 others. Under what circumstances do constitutions help lock in democratic gains? We explore how the level of citizen participation in making a new constitution impacts subsequent levels of democracy. We disaggregate the constitution-making process into three phases: drafting, debating, and ratifying. Empirical tests controlling for a broad range of intervening conditions find that overall increased participation positively impacts levels of post-promulgation democracy. Tests also offer compelling evidence that the degree of citizen participation in the first stage, drafting, has an especially robust impact on the resulting regime. This leads us to conclude that constitutional reformers need to focus more attention on generating public “buy in” at the earliest stages, rather than concentrating on ratification and referenda, where the democracy promotion industry has devoted much of its emphasis.

LeVan received a Dean’s Summer Research Award from the School of International Service at American University to carry out a pilot study in Uganda. Eisenstadt thanks the Dean of Academic Affairs at American University for research funding to support a 2012 trip to Bolivia and data collection. The authors thank Rob Albro, Diego Ayo, Nathan Brown, Josep Colomer, Zachary Elkins, Eric Hershberg, Adrienne LeBas, Ghazal Nadi, Daniela Stevens León, and Jennifer Widner for comments, and thank Ryan Briggs, Yelena Osipova, and Andrew Doty, Ghazal Nadi, Stevens León for research assistance. Related work was presented under the auspices of a workshop grant from the Latin American Studies Association (LASA) and the Mellon Foundation.

Over the last four decades, at least 118 countries adopted new constitutions, often accompanied by popular expectations that political and civil rights would improve. Constitutions have actually had inconsistent effects on democratization though, which raises doubts about their function as founding documents remolding any social contract. Out of the 132 new constitutions adopted in these countries between 1974 and 2011, the level of democracy increased in 62 countries but it actually decreased or stayed the same in 70 others. Even among the 65 countries following a democratization trajectory over this period, with Freedom House documenting improvements as “partly free” or scoring them as “free,” the empirical record is mixed: following the promulgation of new constitutions, political rights improved in 27 cases, stayed constant in 21, and actually declined in 17.

These findings are consistent with unmistakable reversions to authoritarianism in recent years. In 2013 Freedom House reported the seventh consecutive year of a global decline in freedom. Comparative authoritarianism has emerged as “one of the hottest subfields in comparative politics,” prompting a play on a famous phrase from the 1990s: democratization is no longer the only game in town (Art 2012, 351). The inconsistent impact of constitutional change on democracy would also come as no surprise to skeptics of institutional analysis, who focus on cultural constructs of authority and legitimation (Migdal et al. 1994). It has also led to a recent “surge of interest in unwritten or informal institutions as determinants of political outcomes” (Azari and Smith 2012, 37). Transitions in Latin America, Africa and Eurasia created a “market” for institutional analysis during the Third Wave of democratization, which generated presumptions about the positive effects of constitutions on broader political conditions. However, as Hale points out, constitutions and formal legal frameworks dominated discussions about how the rules of the game impact democratic stability or breakdown (Hale 2011, 581). Largely missing from analyses of authoritarian retrenchment, institutional failure, and the social basis of informal institutions is an important characteristic of constitution-making that offers clear conceptual grounds for comparison: the role of ordinary citizens. At a recent symposium, Horowitz made the sweeping claim that despite “very strong recommendations for extensive popular participation, there is not even a scintilla of evidence that it improves the durability or the democratic content of constitutions” (Diamond et al. 2014, 100).

In this article, we demonstrate how the level of participation in the constitution-making process systematically explains the observed disjuncture between constitutional change and democratization since 1974. Using an original variable to measure participation, our cross-national time-series analysis offers strong statistical evidence that constitutions crafted with meaningful and transparent public involvement are more likely to contribute to democratization. The results hold across a broad range of controls, including colonialism, economic development, ethnic diversity, world region, and post-conflict environment. However, after disaggregating the constitution-making process into three stages, we find compelling evidence that the degree of citizen participation in drafting has more important and lasting consequences for democratization than the subsequent debate and “ratification” stages. This surprising finding is important because democracy promotion since the 1990s has focused on the latter stages, and citizens’ right to participate in crafting the rules that will bind them has emerged as a norm of transition politics. As the *sine qua non* participatory mechanism of constitutional ratification, referenda in particular appear to offer more symbolism than substance when it comes to democratization. We therefore conclude that “buy in at the front end” (drafting) of constitution-making needs to compliment legitimation at the back end (ratification). Citizen participation at the earliest stages of the process appears to offer the strongest guarantee of post-promulgation democracy.

We proceed first with a brief discussion of several intersecting literatures that inform our understanding of the consequences of constitutional change. Democratization research implicitly embraced strong presumptions about the relationship between regime transitions and constitutional change. It also advanced plausible theories about the benefits of participatory constitution-making which until now have not been subject to rigorous cross-national testing. Where new constitutions coincided with transitions to dictatorships, the role of participatory constitutionalism will also inform the emerging subfield of comparative authoritarianism, which has taken a strong interest in autocratic institutions. Finally, the comparative constitutionalism literature has focused on explaining constitutional endurance or compliance. Some analyses draw on institutional theory to explore outcomes such as economic performance or level of democracy, but like legal scholars, the content of constitutions rather than processes for making them largely animates their causal stories.

Second, we attempt to fill this gap by outlining how and why the modalities of making a constitution should theoretically have a lasting impact on democracy, and political rights in particular. We begin with a brief discussion about what constitutes constitutional change in the first place. This theory building step, informed by classic philosophical legal debates over the people's sovereign rights, is important not only because it relates to the practical task of operationalizing constitutional change but because it also reflects emerging global norms about the right to participate. If such norms are justified by constitutional experiences over the last four decades, then this speaks to democratic theory more broadly by offering evidence that deliberative democracy surpasses Burkean notions of trusteeship, and can also remedy some of defects of representation inherent in delegative models of democracy. Drawing upon these intuitions, and pilot studies in Latin American and African cases, we formulate two broad hypotheses about the effects of participation in the constitution-making: a "participation" hypothesis posits that high levels of participation throughout the process will positively impact democracy, while a "deliberative" hypothesis predicts that citizen involvement in the early stages has a larger impact on democratic outcomes.

Third, we describe extant data sets, our data collection strategy, and the research design for testing the impact of participatory constitution-making on democracy. We detail the construction and coding of our *process* variable for measuring the level of participation, including the rationale for breaking constitution-making down into three broad stages. After providing summary statistics for the process variable, we identify intervening factors that could interfere with the predicted relationships and adopt standard proxies from the literature to control for those conditions.

Fourth, a series of statistical models test for the effects of participatory constitution-making on democracy, as measured by "moving averages" of the Freedom House and Polity IV scores that include the three years before and the three years after constitutional promulgation. In the first stage, tests of the *process* variable confirm the participation hypothesis, and withstand robustness checks. A probe for potential endogeneity through additional tests with an instrumental variable validates our claim that *process* is indeed distinctly measuring participatory constitution-making specifically. Next, we test the deliberative hypothesis in two ways: first using stages of constitution-making as three separate independent variables, and then by weighting the process variable more heavily towards the drafting stage. Both tests generate statistically significant results supporting the deliberative hypothesis.

The conclusion explains how the results offer an important corrective to the democratization literature, since the modality of constitution-making matters. By conducting one

of the first large-scale empirical analyses of participatory constitution making, we show that transparent, meaningful input during “sovereign moments” generates path dependent benefits for democracy. However by specifying that citizen participation during drafting is the most important, we raise doubts about the lasting, broader benefits of referenda—the hallmark of the ratification stage during the Third Wave and a preferred device for democracy promoters.

## LITERATURE REVIEW

How do levels of citizen participation and modalities of citizen input impact levels of democracy? Comparative constitutionalism and several significant, related literatures have addressed this fundamental question indirectly, incompletely, or through case studies that offer little basis for generalizations. The limited treatment by the democratization research is even more surprising, given the boom in transition studies in the 1990s. At the time, constitutional change and democratization were often mistakenly conflated, when in fact constitutional replacement occurred within a year of only 19 percent of transitions to democracy and in 27 percent of transitions to authoritarianism (Elkins et al. 2009, 59). Various studies developed sound theoretical propositions regarding the broader political impact of participatory constitution-making, but as democratization research shifted, these ideas were not fully tested. This literature review discusses these issues and research on constitutional endurance, content and compliance, in order to inform how we might expect modalities of constitutional change to impact democracy.

In the most rigorous and systematic exploration of the political effects of new constitutions, an ongoing project by Elkins, Ginsberg, and Melton focuses on the question constitutional survival. Their study, testing 935 cases spanning two centuries, concludes that more participatory processes enable the integration of new social forces conducive to constitutional survival because they “can promote a unifying identity and invite participants to invest in the bargain” (Elkins et al. 2009, 211). A related study reports that inclusive drafting increases the likelihood of constitutional endurance, and is associated with constitutional rights and democratic institutions such as universal suffrage, the secret ballot, and a guaranteed role for public input into amending constitutions (Ginsburg 2012, 54-7). These are important findings regarding endurance and content, but they leave unanswered important questions about the impact of processes on levels of democracy and the *de facto* protection of rights – as opposed to the *de jure* protections mentioned in the text itself.

Widner’s data-rich research advances our ability to measure participatory constitution-making, but like Elkins et al., it lacks a direct test of participation on level of democracy. Her “Constitution Writing and Conflict Resolution” data set covers 195 constitutions between 1975 and 2002. It measures levels of participation and representation in constitution drafting by coding five process characteristics: the type of deliberative body, the method of selecting delegates to that body, the method of choosing delegates who draft initial texts, the level of public consultation, and the existence of a public referendum (Widner 2004). Each of these five variables is coded in relation to participation and representativeness. Her results show that public consultation does not correlate with improved political rights protection (Widner 2008). This finding conflicts with an influential analysis of twelve countries by the International Institute for Democracy and Electoral Assistance (Samuels 2006), as well as eighteen case studies constitutional change in transitional states (Miller and Aucoin 2010). However, neither study systematically examines democratization or political rights as a dependent variable.

Carey conducted direct statistical tests of constitution-making on democracies. To operationalize the inclusiveness of “constitutional moments,” he used variables counting the number of veto players in a constitutional process and indicating whether citizens voted on the constitution via referendum. He found that more inclusive constitutional drafting does increase the level of democracy over the subsequent three years, as measured using Polity IV data on democracy and executive constraints. However he also noted it is a bivariate analysis based on limited number of cases and bound by data constraints, including the use of proportional representation as a proxy for the inclusiveness of institutional actors. In the end, these limitations deterred him from testing his hypothesis using standard statistical models that would provide a stronger basis for inference and making broader generalizations (Carey 2009). To our knowledge, no large-scale study tackles the relationship between constitution-making processes and democratization using robust cross-national quantitative analysis.

The dearth of empirical studies on this relationship is also surprising because numerous theories of democratization expect participatory politics to have important benefits. Lindberg et al. (2009) argue that elections improve levels of democracy over time as the civic ritual of voting is repeated: going to the ballot box places expectations on politicians and educates citizens on a practical level and, therefore, becomes a means of developing democratic political culture. Hyden argues that constitution-making is even more important than elections as an agent of cultural change: it leaves a deeper imprint on the polity as it is more empowering than elections. Founding documents allow citizens to consciously and collectively consider what democracy is all about, giving them a say at critical historical junctures. He predicted that broad-based and participatory processes would give African countries “better prospects of succeeding with their regime transition than countries where such an exercise has not been carried out” (Hyden 2001, 216). Another recent study argues that participatory constitution-writing helps nations avoid violent conflict and build democracy, concluding “it is this participatory inclusiveness that fosters legitimacy among a state’s populace and, ultimately, constructs democracy” (Wing 2008, 2). Though they do not test for it, Elkins et al. similarly observe that, “sometimes, we suspect, the process of re-writing higher law can be therapeutic and empowering for citizens and leaders” (Elkins et al. 2009, 209). Finally, many scholars argue that a legal norm guaranteeing a right to participation in international law has emerged (Fox 2000; Miller and Aucoin 2010), yet we still have a weak empirical basis for whether this is justified.

In sum, after two decades of democratization, the broad effects of constitutional change on democracy remains a surprisingly open field of research, and clear theoretical expectations about the benefit of participatory constitution-making remain largely untested.

## **MODALITIES OF CONSTITUTIONAL CHANGE AND THEIR CONSEQUENCES**

We take a view of constitutionalism grounded in civil society, invoking ideas about popular pressure (Bunce and Wolchik 2011; Bratton and Van de Walle 1997) in order to appreciate constitution-making as social re-contracting during rare “sovereign” moments. By arguing that civil society precedes the state, Locke and Tocqueville took the social contract as the pre-constituting of government. Law comes from somewhere, and its cosmopolitan, comparative, and civil society sources today are an important part of analyzing the effects of constitutional change. This view differs from some comparative constitutionalists who distance themselves from social contract theory by taking the law as a necessary prior for political pluralism (Hatchard et al. 2004; Levitt 2012). This can lead to a rather orthodox institutionalist perspective

that leaves constitutional text to “speak for itself,” blaming weak compliance on stochastic factors such as quality of leadership, and significantly understating the possibilities for stable – but illegitimate – institutions. The debate needs to move away from this purely substantive view towards one which considers also procedural aspects of constitutionalism.

A classic representation of the social context of constitutional change is the debate between Madison and Jefferson over whether the “living generation” is bound by the rules of its predecessors. For them, the issue was literal: should the ideas of the American Revolution necessarily survive the death of those who articulated and codified them into a new constitution? As in classical Greece, a conservative streak permeated 18th century thinking about democracy, and too much change at the hands of popular passions was deemed dangerous. Scholars like Holmes side with Jefferson and those who defend the right of the living generation to re-write the rules (Holmes 1988). For us, Holmes’ position is important because it claims that constitutions can serve as an agents of change (or democratization), a transformative political process that entails expressions of consent. Constitutionalist from the developing world often defend popular sovereignty as a basis for change (Mutunga 2001).

One influential observer reminds us that “a constitution is not an act of government but of people constituting government,” meaning that the constitution is a “living instrument” flowing from the consent of the governed. Preambles in constitutions from Bolivia to Uganda invoke this spirit of Thomas Paine declaring that the people hold the ultimate rights to self-constitute their government; citizens who form civil society give such text meaning and force (Walubiri 2001). Significantly, this perspective acknowledges that constitutions might impede democracy. Elkins et al. for example allow for the normative likelihood that some constitutions should die; old constitutions should not be treated with “undue reverence” by equating age with quality (Elkins et al. 2009, 208). Recent research on comparative authoritarianism has increasingly drawn analytical attention to formal institutional frameworks that stabilize illiberal regimes (Gandhi 2008; Lust-Okar 2009). Neither regime age nor stability should therefore be equated with popular consent or institutional quality.

In sum, while little literature exists asserting this point, there are good reasons to expect that when a constitution is changed, and how it is changed, should theoretically impact democratization and the level of democracy. Existing research offers conflicting findings based on limited empirical testing, or qualitative studies that provide a weak basis for broader generalizing about one of the most important trends of the last several decades.

## **THE PARTICIPATION AND DELIBERATION HYPOTHESES**

To address these issues, we formulate two broad hypotheses about the effects of participation in constitution-making. First, a “**participation**” hypothesis posits that high levels of participation throughout the process will positively impact democracy. This hypothesis is a broader test for whether constitution-making process has democratizing effects overall. On the one hand, this tests the democratization literature’s contention that constitution-making prevents authoritarianism backsliding when it entails a plural national dialogue where major social groups are included and possess the tools to successfully assert their preferences. If this hypothesis holds, it will help disentangle the relationship between democracy and modern constitutionalism, and validate theoretical claims about the indirect benefits of direct participation advanced by Hyden and others. It could also go further, affirming claims by democratic theory, in offering support

for Pateman's (1970) defense "participatory" democracy as a necessary means of extending representation and remedying the defects of interest group pluralism.

On the other hand, should participatory constitution-making have no significant correlation with post-promulgation political rights, this would confirm skepticism about the inherent long term benefits of such processes and defend notions of elitist democratic trusteeship. For example, Edmund Burke's "true principles of government" asserted that government is not made from natural rights. Rather, liberty requires surrender to the state, and only a power above the people can subdue their "passions" and wield experience for their benefit (Burke 1999). Either way, the empirical results contribute to the comparative authoritarianism literature by establishing general patterns about how participatory processes can be compromised and therefore serve as a basis for legitimizing illiberal regimes.

Second, a "**deliberation**" hypothesis builds on deliberative democracy's core principles, that both voting and discussion are necessary for democratic life, and that citizens' effective interest articulation benefits from the modern structure of civil society (Held 1996). Pateman identifies deliberative democracy's central claim as the idea that "individuals should always be prepared to defend their moral and political arguments with reasons, and be prepared to deliberate with others" (Pateman 2012, 8). This parts from the direct democracy implied by participatory democracy, and in particular raises questions for referenda as the mechanism for polyarchic constitutional ratification. As studies of referenda note, voters are easily misled, elites easily dominate popular initiatives with money, and information asymmetries create barriers for informed citizens (Catt 1999). In this spirit, this hypothesis predicts that citizen involvement in the early stages has a larger impact on democratic outcomes.

## **DESIGNING A CONSTITUTIONALISM AND DEMOCRACY DATABASE**

To generate our independent variable and include relevant controls, we constructed a "Constitutionalism and Democracy Database" (CDD) covering 190 countries between 1974 and 2011. The CDD builds on three extant data sets by Elkins et al. on the survival and legal scope of constitutions from the beginning of the 20<sup>th</sup> Century, by Widner on the political processes yielding new constitutions and constitutional reforms since the 1970s, and by Hartlyn, which evaluates the evolving autonomy of Latin American governments from chief executives since the 19<sup>th</sup> Century. In this section we describe different approaches for measuring constitutional change. We justify our operational criteria, describe the procedure for researching and coding the *process* variable to measure the level of participation at each of the three stages of the constitution-making process, and provide descriptive statistics.

### **What Counts as Constitutional Change?**

Is it that difficult to decide, for operational purposes, what constitutes a new constitution? Phenomena such as Zambia's shift from one party rule to multi-party competition in 1991, President Paul Biya's successful modification of Cameroon's constitution in 2008 to allow himself another term, or Peruvian President Alberto Fujimori's *autogolpe* in 1992, all present practical challenges about how to define regime change. One approach relating to the parchment changes – and their political manifestations - we seek to understand, is to literally focus on the content of constitutional changes themselves. These reforms have broad impacts on political space and the structure of competition, even if they do not provoke wholesale rewriting of constitutions. Widner codes these cases as "regime-changing amendments," due to the

significant impact the changes had on civil and political liberties, ethnic or regional autonomy, or property rights. This approach is similar to Banks and Wilson (2005, 39), who identify the number of basic alterations in a state's constitutional structure, with the extreme case being the adoption of a new constitution that significantly alters the prerogatives of the various branches of government. Examples of the latter might be the substitution of presidential for parliamentary government or the replacement of monarchical by republican rule. Constitutional amendments which do not have significant impact on the political system are not counted.

Cheibub et al. (2011) present a third approach. They consider whether reforms tilted the executive-legislative balance of power toward presidents. For them, the key issue in operationalization is whether constitutional change took place outside of the procedure specified in the existing constitution. This builds on Elkins *et al.*'s operational definition, specifying that constitutional change adhering to existing amending procedures is coded as an amendment. They find that constitutions perish on average every nineteen years, arguing that a sufficiently flexible amending process can save a constitution. They then combine this with extensive content analysis, reporting that replacements match their predecessors in 81 percent of the topics (Elkins et al. 2009, 55-9).<sup>1</sup>

To reduce subjectivity in classification, the CDD applies a narrow definition of change that only counts constitutions resulting from explicit promulgations. We identify these discrete political moments from the above datasets, the current edition of *Countries of the World and their Leaders Yearbook* (Ellicott 2011), and when necessary, the promulgation date mentioned in the constitutional text itself. This is meant to minimize the risks of biasing stability through definitions of change based on disequilibrium, while distinguishing between incremental (or overlapping) institutional change and the more significant historical junctures that cumulatively result.

Applying these criteria between 1974 and 2011 the CDD identified 118 countries that implemented at least one new constitution;<sup>2</sup> approximately 72 countries that did not implement a new constitution at all. We start the data set in 1974 in order to include the entire Third Wave (38 years in our data set), as it encompasses the transitions in the era of modern rights and constitutionalism, and because most needed data is available for this period (but not earlier).

### **Operationalizing Citizen Participation in Constitution-Making**

Widner (2004) presents one sensible approach to operationalizing citizen participation. She measures the level of participation and representation in constitution drafting by coding five process characteristics: the type of deliberative body, the method of selecting delegates to that body, the method of choosing delegates who draft initial texts, the level of public consultation, and the existence of a public referendum. Each of these five variables is coded in relation to participation and representativeness. Unfortunately this ambitious study – which included batteries of dozens of research questions for each variable – remains incomplete. Carey (2009) takes a second approach to measuring inclusiveness of “constitutional moments,” using one variable counting veto players and another indicating whether citizens voted on the constitution via referendum. Because existing data on veto players exclude significant portions of the developing world though,<sup>3</sup> this would eliminate far too many countries that adopted new

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<sup>1</sup> The Widner dataset also includes data on content though little analysis with it has been published.

<sup>2</sup> Insufficient information was available on another three cases, and at least three countries implemented new constitutions fewer than three years ago. The CDD also does not include nations of fewer than 500,000 people.

<sup>3</sup> See König, Tsebelis, and Debus (2010).

constitutions from the sample. Elkins et al.'s strategy represents a third option. They measure the inclusiveness of writing stages through two proxies: a variable for whether constitutions were drafted during foreign occupations, and another for whether a country was democratizing at the time. They break the constitution-making process into stages of writing, deliberation, and approval, and then reduce the deliberation stage to whether an elected body publicly debated the draft, and whether a public referendum approved the document (Elkins et al. 2009, 97-9).

We share Elkins et al.'s broad outlines for the stages of constitution-making, describing them as drafting, debating, and ratification in our dataset. However our *process* variable is meant to directly measure the level of participation, rather than relying on proxies and instrumental variables. In addition, since level of democracy is our dependent variable, using their proxy variable would generate obvious autocorrelation. We also appreciate Carey's and Widner's rationales for conceptually distinguishing between participation and inclusion. Inclusion is a slippery concept in the literature, in part because the term can imply a bias against models of democracy that trade some degree of representation in exchange for accountability through alternation of power. We understand inclusion in terms of a range of distinct interests necessary to legitimate the exercise of aggregate political authority (LeVan 2011). In this regard, our *process* variable does not attempt to separately estimate the level of inclusion. Nor does it attempt to capture participation intensity (riots versus candlelight vigils). Instead, we considered the breadth of participation and public signals of exclusion in the coding discussed below.

After identifying all constitutions formally promulgated since 1974, researchers gathered information about the level and modalities of citizen input or elite discretion during drafting, debating, and ratification.<sup>4</sup> A separate group of researchers then used this data to construct the *process* variable by coding each stage of constitution-making with one of three ordered values: "Decreed" indicates elite control of a non-transparent process through a strong executive, a committee appointed by the executive with no meaningful external consultation, or a party acting as a central committee. China's 1978 and 1982 constitutions, as well as Lesotho (1993) and Nicaragua (1974) all fall into this category. The Dominican Republic's 2010 constitution presents a less straightforward example since the ruling party drafted the constitution and the parliament approved it. However, this case too qualifies as "decreed" as there were no meaningful opportunities for public input, even during ratification. "Mixed modalities" captures cases with overlap, or tension, between elite and bottom-up influence, but we sought to avoid generating a residual category. This term includes constitutions such as Burundi (2005) or Peru (1993), where an elected body played a role in the process but elites exercised undue control over their selection. Debate was at least partially public but there were no readily identifiable divergences from elite preferences. If a referendum took place, it was generally flawed but accepted, as in Hungary (2011). The hallmark of the "polyarchy" value is strong, bottom-up citizen influence as in Ecuador (2008) or Benin, which held a Sovereign National Conference in 1990. Very few cases met this standard at each stage of the process. For example, Spain and South Africa both had a "mixed" drafting stage, due to elite pacts that shaped the new constitutions in 1978 and 1996, respectively.

Table 1 summarizes the coding criteria and the logical conditionalities. The CDD includes 134 cases at the drafting stage (with 4 missing values) and 133 at the debating and

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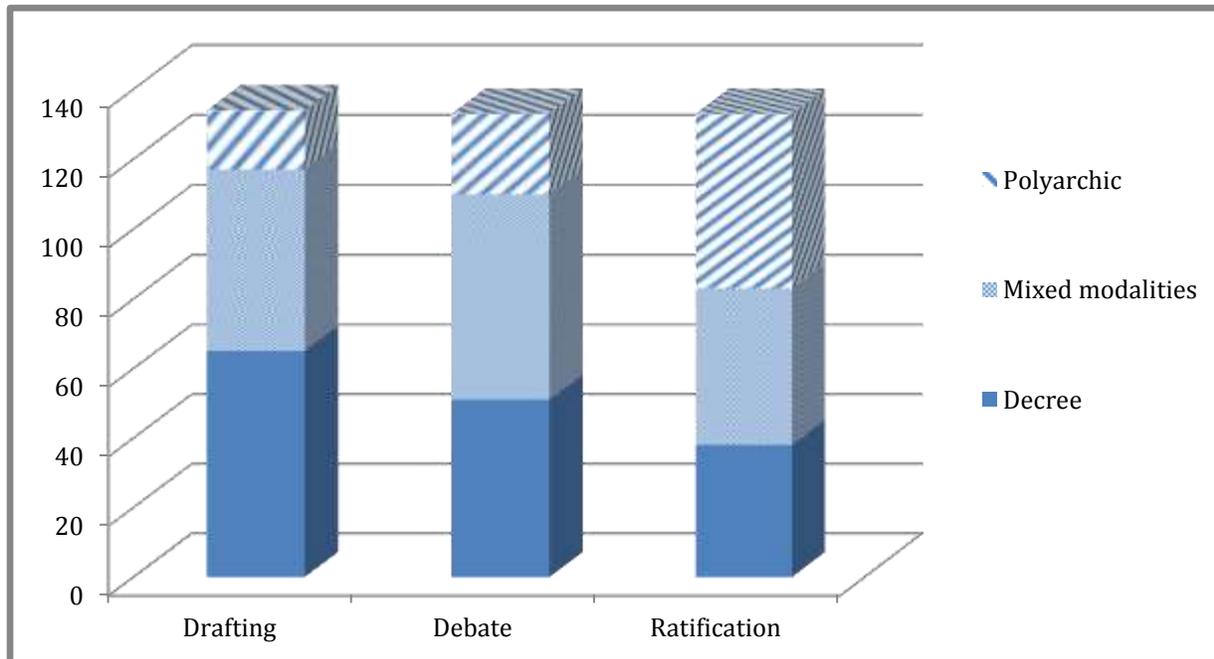
<sup>4</sup> Sources consulted, in order, include: Ellicott (2011), Hein Online (2012), Widner (2004), Institute for Democracy and Electoral Assistance's ConstitutionNet.org (accessed August 2013), Economist Intelligence Unit country reports, and the CIA *World Fact Book*. Cases such as The Gambia, Switzerland, and Afghanistan required additional research from peer reviewed area studies journals.

ratification stages (with 5 missing values in each). This distribution on our *process* variable is displayed in Figure 1.

**Table 1: Coding Criteria**

	STAGE OF PROCESS		
	Drafting	Debating	Ratification
<b>Decreed</b>	strong executive OR exec appointed committee OR party as central committee	Strong executive OR exec appointed committee OR party as central committee. Debated in camera.	No referendum OR decree by executive body
<b>Mixed modalities</b>	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
<b>Polyarchic</b>	systematic civil society input OR strong transparency OR specially-elected drafters elected in “free and fair”	Public debate, with civil society, that visibly influenced draft content	Generally “free and fair” referendum

**Figure 1: Process Variable**



## EMPRICAL TESTS OF PARTICIPATORY CONSTITUTION-MAKING ON DEMOCRACY

So does participatory constitution-making matter? And does it matter more during some sovereign moments than others? In this section we answer yes to each these questions. Statistical tests of the participation hypothesis regress the *process* variable on level of democracy, which we measure with moving averages of the Freedom House and Polity IV scores that include the three years before and the three years after constitutional promulgation. A probe for potential endogeneity through additional tests with an instrumental variable validates our claim that *process* does indeed measure participatory constitution-making specifically. Next we subject the deliberative democracy hypothesis to two different tests to determine whether the earlier stages, such as drafting or debating, have a greater impact on democratization than the modalities of ratification. All of our results hold across a broad range of controls and robustness checks.

### First Stage: *Process* Does Drive Democracy

In the first stage, we test the participation hypothesis, which states that high overall levels of participation throughout the process of constitution-making positively impact levels of democracy. To measure levels of democracy, we use the combined Polity IV score, which is a unified scale ranging from -10 (strongly autocratic) to +10 (strongly democratic). In a separate test, we also use Freedom House's (FH) separate measures of political rights and civil liberties. FH scores range from 1 (highest) to 7 (lowest). FH has been criticized for lacking transparency and being politically biased (Coppedge 2012; Giannone 2010). But it remains the best option for time series evaluation of levels of democracy, since its variables cover every year continuously since 1973. Polity has been published in waves every five years, but with annual time series data (Marshall and Jaggers 2008). All the three dependent variable (the Polity and two FH indicators) are measured as averages of the three years after the year of constitution promulgation. To make the direction of our coefficients consistent for different dependent variables, we recoded FH scores so that 1 would represent the lowest score (full autocracy) and 7 the highest score (full democracy). This means that positive coefficients would support the participation hypothesis, stated as:

**H1:** Higher overall levels of participatory constitution-making increase levels of democracy.

The statistical models also include variables measuring a variety of social, economic, and historical conditions that could account for the hypothesized relationship. First, the *ELF* variable controls for ethno-linguistic fractionalization with Alesina et. al.'s (2003) ethnic fractionalization measure, which combines linguistic and racial measures ranging from zero (essentially indicating ethnic homogeneity) to 1 (the highest likelihood that two random citizens will be from different backgrounds). This is important because ethnicity could breed parochialism and collective action problems that impede democratization (Horowitz 1985), or if more recent research is correct, ethnic diversity could advance democracy by enabling civil society mobilization (Bessinger 2008). Widner's (2008) results are more neutral, reporting that ethno-linguistic fractionalization does not interfere with the likelihood that constitutional change will improve political rights. Second, the *conflict* variable controls for recent major civil conflict. This is important because constitutions are often part of post-conflict peace building processes, and this can influence the impetus for inclusiveness, the likelihood of formerly armed groups of coming to the bargaining

table, and the overall political stakes for actors to negotiate (Miller and Aucoin 2010; Roeder and Rothchild 2005). Third, we also use a *major constitutional change* variable because if the constitution is amended significantly, for example by creating a one-party system, this would influence the ability of groups to have their voices heard. More importantly, it would change the status quo condition that the larger drafting process seeks to alter. Since we do not use our own data for the *major constitutional change* variable, it also therefore serves as a check against our own count of constitutional changes. We measure both *conflict* and *major constitutional change* with the Banks and Wilson's weighted conflict index and number of major constitutional changes, respectively.<sup>5</sup> Their weighted conflict index is a weighted aggregate measure of eight different episodes of conflict (Banks and Wilson 2005, 33). And they refer to major constitutional changes as the number of basic alterations in a state's constitutional structure (Banks and Wilson 2005, p. 39). Each of our variables averages the three years before constitutional promulgation.

Fourth, because modernization theory remains perhaps the most influential theory of democratization (Teorell 2010; Coppedge 2012; Przeworski et al. 2000), we control for level of development with the variable *GDP per capita*. Fifth, recent research suggests that larger countries are less likely to democratize. Teorell (2010) lists a number of possible reasons for this, including for example population density, but the debate is clearly unresolved. Our variable *population* controls for this with the natural log of the total population. We take both of these variables from the World Bank's World Development Indicators (2013).

The results show that the process variable has a positive and significant impact on Polity score, and FH Political Rights and Civil Liberties three-year post-constitution averages, and the model explains a good deal of variance. Socio-economic modernization (indicated by *GDP per capita*) and major constitutional changes both also correlate significantly with the dependent variables. Table 2 reports results of the correlation between the aggregate constitutional participation independent variable and the three-year average of Polity and Freedom House (FH) scores.

**Table 2: Participation Hypothesis and Level of Democracy**

VARIABLES	Polity	FH Political Rights	FH Civil Liberties
Process	1.54*** (0.36)	0.48*** (0.10)	0.43*** (0.07)
ELF	-1.77 (2.38)	-0.25 (0.74)	-0.41 (0.54)
conflict	0.00 (0.00)	0.00 (0.00)	-0.00 (0.00)
GDP per capita	0.00***	0.00***	0.00***

<sup>5</sup> For our purposes, this is preferable to the commonly used PRIO dataset for two reasons: (1) it is an aggregated conflict index, whereas PRIO dataset provides information on different episodes of conflict rather than an aggregate measure, and (2) it is a weighted measure of all types of conflict, including strikes, protests, and other forms of non-armed conflicts, whereas PRIO dataset only includes armed conflicts.

	(0.00)	(0.00)	(0.00)
Population (log)	0.50 (0.44)	0.17* (0.10)	0.02 (0.08)
Major constitutional change	7.93*** (2.67)	1.03** (0.48)	0.83** (0.38)
Constant	-12.63* (7.35)	-0.64 (1.77)	1.98 (1.43)
Observations	82	84	84
R-squared	0.37	0.35	0.44

Robust standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

In Table 3 we control for regions and colonial heritage using data from Norris (2008), who notes that there is a long debate about whether and how colonialism impacted democratization. In our OLS statistical tests, the coefficients do not change significantly. Consistent with Barro (1999) and Teorell (2010), none of the dummies for colonial heritage are significant, and only the Middle East has a negative and significant (at .1 level) correlation with the Polity and FH Civil Liberties scores. This confirms what Middle East scholars have concluded: over the past decades the Arab states of the region have grown rich in constitutions without necessarily growing richer in constitutionalism (Brown 2002). This is not surprising; in our dataset, between 1974 to 2011 only one constitution was drafted in the Middle East and North Africa with mixed or polyarchic process in all three phases: Iraq (2005), whose constitution was drafted under foreign military occupation.

**Table 3: OLS of *Process* Variable, with Region and Colonial Heritage**

VARIABLES	Polity	FH Political Rights	FH Civil Liberties
Process	1.60*** (0.41)	0.50*** (0.12)	0.43*** (0.09)
ELF	-2.36 (4.05)	-0.47 (0.99)	-0.38 (0.70)
Conflict	0.00 (0.00)	0.00 (0.00)	-0.00 (0.00)
GDP per capita	0.00*** (0.00)	0.00** (0.00)	0.00** (0.00)
Population (log)	0.21 (0.49)	0.10 (0.12)	-0.03 (0.09)
Constitutional change	7.88** (3.25)	1.08* (0.57)	0.69 (0.42)
Africa	-1.86 (2.42)	-0.56 (0.42)	-0.51 (0.45)
Asia	-0.83 (3.15)	-0.44 (0.84)	-0.19 (0.67)

Central Europe	-5.32 (3.96)	-0.59 (0.68)	-0.84* (0.46)
Middle East	-5.62* (2.97)	-1.07 (0.68)	-1.16* (0.63)
Western Euro	-2.79 (3.57)	0.11 (0.93)	0.58 (0.77)
British colony	-1.90 (3.26)	0.43 (0.70)	-0.02 (0.43)
French colony	-3.08 (3.39)	0.08 (0.68)	-0.50 (0.39)
Spanish colony	-4.88 (3.54)	-0.23 (0.64)	-0.74 (0.49)
Portuguese colony	-3.92 (3.44)		
Other colony	-1.68 (3.75)	0.20 (0.64)	-0.29 (0.36)
No colony		1.19 (1.01)	0.29 (0.63)
Constant	-3.64 (9.81)	0.90 (1.99)	3.60** (1.48)
Observations	81	83	83
R-squared	0.41	0.36	0.48

Robust standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

Next, we test for potential collinearity between the *process* and *major constitutional change* variables. The collinearity could stem from the fact that the “constitutional change” variable (whether prior changes had occurred in the constitution in the last three years before the new constitution) might have impacted whether the particular constitutional process in consideration involved citizen participation. We tested for possible multicollinearity and the results indicate that the correlation between *process* and Banks’ measure of “major constitutional change” variables is only 0.05 (0=no correlation and 1=perfect correlation) and not statistically significant.

The most challenging issue in the data analysis of this study was the endogeneity problem. It was not clear whether polyarchic means of crafting constitutions affects democracy, or whether the level of democracy impacts public participation (the *process* variable). Arguably more open and democratic societies are more likely to use polyarchic means of creating and promulgating constitutions. We also tested for correlation between democracy before and after promulgation and found a significant correlation of 0.60 in the Polity score (0.74 and 0.73 in FH political rights and civil liberties, respectively).

We address the endogeneity problem by using the sum of major strikes at national level in the three years prior to promulgation as an instrumental estimator for the *process* variable and then running a two-stage least squares (2SLS) model. The number of major strikes does not impact the democracy score, and strikes are as frequent in democracies as they are in non-democracies. We take more strikes before constitution drafting as an indication of higher levels of citizen mobilization; in such an environment there is a greater chance of polyarchic means of constitution making. In other words, number of strikes has an impact on the type drafting process and it affects democracy score only through impacting the drafting process. Since we are

interested only in major strikes at national levels, we used Banks and Wilson's (2005, 31) "general strikes" which only includes strikes that involve more than 1,000 workers and more than one employer and are targeted at national government policies or authorities. We incorporated this as an estimate for the instrumental variable (IV), regressing it on our participation level *process* variable as the dependent variable in the first stage. The results from the first-stage of this two-stage least squares regression (reported in **Appendix**

Table 8) shows, showing that our *strikes* independent variable estimate of process variable for Polity model has a coefficient of 0.39 (and 0.38 for FH models) and is significant at .01 level. *Strike* has a positive correlation with *process*, indicating that the higher is the number of strikes before constitution promulgation, the more polyarchical the process would be. We then substitute our *process* variable for the fitted value of *strikes* variable, now as the independent variable, regressing it on the Polity IV, FH Political Rights and Civil Liberties variables. The results are similar to our initial OLS coefficients and ordered probit coefficients (see **Appendix**

Table 7), indicating that any endogeneity of the *process* variable to the model is not determinant.<sup>6</sup>

### **Second Stage: Democratic Drafting Matters for Democracy**

In the second stage of tests, we test the deliberative hypothesis in two ways: first by using the stages of constitution-making as three separate independent variables (*drafting*, *debate*, and *ratification*) and then by weighting the process variable more heavily towards the drafting stage and then running a linear regression model. This is important because it tests whether a non-democratic drafting stage can be “offset” and corrected by more participatory debate and ratification stages, and therefore improve post-promulgation level of democracy. This hypothesis is stated as:

**H2:** Citizen involvement in the early stages of constitution-making has a larger impact on democratic outcomes.

In our first set of tests of the importance of the drafting stage, we run linear regression models which show that moving from decreative drafting process to polyarchical process increases the combined Polity IV by 19 percent (an average of 3.8 scores, holding other values constant, on the -10 to +10 continuum). Each country also experiences a nearly 14 percent increase in its both its FH Political Rights and Civil Liberties scores (an average of 0.8 units, holding other values constant, on the 1 to 7 index). Recall from Figure 1 that only 17 cases used polyarchic process in the drafting stage, while 23 and 50 cases had polyarchic process in deliberation and ratification stages, respectively. Despite the fact that fewer cases had polyarchic drafting than polyarchic deliberation and ratification, the results from Table 4 show that only in the first stage of drafting, the move from decreative to polyarchic process is statistically significant.

**Table 4: Significance of Drafting, Relative to Debating and Ratification**

VARIABLES	FH		
	Polity	Political Rights	Civil Liberties
Drafting	3.80*** (0.87)	0.86*** (0.27)	0.83*** (0.19)
Debate	0.50	0.38	0.19

<sup>6</sup> This is important because some scholars (Lederman, Loayza, and Soares 2005) suggest that if the values of the dependent variable are irrelevant except for having a hierarchical order, we should treat them as ordered categories rather than continuous.

	(1.06)	(0.29)	(0.20)
Ratification	1.04 (0.73)	0.15 (0.19)	0.27* (0.15)
Constant	-3.48*** (0.93)	2.63*** (0.25)	2.64*** (0.20)
Observations	117	127	127
R-squared	0.26	0.22	0.28

Robust standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

The results with our controls are displayed in Table 5. After controlling for these variables, drafting remains positively significant in the models generated from all three dependent variables (Polity and the two FH indices). *GDP per capita* also has a positively significant correlation with each of these measures of democracy. This is somewhat surprising since Hogstrom (2013) finds that GDP per capita has a stronger association with FH as a dependent variable, compared to Polity. The natural log of population and the *conflict* variable show a positive but insignificant correlation with all three measures of democracy. Ethno-linguistic fractionalization (*ELF*) has a negative and insignificant correlation with both FH Civil Liberties and Polity democracy, but positive and insignificant correlation with FH Political Rights. Banks and Wilson's *major constitutional changes* are positively and significantly correlation with democracy score, but its correlation with political rights and civil liberties is insignificant.

**Table 5: Process Variable Disaggregated by Phases, with Controls**

VARIABLES	Polity	FH Political Rights	FH Civil Liberties
Drafting	2.50** (1.11)	0.90*** (0.32)	0.88*** (0.20)
Debate	1.08 (1.20)	0.32 (0.37)	0.19 (0.23)
Ratification	1.03 (0.85)	0.19 (0.24)	0.20 (0.17)
ELF	-1.28 (2.52)	0.01 (0.76)	-0.16 (0.56)
Conflict	0.00 (0.00)	0.00 (0.00)	0.00 (0.00)
GDP per capita	0.00*** (0.00)	0.00*** (0.00)	0.00*** (0.00)
Population (log)	0.52 (0.46)	0.18 (0.11)	0.03 (0.09)

Major constitutional change	7.02** (3.02)	0.74 (0.50)	0.53 (0.36)
Constant	-12.91* (7.68)	-0.63 (1.86)	1.91 (1.51)
Observations	82	84	84
R-squared	0.38	0.38	0.49

Robust standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

As with the findings regarding the *process* variable in general in the earlier statistical findings, the *drafting* variable is robust in all cases when the *process* variable is disaggregated into three partials, while *debate* and *ratification* are not statistically significant. The pattern in Table 4 and 5 above also holds for ordered probit analysis displayed in Table 10 in the Appendix.

For our second, separate set of tests of the deliberation hypothesis, we generated a weighted process variable in which earlier phases are weighted more than later phases, by multiplying the *drafting* values by three, *debate* by two, and *ratification* values by one as follows:

$$\text{Equation 1: weighted process} = \text{Draft} * 3 + \text{Debate} * 2 + \text{Ratification} * 1$$

As such, our weighted process variable ranges from 0 (i.e. where all the three stages were decreative) to 12 (i.e. where all the three stages were polyarchic). We weighted the process variable to consider the possibility, borne out in our separate analysis of the three phases of the *process* variable, that the early phases of constitution making process matter more than the later ones. The weighted variable yields results similar to those when *draft* is tested separately.<sup>7</sup>

**Table 6: Weighted Average for Three Phases of Process Variable**

VARIABLES	Polity	FH Political Rights	FH Civil Liberties
Weighted process	0.89*** (0.14)	0.24*** (0.04)	0.21*** (0.03)
Constant	-3.59*** (0.84)	2.56*** (0.23)	2.63*** (0.18)
Observations	117	127	127
R-squared	0.25	0.21	0.28

Standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

<sup>7</sup> The results are also similar when using a single weighted *process* variable which weights *draft* as 50 percent of the value, *debate* as approximately 34 percent, and *ratification* as approximately 16 percent.

Our results decisively confirm, first of all, that after a rigorous test of normative theory's implicit linkage between new constitutions and improved democracy, this claim is an oft-repeated aspiration more than an empirical pattern. Upon disaggregating *process* into its three phases, we have also decisively shown that the drafting phase has a disproportionate effect on democratization compared to crucial phase is that of "drafting," rather than "debate" or "ratification." The direct implications for development practitioners are important, and the broader implications are important to scholars of democratization, and comparative politics more broadly.

## IMPLICATIONS AND CONCLUSIONS

By demonstrating the central importance of the drafting stage, our results refute Burkean notions of constitutional transitions by trusteeship. Our statistical results demonstrate first, that constitutional change contributes to improvements in democracy in only half of all cases of constitutional promulgation during the Third Wave. This is important because policymakers and scholars alike have noted democracy's backsliding worldwide over the last several years (Eaton 2012; Levitsky and Roberts 2011). But they have not drawn generalized, explicit connections to the conditions under which new constitutions effectively deepen democratic principles through procedure, rather than the codification of particular language. In other words, process matters. Second, we show that increased public participation throughout the constitution-making significantly contributes to subsequent levels of democracy. This offers empirical support for emerging international norms of participatory governance, thereby generating a new rationale for the revival of participatory models from democratic theory (Pateman 2012). However, without participation in the drafting stage, this "sin of omission" cannot be overcome through popular participation in the deliberation and ratification stages, despite the best intentions of plebiscite-organizing NGOs and international donors.

Third, we then generated the unexpected finding that drafting, which occurs in the early stage of constitution-making, has the greatest impact on subsequent levels of democracy. This is significant because democracy promotion has often emphasized – even romanticized – referenda, which take place in the final stages of ratification. Indeed, democracy levels improved only in 45 percent of cases that incorporated broad consultation at debate and ratification stages, but not at the initial, drafting stage. Contrarily, 82 percent of the cases in our data which used polyarchic drafting, regardless of popular participation in later stages, show such improvement. Innovative attempts to incorporate citizen participation in constitution drafting such as through social media, as in Egypt's 2011 aborted new constitution, and other means, must be taken seriously, rather than as mere cynical displays of populism (see Arenas, Ayo, Maboudi and Nadi, and Moehler and Merchant in Albro, Eisenstadt, and LeVan, eds. 2014 forthcoming).

Extant single-country studies, and our own pilot studies in Bolivia and Uganda, have exposed the vulnerability of constitutional processes to elite manipulation. While we have made an important stride by identifying and then testing the overwhelming importance of participatory drafting, constitutional processes in particular cases at particular moments need to be further examined both cross-sectionally and longitudinally. It is surprising how little such work in this area has been undertaken, given the passage of over 25 years since the fall of authoritarians with the Berlin Wall. If the citizen engagement that brought down dictators has a mixed effect on the quality of constitutions and their enduring effects on political culture and rule compliance, this

could influence both donor priorities and the processes of constitution-making deemed most effective.

Our findings offer conclusions useful to scholars and analysts in explaining the failure of constitutions in already democratic nations. They may also be used to improve levels of democracy using statistical analysis of the CDD in nations implementing new constitutions, as well as in carefully selected case study ethnographies of constitution-founding moments. We argue that the degree of participation by citizens (either directly or, as is much more likely, through, designated representatives) is crucial in understanding whether constitutional change improves levels of democracy. We showed that more participatory and broadly inclusive constitutional foundings yield important shifts in political culture, although further research is needed to discern whether these changes extend to the provision of demonstrable improvements in terms of political rights.

Perhaps the next round of research in this area can merge procedural and substantive concerns by addressing not only whether and how citizens participate in the drafting, debate, and ratification stages, but also how substantial this participation is in terms of proposing concrete language which otherwise would not have made the draft. The strong call for greater participation emerging from this article should be joined by a call to for “quality participation” rather than just populism. Here we join Elkins et. al. (2009), Widner (2008), Hartlyn (2011) and others in seeking to understand whether greater levels of participation actually produce greater democratic rights. We have used the blunt instruments of Polity and FH to show that participatory constitution-building improves levels of democracy, but we still need to know what components of democracies are actually improved.

Contemporary constitution-making has differed in important ways from earlier eras, through involvement of competing donors, assumptions about the virtues of participation, and beliefs that human agency can prevail over adverse historical or geographical conditions. It is clear from the empirical record that recent constitutions offer a mixed record in terms of political rights, and this may be true of other areas of democratic performance. Until now, normative democratic and legal theories have been subjected to little empirical testing with regard to levels of citizen participation the process of constitution-making. We have shown the centrality of citizen inclusion in improving post-promulgation democratic outcomes. It remains for future research to ascertain whether constitutions also positively impact substantive components of democracy, such as law-bound effects on human rights and the rule of law, effects on resource distribution, public service delivery, or perhaps political culture, by shaping citizen attitudes. Whatever the outcomes, new knowledge on the relationship between constitution-making and democracy will help scholars, analysts, and policymakers focus attention on both process and substantive content, and to reconsider those elements of the process most conducive to democratic aspirations, which, ironically, may be more elusive than ever.

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## Appendices for Additional Statistical Analyses as Checks on Robustness of Models

**Table 7: Ordered Probit Coefficients for *Process* on Freedom House Variables<sup>†</sup>**

VARIABLES	Ordered probit Political Rights	Ordered probit Civil Liberties
Process	0.34*** (0.07)	0.41*** (0.07)
Ethno-linguistic	-0.09 (0.53)	-0.40 (0.51)
Conflict	-0.00 (0.00)	-0.00 (0.00)
GDP per capita	0.00** (0.00)	0.00*** (0.00)
Population (log)	0.14* (0.07)	0.03 (0.08)
Constitutional change	0.74** (0.31)	0.78** (0.37)
Observations	84	84

Robust standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

<sup>†</sup> For sensitivity analysis, we also used ordered probit models only for Freedom House Political Rights and Civil Liberties, as Polity IV is continuous (ranging from -10 to +10) and we could not use ordered probit model for it. The results from ordered probit models for political rights and civil liberties do not change significantly from those of OLS models.

**Table 8: Stage One of the 2SLS Models**

VARIABLES	Process (Polity)	Process (FH Political Rights)	Process (FH Civil Liberties)
Strike	0.39*** (0.14)	0.38*** (0.14)	0.38*** (0.14)
ELF	0.76 (0.99)	0.68 (.099)	0.68 (.099)
Conflict	0.00 (0.00)	0.00 (0.00)	0.00 (0.00)
GDP per capita	0.00 (0.00)	0.00 (0.00)	0.00 (0.00)
Population (log)	-0.17 (0.13)	-0.16 (0.13)	-0.16 (0.13)
Constitutional change	0.84 (0.76)	-0.11 (0.81)	-0.11 (0.81)
Constant	4.44* (2.30)	4.42* (2.28)	4.42* (2.28)
Observations	80	80	80
R-squared	0.12	0.12	0.05

Robust standard errors in parentheses

\*\*\* p&lt;0.01, \*\* p&lt;0.05, \* p&lt;0.1

Table 9 shows the results from the second-stage regressions. The results show that the instrumented process variable has a positive correlation with level of democracy, political rights, and civil liberties and these correlations are statistically significant at .01 confidence level.

**Table 9: Stage Two of the 2SLS Models**

VARIABLES	Polity	FH Political Rights	FH Civil Liberties
Fitted value of Process	3.87*** (1.29)	1.14*** (0.42)	0.89*** (0.34)
ELF	-4.66 (3.35)	-0.98 (0.88)	-0.90 (0.66)
Conflict	-0.00 (0.00)	-0.00 (0.00)	-0.00 (0.00)
GDP per capita	0.00*** (0.00)	0.00*** (0.00)	0.00*** (0.00)
Population (log)	0.61 (0.49)	0.21 (0.14)	0.06 (0.12)
Constitutional change	7.15** (2.95)	1.34*** (0.50)	1.03*** (0.38)
Constant	-18.53* (9.87)	-2.48 (3.01)	0.51 (2.51)
Observations	78	80	80
R-squared	0.15	0.12	0.25

Robust standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

**Table 10: Ordered Probit Coefficients for Drafting, Debate, Ratification on FH**

VARIABLES	Ordered Probit FH Political Rights	Ordered Probit FH Civil Liberties
Drafting	0.61*** (0.24)	0.90*** (0.22)
Debate	0.23 (0.27)	0.19 (0.20)
Ratification	0.17 (0.16)	0.18 (0.16)
ELF	0.07 (0.55)	-0.17 (0.53)
Conflict	0.00 (0.00)	0.00 (0.00)
GDP per capita	0.00** (0.00)	0.00*** (0.00)
Population (log)	0.14* (0.07)	0.03 (0.08)
Major constitutional change	0.57* (0.34)	0.51 (0.35)
Observations	84	84

Robust standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

Table 11 shows the results of the correlation between the weighted process variable and Polity score, FH Political Rights and FH Civil Liberties when controlling for ethno-linguistic fractionalization, conflict, GDP per capita, population, and major constitutional change. The results show that the weighted process variable, like the “Draft” variable in text Table IV has a positive and significant impact on Polity score, FH Political Rights and FH Civil Liberties. GDP per capita and major constitutional changes have also a statistically significant correlation with the dependent variables.

**Table 11: Weighted Average for Three Phases within Process Variable, with Controls**

VARIABLES	Polity	FH Political Rights	FH Civil Liberties
Weighted process	0.75*** (0.17)	0.24*** (0.05)	0.22*** (0.03)
Ethno-linguistic	-1.28 (2.38)	-0.09 (0.72)	-0.26 (0.52)
Conflict	0.00 (0.00)	0.00 (0.00)	-0.00 (0.00)
GDP per capita	0.00*** (0.00)	0.00*** (0.00)	0.00*** (0.00)
Population (log)	0.51 (0.45)	0.17 (0.11)	0.02 (0.08)
Constructional change	7.23** (2.82)	0.85* (0.46)	0.67* (0.35)
Constant	-12.66* (7.46)	-0.63 (1.77)	1.99 (1.43)
Observations	82	84	84
R-squared	0.38	0.37	0.48

Robust standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

Table 12 shows tests with the weighted *process* variable on the three-year average of post-promulgation democracy levels when we also control for regions and colonial heritage. As with the disaggregated *draft*, *debate*, and *ratification* variables, the coefficients do not change significantly. Moreover none of the dummies for colonial heritage were significant and only the Middle East region has a negative and significant (at .1 level) correlation with Polity score.

**Table 12: Weighted Average for Three Phases within *Process* Variable, with controls**

VARIABLES	FH		
	Polity	Political Rights	Civil Liberties
Weighted process	0.75*** (0.19)	0.25*** (0.05)	0.21*** (0.04)
Ethno-linguistic conflict	-1.80 (4.04)	-0.27 (0.98)	-0.21 (0.69)
GDP per capita	0.00** (0.00)	0.00** (0.00)	0.00** (0.00)
Population (log)	0.29 (0.50)	0.12 (0.12)	-0.01 (0.09)
Constitutional change	7.17** (3.45)	0.90 (0.57)	0.53 (0.39)
Africa	-1.78 (2.30)	-0.58 (0.44)	-0.53 (0.52)
Asia	-0.70 (3.07)	-0.43 (0.85)	-0.18 (0.72)
Central Europe	-4.18 (4.00)	-0.55 (0.74)	-0.81 (0.54)
Middle East	-5.41* (3.02)	-1.03 (0.72)	-1.12 (0.70)
Western Europe	-3.23 (3.69)	-0.10 (0.98)	0.40 (0.82)
British colony	-0.87 (3.36)	0.47 (0.74)	0.01 (0.46)
French colony	-1.80 (3.44)	0.19 (0.72)	-0.40 (0.43)
Spanish colony	-3.93 (3.61)	-0.27 (0.68)	-0.77 (0.54)
Portuguese colony	-2.96 (3.62)		
Other colony	-0.32 (3.84)	0.37 (0.68)	-0.14 (0.38)
No colony		0.94 (1.06)	0.07 (0.66)
Constant	-5.94 (9.99)	0.56 (2.00)	3.31** (1.47)
Observations	81	83	83
R-squared	0.41	0.38	0.50

Robust standard errors in parentheses

\*\*\* p&lt;0.01, \*\* p&lt;0.05, \* p&lt;0.1