Constitutional Cherry-Picking:
How Drafters Leverage Public Input in
Constitution-Making

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Abstract

How do drafters leverage public input during constitutional negotiations? I argue that public consultation is a strategic tool elites use to build consensus for preferred outcomes by selectively referencing supportive input—a practice I call cherry-picking. This reflects a core dilemma in modern constitution-making: the gap between citizen participation and elite control. While existing research focuses on consultation's downstream effects, I examine its rhetorical use during elite deliberations. Using n-gram and semantic similarity tools, I analyze plenary transcripts from Chile's (2021–22) and Cuba's (2018–19) constitution-making processes. In Chile, newcomer elites used consultation to legitimize a break from the status quo. In Cuba, the ruling coalition leveraged it to consolidate authority and project consensus. Across regime types, elites exploit public input to marginalize dissent and frame decisions as popular will. I show that consultation often serves partisan ends by selectively elevating voices that affirm elite agendas.

1 Introduction

The story of modern constitution-making is increasingly one of public consultation. Drafters in both democracies and autocracies now routinely organize public hearings, group deliberations, and citizen initiatives to gather public input on constitutional design (Blount 2011; Cruz et al. 2023; Elkins et al. 2008). Between 1974 and 2021, 40.3% of constitutions were drafted through processes involving public consultation (Martin 2025). Yet, as public consultation generates vast amounts of data on citizens' preferences, a black box emerges: How do drafters actually use public input during constitutional negotiations? Whose voices are elevated, and for what purposes?

Existing research has focused primarily on downstream effects—how consultation shapes legitimacy (Hirschl and Hudson 2024; Maboudi and Nadi 2022; Moehler 2006), final texts (Hudson 2018, 2021a), or democratic outcomes (Eisenstadt et al. 2015). But this emphasis obscures a crucial intermediate stage: the deliberations among political elites (Chernykh and Elkins 2022), where public input is invoked, reinterpreted, or ignored. This paper addresses that gap, shifting focus from outcomes to negotiations—examining how drafters reference public input not merely as reflections of citizen will, but as rhetorical and strategic tools.

I argue that public consultation is not an impartial mechanism for identifying societal preferences, but a resource that elites selectively deploy to build consensus for their preferred outcomes (Martin 2025). In democracies, dominant coalitions—especially newcomer elites—use consultation to legitimize breaks from the status quo, frame proposals as popularly backed, and strengthen their bargaining position. In autocracies, ruling coalitions—especially those grounded in performance claims and party strength—employ consultation to reinforce continuity, projecting consensus while filtering out dissent. In both cases, public input is repurposed to serve partisan ends.

This practice—what I call constitutional cherry-picking—involves selectively invoking consultation results to elevate aligned views while sidelining opposition. In democracies, it allows majorities to showcase popular backing for contentious reforms. In autocracies, it

insulates regime-friendly outcomes by amplifying favorable voices and discrediting critics. In both, elites cast themselves as interpreters of "the people," using consultation to construct a practicable public will. This selective referencing not only shapes the direction and outcomes of elite negotiations but also influences the narrative of legitimacy surrounding the constitutional process.

To test my arguments, I examine recent constitution-making processes in Chile (2021-22), an established democracy, and Cuba (2018-19), an entrenched autocracy. Using a "parallel demonstration of theory" approach (Skocpol and Somers 1980), I compare how public input is utilized by drafters within these two divergent political systems. This method of comparative inquiry allows me to juxtapose a democratic case with an autocratic one, identifying the motivations and tactics of political elites across contexts while demonstrating the applicability of my "cherry-picking" theory.

Methodologically, I develop a novel approach combining n-gram searches and semantic similarity tools to identify how public consultation is referenced in constitutional deliberations. N-gram searches capture specific terms and phrases related to public consultation, while semantic similarity tools detect more nuanced references (see Cruz et al. 2023). This two-pronged approach bridges quantitative precision and qualitative depth, offering a comprehensive and replicable framework for analyzing constitutional transcripts and other corpora.

By analyzing how political elites deploy public input as a rhetorical tool during negotiations, I stress that constituent power is not a self-evident reflection of public will but an active construction shaped by those in power. These findings contribute to an emergent literature that questions the utility of constituent power theory in light of the realities and abuses of modern constitution-making (Sethi 2024; Verdugo 2023). Ultimately, constituent power demands a performance from both framers and the framed,[1] and public consultation provides a stage for each to play their part.

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[1] Elster (1997, p. 134) employs this expression "to designate the actors whose behavior is to be regulated by the constitution."

2 Public Consultation and Elite Negotiations

Public consultation is seen as the gold standard for achieving the sociological legitimacy of a new constitution (Brandt et al. 2011; Choudhry and Tushnet 2020; Elkins et al. 2009; Hart 2003, 2010; Hirschl and Hudson 2024). When a text is "accepted... as deserving of respect or obedience" (Fallon Jr 2005, p. 1790), it prompts voluntary compliance—a key marker of constitutional success. By fostering the appearance—or reality—of responsiveness, drafters frame the constitution as a collective endeavor rather than an elite imposition. This dynamic is central to constituent power theory, which casts drafters as intermediaries of *pourvoir constituant*—the people's power to remake the constitutional order (Jacobsohn and Roznai 2020; Lindahl 2015).

Empirical evidence on the legitimacy effects of public consultation is mixed. In Uganda (1988–95), direct participation failed to boost support for the constitution (Moehler 2006, 2008), while in Tunisia (2011–14), it enhanced support, especially for rights protections (Maboudi and Nadi 2022). Survey experiments across six countries show that perceived fairness and openness—not participation alone—drive legitimacy gains (Hirschl and Hudson 2024). Visible "actions taken by the drafters to demonstrate their engagement" with public submissions can foster procedural justice, even among non-participants (Cozza 2024; Hirschl and Hudson 2024; Tyler 2000, p. 8).

These findings shift attention from the presence of consultation to how elites engage with it. Public input rarely alters the constitutional text directly (Hudson 2018, 2021a), but its symbolic value is well understood by elites. Drafters use consultation to project inclusivity and legitimacy, even when its substantive impact is minimal. As one member of the South African Constitutional Assembly remarked, for example, "the public felt like they'd been part of the process, and therefore made the end product more legitimate" (Hudson 2021b, p. 67). Public consultation hence serves as a normative ideal for certain elites (Martin 2025), but its legitimacy benefits depend on the actions of those overseeing the process.

During deliberations, drafters address two audiences: the public, and their fellow politi-

cal elites. Citing consultation allows them to present proposals as grounded in popular will, elevating their bargaining power and marginalizing rivals (Martin 2025). Consultation data become pliable rhetorical devices: delegates might say "40% of participants support enshrining animal rights," but how such input is interpreted—by frequency or coherence—remains deeply contested, as evidenced by cases such as Zimbabwe (2009-13) (Horowitz 2021, p. 172).

The logistics of processing public input are daunting. Today's consultation mechanisms span citizen submissions, surveys, town halls, and deliberative forums (Blount 2011; Houlihan and Bisarya 2021). In Brazil (1987–88), for example, drafters reviewed over 72,000 handwritten postcards (McDonald 2022). These mechanisms allow engagement on a broader range of topics than binary referendums (Elkins and Hudson 2019, 2022)and have become a staple of 21st-century constitution-making (Martin 2025). Despite these logistical challenges, the primary goal is to extract actionable insights from public preferences.

Few studies examine how drafters actually reference public input during negotiations. Hudson's work on Brazil and South Africa remains foundational, but these cases predate digital-era processes (Geissel and Michels 2018; Hudson 2021b; Landemore 2020a). New technologies—seen in countries such as Iceland, Egypt, and Nepal—have expanded access to consultation (Hudson 2018; Khanal 2014; Kies et al. 2023; Maboudi and Nadi 2016; Popescu and Loveland 2022). Furthermore, Hudson's argument—that strong, competitive parties mediate public input during constitution-making—does not extend to entrenched autocracies (Hudson 2021b, p. 14). These developments underscore the need for comparative research on how elites wield consultation across regime types.

This paper addresses that gap by analyzing how public consultation shapes elite negotiations in real time. I focus on rhetorical moves—what Chernykh and Elkins (Chernykh and Elkins 2022, p. 531) call ostensive argumentation—where drafters invoke public sentiment to justify proposals. These moments often escape notice when scholars focus only on final constitutional texts.

Debate transcripts offer a window into this dynamic. While practical hurdles complicate

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their analysis (Grimmer et al. 2022), they illuminate how drafters present themselves, justify decisions, and frame authority (Brinks and Blass 2018; Chernykh and Elkins 2022). Drafters negotiate not as impartial conduits of constituent power (see Jacobsohn and Roznai 2020, p. 247) but as active partisans shaping its exercise.

3   Cherry-picking as a Bargaining Strategy

I approach public consultation not as a neutral mechanism for uncovering citizen preferences, but as a strategic tool elites use to advance constitutional agendas. Drafters cherry-pick public input—selectively referencing submissions that support their goals—not simply responding to public will but constructing it. In democracies, newcomer elites invoke consultation to justify ruptures from the status quo, framing reforms as a response to social discontent. In autocracies, where leadership turnover is rare but legitimacy is vital (Gerschewski 2013), rulers co-opt consultation to reinforce continuity, curating an image of consensus around the "perfection" of the existing order. Across contexts, consultation emerges amid political uncertainty, power shifts, or elite fractures (Martin 2025), but its use depends on whether elites seek to justify transformation or stability.

Although it may seem self-evident that both majorities and minorities would employ public consultation to advance their own interests, the significance lies in how this dynamic shapes constitutional debates and outcomes. Though often framed as a bridge between collective will-formation and elite decision-making (Geissel 2023, p. 60), consultation tends to enhance, rather than constrain, elite discretion. Drafters use public input to frame narratives, pressure opponents, and legitimize decisions. Originating coalitions—those designing constitutions (Brinks and Blass 2018)—are particularly inclined to instrumentalize participatory mechanisms to protect vulnerable constitutional commitments.

Cherry-picking, or "selective listening" (Sintomer et al. 2008), refers to the practice of citing supportive input while ignoring dissenting voices (Smith 2009, p. 93). I argue that it is especially prevalent in constituent processes led by ideologically cohesive but politically exposed coalitions. In democracies, dominant majorities—especially newcomers—elevate

public grievances and dissatisfaction with traditional political elites (see Luna 2016) to justify reforms and cast themselves as champions of the people's will. In autocracies, ruling elites amplify feedback that affirms their legitimacy while suppressing dissent, using consultation as both a diagnostic tool to gauge societal consensus on certain issues and a rhetorical shield to undermine possible challenges from rival elites.

In both democracies and non-democracies, the central explanatory factor is the shared goal of legitimating a new political settlement that consolidates the authority of political elites to govern. In the face of elite fractures, drafters turn to the public to resolve disputes (García-Huidobro 2024). This objective shapes the approach of vulnerable originating coalitions to public consultation, as they seek input that aligns with their broader political aims. This selective engagement with public input, or cherry-picking, prioritizes political expediency over a holistic integration of citizen demands into decision-making.

Cognitive and institutional constraints contribute to this behavior. Decision-makers are constrained by "bounded rationality" in the absence of comprehensive information on citizens' preferences (Simon 1990). In ideologically homogeneous environments, confirmation bias exacerbates cherry-picking, influencing both the production and evaluation of arguments and fostering polarization and overconfidence if left unchecked (Mercier and Landemore 2012; Nickerson 1998). When constitutional drafters share a cohesive vision, however, they are more likely to "filter input from the public through their already formed understanding of what the constitution should do," engaging with supportive feedback while neglecting inconvenient results (Hudson 2021a, p. 36).

Citizen behavior compounds elites' ability to cherry-pick input aligned with their aims. Participation is often ideologically driven (Raveau et al. 2020), with individuals most likely to engage selectively when they feel their interests and values are at stake (2002, pp. 28–31). Moreover, public consultation mechanisms in constitution-making are often "absent from, or peripheral to, ordinary politics" and shaped by intense partisan competition (Partlett and Nwokora 2019, p. 177). Organized on an ad hoc basis (Setälä 2017), these processes tend

to be dominated by highly motivated citizens who typically focus on more accessible topics such as rights and duties (Cruz et al. 2023).

Constitution-making involves high-stakes elite competition, with final texts typically reflecting the preferences of dominant factions (Brinks and Blass 2018; Higley and Burton 2006; Lijphart 1984; Saati 2015). Processes that emphasize public consultation are especially prone to this dynamic, as they often coincide with intense partisan rivalry (Partlett and Nwokora 2019). Public support frequently depends more on who shapes the process than on the text itself (Hirschl and Hudson 2024; Moehler 2006, 2008; Sethi 2024). In such politicized contexts, the "contestatory nature" of decision-making (Setälä 2017, p. 852) magnifies biased interpretations of public input. Ultimately, the institutional design of constitution-making, where decision-making power rests almost exclusively with elites, creates significant potential for manipulation or co-option (Smith 2009, p. 18).

Public consultation is a flexible instrument for advancing elite interests. Now central to constituent power theory and a constitution-making norm (Ebrahim et al. 1999; Eisenstadt et al. 2015; Franck and Thiruvengadam 2010; Landemore 2020a; Sethi 2024), it allows drafters to project alignment with the people's will when designing a social contract in their name. The pursuit of sociological legitimacy is evident in both democratic and authoritarian settings, where constituent power is increasingly manipulated for undemocratic ends (Dixon and Landau 2021). As Przeworski (2020) observes, representative institutions sustain the myth of popular rule while elites retain control—echoing Morgan (1989). Consultative mechanisms offer elites ostensibly "impartial language" to justify arrangements that entrench their authority (Elster 1997, p. 133), co-opting participatory procedures to construct a coherent "will of the people."

The cherry-picking dilemma looms over constitution-making. No constitution has ever been drafted by an entire nation, just as no public consultation has ever fully captured the diverse—and often contradictory—voices of a population, nor was it intended to. Constituent power does not preexist the drafting moment; it is called into being by political elites through

the selective incorporation of some voices over others. Constitution-making, then, is not the fulfillment of a collective will but a political settlement crafted by those with the power to define it.

4 Materials and methods

4.1 Research questions

In this study, I provide evidence for this elite-centric view of constitutionalism by addressing two key questions: (1) To what degree do constitutional drafters refer to public input and/or the process of public consultation at large? (2) To what ends do drafters refer to public input and consultation mechanisms during negotiations? This study enhances our understanding of how references to public input shape elite negotiations and contribute to the perceived legitimacy of constitutional outcomes.

4.2 Data

I analyze plenary session transcripts from the Chilean Constitutional Convention and the Cuban National Assembly. For Chile, I gathered transcripts from plenary sessions 31-110,[2] archived by the Library of the National Congress of Chile, encompassing 12,675 pages and 2,347,118 words. During pre-processing, I removed non-speech text (e.g., vote recordings) to focus on spoken contributions by Convention members. Each row in the dataset represents a discrete intervention, supplemented by metadata about the speaker, including biographical and demographic details from Rozas et al. (2023) and ideological scores from Fábrega (2022). Additionally, I created four variables to capture members' participation in provisional, thematic, and voluntary commissions, as well as their roles on the Convention's executive committee, where applicable.

For Cuba, the absence of official transcripts necessitated producing my own. The post-consultation debates of the National Assembly, held from December 20–22, 2018, were broad-

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[2]Transcripts from plenary sessions 1-30 were excluded from my analysis. On October 13, 2021, the Resolution approving the General Regulations of the Constitutional Convention was published in Chile's Official Gazette. Substantive constitutional debates began thereafter, starting with plenary session 31.

cast via Facebook livestream by *Cubadebate*, a state-run media platform. I collected these broadcasts and transcribed them using *WhisperX*, an automatic speech recognition (ASR) system for long-form audio that also performs speaker diarization (Bain et al. 2023; Radford et al. 2023). The structure of the Cuban transcripts is virtually the same as those from Chile. Each row in the spreadsheet corresponds to a speaker's intervention during the debates. Metadata for each speaker includes biographical and demographic information sourced from Proyecto Inventario. I also created three binary variables to indicate whether a speaker was a member of the Central Committee of the Communist Party of Cuba (PCC), the Politburo of the PCC, or the Drafting Commission responsible for preparing the constitutional text. The transcripts span 99 pages and 61,419 words. To my knowledge, they represent the first systematic record of the Cuban constitutional debates.

4.3   Methodology

I analyze the plenary transcripts from Chile and Cuba using a novel mixed-methods approach that combines n-gram searches and semantic similarity tools to identify references to public input. N-gram searches target specific phrases related to consultation, capturing explicit mentions, while sentence-level embeddings uncover more implicit references that keyword searches may miss. For consistency, I segmented the transcripts into individual sentences, each treated as a discrete unit of analysis and linked to speaker-level metadata.

N-gram analysis identifies recurring sequences of words—unigrams (e.g., "proposals"), bigrams ("public consultation"), and trigrams ("process of consultation")—to locate direct references to consultation. For each case, I developed customized search term lists reflecting both formal mechanisms and general references to public engagement (see appendix).

To complement this, I use version three of Google's Universal Sentence Encoder to generate sentence embeddings. These vectors place text segments in a high-dimensional semantic space, enabling detection of meaning-based similarity even without shared keywords (Cer et al. 2018; Yang et al. 2020). Similarity scores—used here to measure the semantic proximity of transcript segments and brief topic descriptions—range from 0.0 (no relation) to 1.0

(identical), using angular distance as the metric.[3] A threshold of 0.6 was selected to balance precision and inclusivity, improving upon the 0.7 used by Cruz et al. (2023) for constitutional texts. One example prompt used in semantic search was: "References to public input gathered during consultation."

To support this workflow, I developed LexiScope, an open-source tool for dynamic searching across the transcript corpus.[4] The tool allows users to view results alongside speaker metadata and segment identifiers, bridging quantitative search with interpretive insight.

For the purpose of this analysis, I define public input as:

> Feedback, preferences, and/or demands formally solicited from the general public (individual citizens and/or groups) through mechanisms established by a country's standing regime during the process of public consultation (see Martin 2025, p. 4)

This includes not only references to public feedback but also to the consultation mechanisms themselves (e.g., meetings, hearings, proposals) when invoked in constitutional debates.

To interpret how public input is referenced rhetorically, I use a six-category coding scheme. Each sentence containing a relevant reference is coded into one of the following mutually exclusive categories:

Each segment is assigned to a single category based on explicit language and, when needed, immediate context. I distinguish Citation from Legitimacy by focusing on rhetorical function rather than inferring speaker intent. A more detailed coding guide is provided in the appendix.

Manual coding alone—especially across nearly 13,000 pages of transcripts—would not only be infeasible but would risk selective interpretation. By automating the initial identification of relevant text and applying a rule-based tagging system, this workflow enhances

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[3]This semantic search tool was created by Dr. Roy Gardner, a researcher at the Peace & Conflict Resolution Evidence Platform (PCREP) consortium and a research associate at the Comparative Constitutions Project.

[4]LexiScope and replication materials are available via GitHub.

Table 1: Categories of Public Input

Category	Description
Citation of Public Input (Citation)	Directly referencing the next steps or results of formal consultation mechanisms in a purely descriptive manner.
Justification of a Proposal (Justification)	Using public input to support or defend a specific decision or provision that is already being debated or incorporated into the drafting process.
Rejection of a Proposal (Rejection)	Invoking public input to argue against a particular idea or proposal that is already under debate or incorporated into the drafting process.
Legitimacy Claim (Legitimacy)	Invoking public input to affirm the credibility or success of the consultation process or its outcomes without referencing specific feedback in support of a particular decision.
Agenda-Setting (Agenda)	Using public input to to elevate the importance of an issue or bring it to the forefront of the debate.
Critique of Public Input (Critique)	Questioning the validity, design, or implementation of consultation mechanisms or the quality of the input gathered.

transparency and reproducibility. It mitigates the very cherry-picking logic I critique in constitutional debates. Ultimately, this design supports a comprehensive and impartial assessment of how elites engage with public input, helping to open the black box of public consultation.

4.4   Case studies

I analyze transcripts from two recent constitution-making processes—Chile (2021–22) and Cuba (2018–19)—using a "parallel demonstration of theory" approach to test the theory's applicability across contrasting contexts (Skocpol and Somers 1980, p. 191). These cases represent ideal types of democratic and authoritarian constitution-making, differing sharply in political competition (Dahl 1971; Weber 1922).[5] They capture a wide range of elite uses of public input and serve a "diagnostic" function in identifying causal mechanisms and variation (Gerring 2016; Harding and Seefeldt 2013, p. 98). I examine how institutional factors mediate

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[5]Dahl (1971) uses "contestation" to describe political competition, often equated with pluralism or inclusion (Eisenstadt and Maboudi 2019; Landau and Lerner 2019; Negretto 2018).

the relationship between control over the process and how drafters invoke public input. The next section outlines the consultation mechanisms and institutional contexts of each case, following a "most different systems" design (Anckar 2008; Przeworski and Teune 1970).

4.4.1 Chile

The 1980 Chilean Constitution, drafted by General Augusto Pinochet's military regime, entrenched hyper-presidentialism and an exclusionary institutional framework (Barros 2002; Ruiz-Tagle 2021). Even after Chile's democratic transition in 1990 and major amendments in 2005, key structural constraints persisted, disproportionately empowering the right and limiting deeper democratization (Atria 2013; Couso and Coddou 2010; Heiss 2017). President Michelle Bachelet's 2015–16 "pre-constituent" reform process offered lessons but stalled due to limited support and her successor's disinterest (García 2024; Heiss 2018). By the late 2010s, Chile was mired in a crisis of representation, marked by declining trust in institutions and mounting frustration with traditional elites (Couso 2011; Heiss 2021; Luna 2016).

This discontent erupted in October 2019, when massive protests over inequality and public service failures—known as the *estallido social*—caught political elites off guard (Ansaldi and Pardo-Vergara 2020; Heiss 2021; Morales Quiroga 2020). In response, most parties signed the November 15 "Agreement for Social Peace and the New Constitution," committing to a participatory drafting process. A 2020 referendum showed overwhelming support: 78.3% voted for a new constitution, 79% for a Constitutional Convention. The 2021 elections produced surprising victories for independents and the Left. The 155-member Convention introduced unprecedented institutional innovations, including gender parity and 17 reserved seats for Indigenous representatives (Ríos Tobar 2021; Suarez-Cao 2021), achieving "a level of inclusion never before seen in a representative body in the country" (Heiss 2021, p. 45).

During the rules of procedure phase, the Convention approved two key frameworks: one for general participatory mechanisms and another for Indigenous consultation. The former established tools like popular norm initiatives (IPNs), self-convened meetings, public

hearings, communal town halls, and territorial weeks.[6] These rules mandated the design, processing, and return of consultation results (Convención Constitucional de Chile 2021, p. 9).

The participatory infrastructure generated a vast volume of citizen input. Over one million Chileans registered on the digital platform to engage in initiatives like IPNs and *cabildos* (Delamaza 2024, p. 110). The Convention held 1,719 public hearings—648 in provisional commissions, 1,063 in thematic ones (Delamaza 2024, 131–132). It received 6,105 IPNs, of which 77 exceeded the 15,000-signature threshold across four regions and were debated formally (Delamaza 2024, 165–166). Systematizing this input while drafting the text within a year posed immense logistical and deliberative challenges.

Despite its ambitious participatory design, the Convention's draft was criticized for its length (388 provisions), ideological breadth, and lack of institutional clarity (Fuentes 2023; Larrain et al. 2023; Noguera Fernández 2023). In the September 4, 2022, exit referendum, voters rejected the draft by a wide margin: 62% against, 38% in favor. Chile thus joined the rare 6% of global constitutional processes whose draft was rejected in a public referendum (Elkins and Hudson 2019, 2022). The outcome sparked ongoing debate over whether participatory mechanisms narrowed the gap between citizen input and elite decision-making—or whether the Convention's fragmented composition and decentralized structure ultimately undermined its legitimacy.

4.4.2 Cuba

The 2019 Cuban constitution emerged amid significant change. In the early 2010s, President Raúl Castro introduced socioeconomic reforms to boost efficiency and expand the private sector in the state socialist economy (see Mesa-Lago and Pérez-López 2013; Yaffe 2020). Leadership transition soon followed, culminating in Miguel Díaz-Canel's rise to the presidency in 2018 and later to First Secretary of the Communist Party in 2021. The new constitution aimed to institutionalize Raúl Castro's reforms with Fidel Castro's tacit endorsement

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[6]For a detailed breakdown of each mechanism, see Delamaza (2024, 84–87).

(Bui 2020).

In June 2018, the National Assembly established the "Commission to Draft the Constitutional Proposal for the Republic" (hereinafter "Drafting Commission"). A month later, it unanimously approved the draft, launching a three-month *consulta popular* (August 13–November 15, 2018), organized by the Communist Party and affiliated groups (Granma 2018). Meetings were held nationwide—in neighborhoods, workplaces, schools, hospitals, and among Cuban citizens abroad (Backer and Sapio 2019; Bui 2020; Welp 2021). Official data reported 133,681 meetings and 8.9 million participants (77.9% of the population) (Cubadebate 2018), although these figures are likely inflated, as they exceeded the electoral register by over 240,000 (Chaguaceda and Viera Cañive 2021).

Meetings were loosely structured: Communist Party facilitators presented the draft and moderated open discussions (Backer and Sapio 2019). While participants could propose changes, there were no clear guidelines, leaving uncertainty about how feedback would be evaluated (Alianza Regional por la Libertad de Expresión e Información 2019). Despite tight political control, discussions were unexpectedly vibrant, touching on topics like same-sex marriage, presidential elections, and private property (Bui 2020).

The government reported that the consultation generated over 1.7 million comments, including 783,174 proposals, 666,995 adjustments, and 38,482 clarification requests (Granma 2019). Based on this input, the National Processing Team produced over 10,000 proposals (Cubadebate 2018; Welp 2021). The Drafting Commission ultimately incorporated 760 changes to the text (Granma 2019). Although these numbers suggest an "impactful outcome" (Bui 2020, p. 254), as discussed below, the debate transcripts tell a far more complex story.

The final draft faced minimal opposition before the exit referendum. On February 24, 2019, the new constitution was approved by 86.85% of voters with a reported turnout of 90.15% (Asamblea Nacional del Poder Popular 2019). However, these results were widely questioned, given the government's aggressive pro-approval campaign and the 700,000 Cubans who voted against the text. In July 2021, severe shortages during the COVID-19 pandemic

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sparked Cuba's largest protests since the 1990s—the *11J* demonstrations.[7] This outburst of dissent raised fundamental questions about whether the consultation process genuinely legitimized the constitution or merely staged public endorsement for decisions already made by the party-state.

5 Results

5.1 Channeling Discontent in Chile

Public input played a significant role in the debates of the Chilean Constitutional Convention. Delegates invoked it to support or reject proposals, elevate issues, and both praise and critique the consultation process. Yet these frequent references reveal a strategic dynamic. The left-wing super-majority often used public input to justify aligned proposals, introduce new issues, and emphasize the Convention's public engagement. In contrast, the right-wing minority primarily referenced public input to oppose controversial decisions and criticize the process. In short, both blocs cherry-picked public input to advance their agendas—reinforcing proposals, sidelining inconvenient feedback, voicing opposition, or casting doubt on the process. These mirrored strategies underscore the Convention's deeply partisan character.

Convention members made 897 references to public input in plenary sessions. As Figure 1 shows, the most frequent category was Citation (320 references, 35.6%), indicating routine, descriptive mentions. Critique (198 references, 22.1%) was next, reflecting frequent doubts about the consultation's design or validity. Legitimacy (154 references, 17.3%) was also common, used to affirm the process's credibility. By contrast, Justification (107 references, 11.9%) and Agenda-setting (82 references, 9.1%) were less frequent, suggesting that public input was not consistently used to shape proposals but rather to reinforce preexisting positions. Rejection (36 references, 4.0%) was rare, indicating few outright dismissals of public input.

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[7]See Hall (2023) for a comprehensive analysis of "11J."

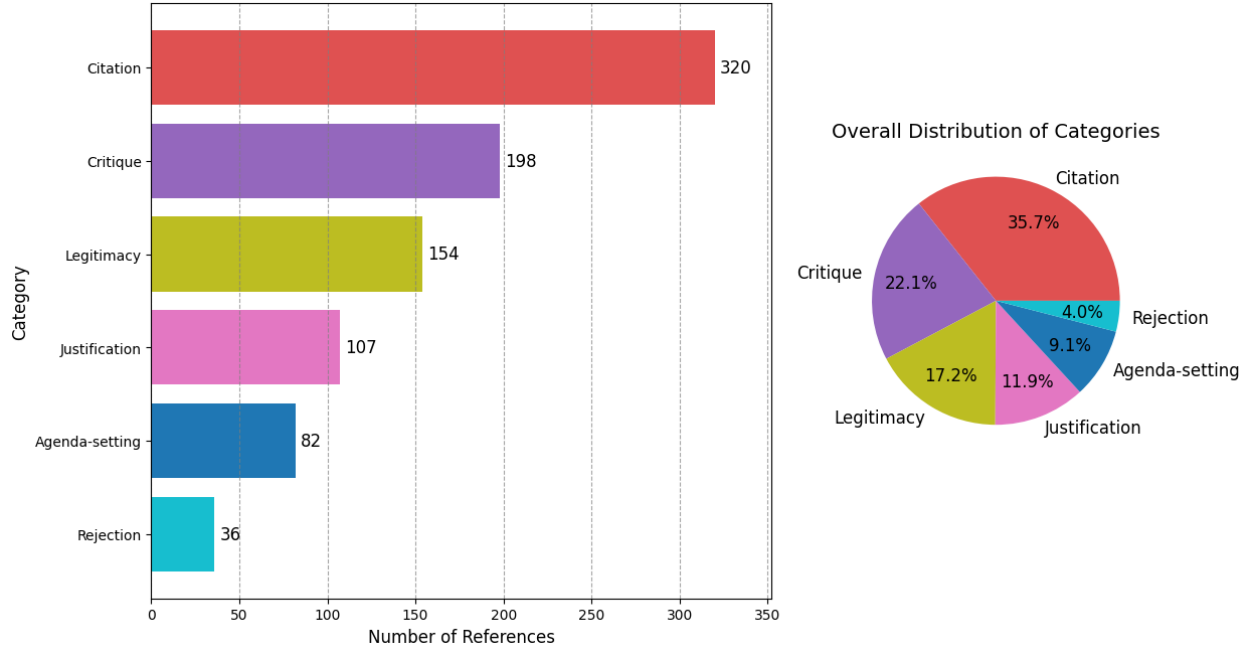Figure 1: Total References to Public Input by Category

Figure 2 presents the ideological distribution of references to public input across the six categories, with box plots illustrating the spread of observations along the ideological spectrum. The median ideology score for each category, annotated in the figure, highlights clear patterns in how different groups engaged with public input.

Justification (-0.48), Agenda-setting (-0.42), and Legitimacy (-0.37) are the most ideologically skewed categories, concentrated among left-leaning delegates. The left-wing coalition frequently used public input to justify proposals, elevate new issues, and reinforce the process's legitimacy. Citation (-0.31) also tilts leftward, though less sharply, indicating that descriptive references were more common on the left.

By contrast, Rejection (0.54) is the most ideologically distinct category, overwhelmingly used by right-wing delegates to argue against proposals. Critique (-0.07) shows the least polarization, suggesting that while criticism came from across the spectrum, it was more frequent on the right.

These patterns strongly support my cherry-picking argument. The left invoked public

Figure 2: Ideology Distribution by Public Input Category
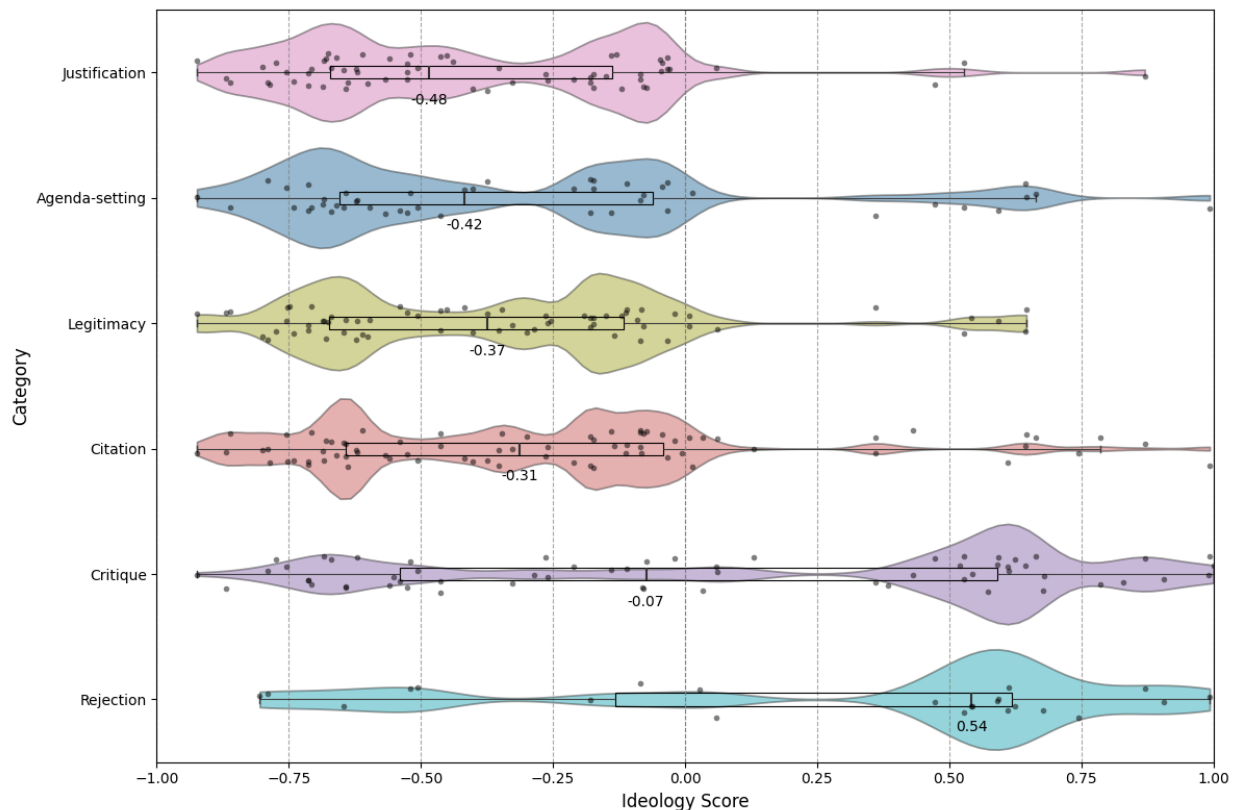
input to legitimize their proposals and the process itself, while the right used it to challenge both. That both sides could draw on the same consultation results for opposing ends shows that public input was not a neutral reflection of popular will, but a flexible rhetorical tool. If public sentiment simply aligned with the left, the right would have had little to work with. Instead, their ability to find supporting evidence in the same pool confirms that consultation was not a constraint on elite behavior, but a resource selectively shaped to partisan aims. This asymmetry underscores that public consultation was used strategically—not as a channel for democratic responsiveness, but as a tool of elite legitimation.

Of the 155 Convention members, 122 (78.7%) referenced public input at least once in plenary debates analyzed here. Yet some did so far more often. Figure 3 shows the 29 delegates (and their electoral lists) who made ten or more references. These patterns reinforce the ideological divide: right-wing delegates from *Vamos por Chile* overwhelmingly used Critique to

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Figure 3: Public Input Category Distribution by Speaker (≥ 10 References)
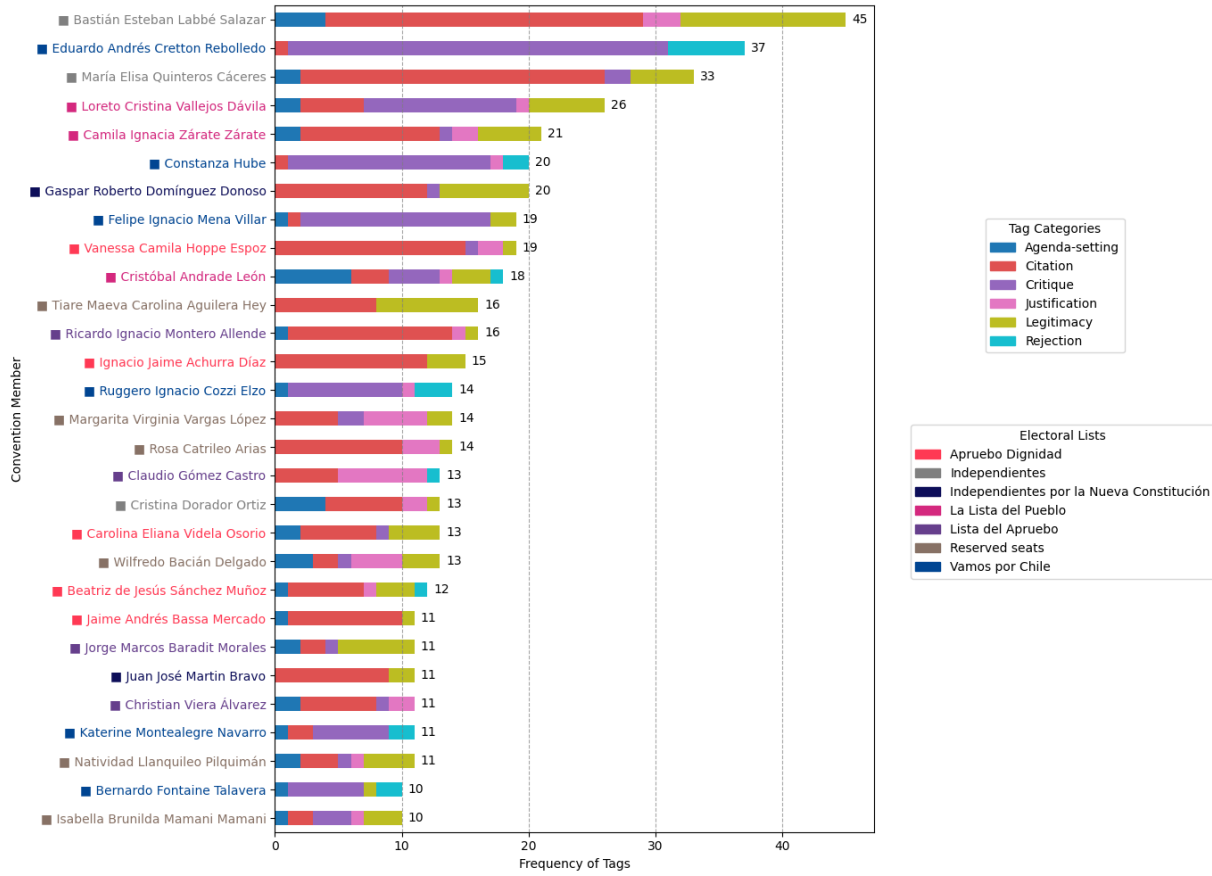
question the consultation process and its outcomes, while left-wing coalitions (*Apruebo Dignidad, Lista del Apruebo, Independientes por la Nueva Constitución*, and others) prioritized Legitimacy, Justification, and Agenda-setting to validate proposals, highlight institutional responsiveness, and elevate emerging issues. Citation was common but unevenly distributed, with leadership figures (e.g., Vice President Gaspar Domínguez) frequently reporting results.

While these patterns reveal who referenced public input and how often, they don't capture how these references functioned rhetorically. The next section turns to plenary excerpts to illustrate how both the super-majority and the right-wing minority framed public input strategically to advance their positions.

One of the earliest and most direct rhetorical strategies was Agenda-setting: using consultation results to introduce new topics or elevate under-discussed issues. This approach

was especially common among left-wing delegates, who drew on public input to reinforce priorities aligned with a broader, "re-foundational" constitutional vision (see Barandiaran and Partridge 2025; Montes 2022). The transcripts reflect a clear pattern among the newcomers holding a two-thirds majority, who framed public input as a legitimating force, reinforcing the Convention's decentralized approach to drafting (Larrain et al. 2023).

To amplify citizen input and make public demands more compelling, delegates frequently relied on personal anecdotes, framing them as direct calls to action. This rhetorical strategy humanized consultation results and created emotional resonance around specific proposals. As one Convention member from *La Lista del Pueblo* recounted:

> I have put a lot of energy into holding town hall meetings with young people from District 26... In all these town halls [cabildos], they mentioned the need for comprehensive sexual education. A young woman in Quinchao told me: Adriana, if a Constitution is not written that includes comprehensive sexual education, then all the young women in the country are at serious risk, because their peers must learn about consent and respect (Adriana Ampuero, Sesión_68_Plenario/143/6-8).

Ampuero's statement illustrates how delegates framed public input as a direct mandate for constitutional inclusion. By grounding her argument in citizen participation—specifically, voices from town halls—she wasn't merely citing input but elevating a demand not yet central to the debate. This strategy linked constitutional issues to grassroots mobilization, bolstering legitimacy and reinforcing the Convention's participatory ethos. More broadly, such references show how the left-wing super-majority used public input to expand the scope of deliberation.

Delegates—again, primarily from the two-thirds majority—also used public input more instrumentally to justify specific proposals. This was especially evident in debates over social rights, where input was repeatedly cited as evidence of broad public backing for progressive

reforms. Justification served a dual rhetorical function: reinforcing proposals through participatory legitimacy and preemptively defending them against criticism by presenting them as public demands rather than ideological initiatives. As one member of *Apruebo Dignidad* argued during the debate on the right to housing:

> A proposed Constitution that does not establish the right to housing—and to the city, for that matter—will face serious challenges in engaging and mobilizing this fundamental social actor, because behind the housing proposal stands an organized people. [The popular norm initiative] received 22,000 signatures of support, shaped through town halls, assemblies, and popular organization. The organized people who present this proposal and uphold this demand are the mobilized and organized people who will fight for the approval of the final vote (Manuela Royo, Sesión_85_Plenario/211/10-12).

Public input, in this framing, was not just a reflection of citizen preferences but a mobilizing force demanding political recognition. Royo did not simply cite 22,000 signatures—she elevated the signatories into an "organized people" whose demand for the right to housing was urgent and non-negotiable. By portraying this constituency as mobilized and ready to act, she transformed public input from passive feedback into political pressure. This move served two rhetorical purposes: it legitimized the proposal as inevitable, and warned that ignoring it could trigger backlash from those who saw the Convention as a vehicle for transformative change. Such high-stakes rhetoric was a hallmark of the Convention's social rights debates.

Beyond defending specific reforms, delegates also invoked public input to legitimize the consultation process itself—not only as a policy-shaping tool but as evidence that the Convention was genuinely engaging the public. This shift from policy-focused to institutional legitimacy is key: whereas Justification references cast public input as a mandate for change, Legitimacy references affirmed the credibility of the process. This logic was central to rebutting claims that the Convention was disconnected from ordinary citizens. Jorge Baradit

(*Lista del Apruebo*, later *Frente Amplio*), a member of the transitory Commission on Popular Participation, directly responded to such critiques, arguing:

> The participation mechanisms are unprecedented in our country's history. They had never been implemented before, and even the experts who have spoken in the hearings disagree on the terminology and figures. There was no lack of realism, as some claim. The reality is that this Convention has had to figure everything out as we go. All these participatory processes should have taken place—just as they do in constitutional processes around the world—beforehand, but there was no political will to support this when the Convention did not yet exist. (Sesion_45_Plenario_transcript/83/2-6).

Baradit's statement is more than a defense of the Convention's participatory mechanisms—it reframes their perceived shortcomings as both inevitable and, paradoxically, proof of responsiveness. By acknowledging that participation had to be built "on the fly," he doesn't deny the process's ad hoc nature but recasts it as a necessity imposed by external constraints. Rather than claim flawlessness, he argues the imperfections were the cost of pioneering a participatory model without precedent in Chilean history.

His insistence that the Convention had to "figure everything out as we go" suggests the institution was not only drafting a new constitution but correcting past democratic failures. This framing, advanced by the Convention's majority, positioned the process as a break from elite-driven constitutionalism. In this sense, Baradit's defense is both retrospective and aspirational: acknowledging challenges while presenting them as essential steps toward democratic renewal. Such legitimacy claims aimed to insulate the consultation process from criticism.

Closely related to Legitimacy, the Citation category includes references to public input presented descriptively rather than rhetorically—as factual documentation of citizen engagement. Though not overtly argumentative, such references reinforced the sense that the Convention's work was grounded in public participation. One example of the fine line

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between Legitimacy and Citation comes from María Quinteros, the Convention's second President, who cited a press release from the Secretariat of Popular Participation regarding the outcomes of popular norm initiatives:

> After analyzing deliberation and voting data... we can confirm that 49% of popular norm initiatives were fully or partially approved. Of the remaining 42 initiatives, they were rejected... and one deemed inadmissible. Upon analyzing their content, it is possible to determine that 83% contained proposals, ideas, or provisions that were approved by the Plenary... and are now part of the constitutional draft. In total, 91.5% of the popular proposals... effectively influenced the debate on constitutional norms (María Quinteros, Sesión_96_Plenario/2/14-17).

This "maximalist interpretation" (Dingemans Calderón 2023, p. 33) drew immediate criticism. Technicians from the Secretariat of Popular Participation publicly contradicted the announcement, stating that the draft had only been analyzed in relation to rejected initiatives (Olivares 2022). Gonzalo Delamaza, the Secretariat's president, clarified that Quinteros' sweeping claim misrepresented the actual influence of public input on the final text.

The episode reveals how even descriptive citations can become politically charged, blurring the line between technical accuracy and rhetorical framing. Though Quinteros framed her statement as factual, it reinforced the Convention's broader legitimacy narrative. The Secretariat's pushback illustrates the competing pressures at play: the technical need for accuracy versus the political desire to demonstrate meaningful public impact. As skepticism toward the Convention grew—especially in the final months—leaders faced mounting pressure to present consultation as effective, even if it meant stretching the evidence.

Criticism of the consultation process was not limited to this dispute. From early on, members of *Vamos por Chile* and some centrists[8] framed it as selectively applied—invoked

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[8]Many came from the *Lista del Apruebo*, including Claudio Goméz, who critiqued the rejection of the popular

when it aligned with the majority's priorities, ignored when it did not.

These critiques sharpened during debates over popular norm initiatives (IPNs), 77 of which surpassed the 15,000-signature threshold. Many of the most widely supported were rejected outright, reinforcing opposition claims that the process was ideologically biased. As one right-wing delegate argued:

> They said no to *Con Mi Plata No*, a popular initiative that was presented with more than 60,000 supporters; the initiative for the free right of private property, with more than 47,000 supporters; they said no to "Victims First," with more than 26,000 supporters; Freedom of Entrepreneurship, the Multi-Union of Entrepreneurs; Free and Diverse Education; and a big, big, big, etc. (Katerine Montealegre, Sesión_78_Plenario/136/11).

Montealegre's remarks captured a central opposition argument: public input was embraced when it supported the majority's agenda but dismissed when it didn't. This skepticism became a potent rhetorical tool, allowing critics to question both the Convention's responsiveness and its broader democratic legitimacy.

The rejection of *Con Mi Plata No*—a proposal defending Chile's privatized pension system—is especially telling. With 60,850 signatures, it was the most popular IPN. Yet the majority rejected it outright, with one delegate from *La Lista del Pueblo* calling it an "ideological trap" (Constanza San Juan, Sesión_85_Plenario/225/6). This decision became a flashpoint in the opposition's growing discontent and is widely cited as a turning point in the rise of the *Rechazo* ("rejection") campaign (Segovia and Toro 2022). By dismissing the most widely supported initiative, the Convention's leadership inadvertently reinforced the very critique they sought to refute—that consultation was only valued when politically convenient.

Critiques extended beyond the IPNs. Felipe Mena, a member of the Commission on Popular Participation from *Vamos por Chile*, initially supported the consultation effort but

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initiative *Con Mi Plata No* (Sesión_85_Plenario/129/4–5).

later issued a scathing assessment. He lamented:

> We warned that there were too many [consultation mechanisms] for the time
> that the Convention had. It would have been better to have fewer but to do
> them well, based on the principles established in the transitional commission,
> rather than trying to forcefully carry out each one. But, as usual, such com-
> ments were ignored. A formal notice has already been issued regarding the
> town halls and self-organized local meetings, which had no impact (Felipe Mena,
> Sesión_97_Plenario/12/3-5).

Whereas Montealegre framed the rejection of conservative initiatives as evidence of ide-
ological bias, Mena focused on procedural shortcomings. His critique reflected broader con-
cerns about the Convention's capacity to manage large-scale participation within a year and
limited resources—raising doubts about whether public input was meaningfully incorporated
or merely symbolic.

Beyond these structural critiques, the right-wing opposition also used public input to
reject specific proposals. Rejection is the category most concentrated within right-wing
discourse (see Figure 2). In these cases, public consultation results were not just contested
but dismissed as illegitimate grounds for constitutional decision-making.

Eduardo Cretton, a member of the Commission on the Rights of Indigenous Peoples and
Plurinationality from *Vamos por Chile*, was the most vocal advocate of this strategy (see
Figure 3). Criticizing the Indigenous consultation process, he argued:

> We have warned you before and repeated it endlessly: for us, this report has
> no validity because it comes from a poorly conducted indigenous consultation,
> in which less than one percent of the [indigenous electoral register] participated
> (Eduardo Cretton, Sesión_101_Plenario/95/1).

Unlike procedural critiques that called for improvements, Cretton's argument dismissed
the consultation results entirely, claiming the Indigenous process was so flawed it lacked

democratic legitimacy. This reflects a broader pattern in *Vamos por Chile*, where right-wing delegates questioned not just how public input was gathered but whose voices counted.

The stakes were especially high for Indigenous rights. By framing the consultation as poorly executed and statistically insignificant, Cretton marginalized Indigenous demands, casting them as an inadequate basis for constitutional norms. This move helped justify broader opposition to plurinationalism, reinforcing claims that Indigenous proposals lacked both procedural legitimacy and popular support—even among Indigenous communities themselves (e.g., María Tepper, Sesión_62_Plenario/113/4). More broadly, such rejections show how opposition delegates used public input not as a neutral democratic tool, but as a site of contestation over representation and inclusion.

## 5.2   Curating Consensus in Cuba

Public input played a central role in the Cuban National Assembly debates, but in ways distinct from Chile. The transcripts reveal how consultation results were strategically leveraged to construct an image of consensus around the party-state's decisions. Drafting Commission members overwhelmingly used public input to describe and legitimize the process, justify leadership decisions, reject inconvenient proposals, and selectively critique methodology. In contrast, regular deputies rarely invoked public input to introduce new issues—and never to question the process itself. These patterns reflect the hierarchical and tightly controlled nature of Cuba's consultation, where public input served more as affirmation than deliberation.

Deputies made 164 references to public input during the debates. As Figure 4 shows, the most common category is Citation (75 references, 45.7%), indicating that consultation was typically referenced descriptively, with little substantive debate. Legitimacy (36 references, 22.0%) follows, underscoring efforts to affirm the process's credibility and portray the reform as shaped by broad participation.

Justification (27 references, 16.5%) also appeared frequently, suggesting that consultation was invoked primarily to validate leadership-driven adjustments to the draft, rather than

introduce new ideas. Rejection (13 references, 7.9%) and Critique (7 references, 4.3%) were rare, reflecting the absence of open challenges. Agenda-setting was the least frequent (6 references, 3.7%), reinforcing the pre-established and top-down nature of the constitutional agenda.

Figure 4: Total References by Category and Drafting Group
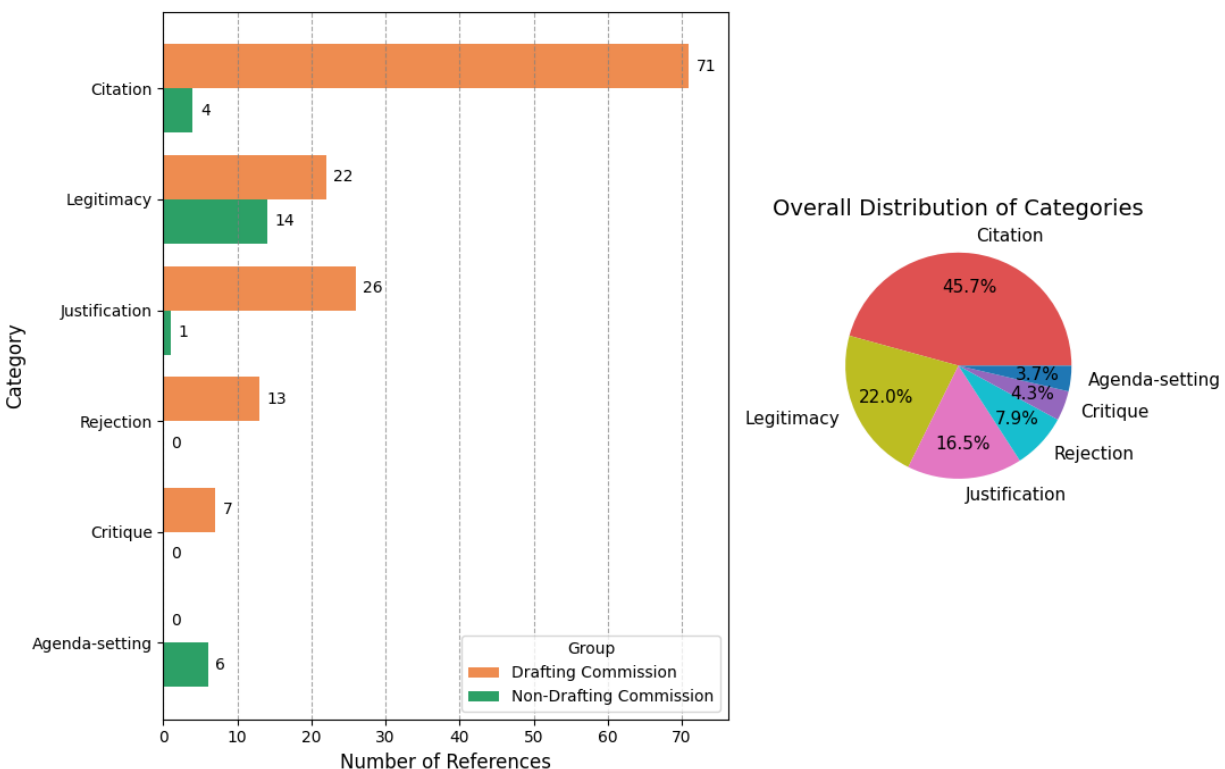
A crucial question is who referenced public input, and to what ends. Of the 155 references, 139 (84.8%) came from members of the 33-member Drafting Commission. Among the nine commissioners who cited public input, five (55.6%) were members of the PCC Central Committee, and two (22.2%) belonged to the Politburo. This concentration is especially pronounced in the Citation and Justification categories (see Figure 4).

By dominating these references, the Drafting Commission selectively emphasized aspects of the consultation that reinforced the government's narrative—particularly claims of mass participation and popular support. Consultation results were not merely filtered but strate-

gically deployed to consolidate state authority and legitimize the status quo. This finding supports my broader argument: in highly centralized constitution-making processes, public consultation functions less as a channel for democratic contestation and more as a tool of elite legitimation.

Figure 5: Public Input Category Distribution by Speaker ($\geq$ 2 References)
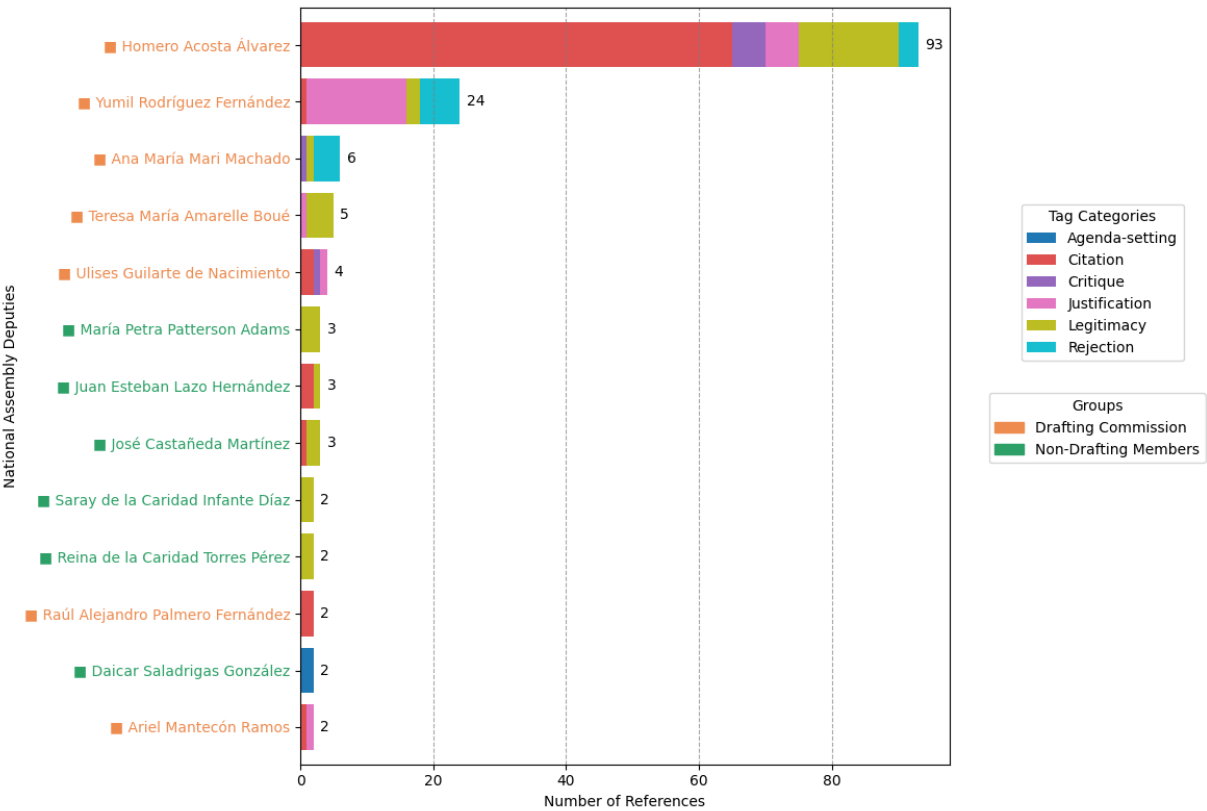
In the Cuban transcripts, only 26 speakers—just 4% of the 605 deputies—referenced public input during the debates. Once again, members of the Drafting Commission dominated these references. As shown in Figure 5, Homero Acosta—Secretary of the Council of State, Central Committee member, and leading figure in the Drafting Commission—accounted for the most by far, with 93 references, primarily under Citation and Legitimacy. He was followed by Yumil Rodríguez (24) and Ana Mari (6), both also commission members.

The consultation's top-down, controlled presentation is especially evident in Acosta's marathon speech on December 21, 2018. Lasting nearly three hours, it alone contained 93

of the 164 total references (56.7%)—65 of which were simple Citations. Acosta presented consultation results as definitive, offering no space for questions or debate. His speech functioned as a monologue, portraying public input as a final authority rather than a subject of deliberation.

Beyond sheer volume, Acosta's Legitimacy references conveyed a triumphalist tone—celebrating the consultation's scale and inclusivity while avoiding scrutiny of its methodology or dissent. He selectively cited points that aligned with the government's narrative, such as claiming only 3% of participants expressed negative views—without explaining how that figure was derived (Dec_21_2018/2/37). He then declared:

> In general, the population—our entire people—has reiterated on countless occasions, both during the consultation process and in various settings, their praise for the democratic nature of this popular consultation. I was telling you about the uniqueness of this process, which we say without vanity; we say it with humility, but we must reiterate it. It is a singular process that does not exist or take place anywhere else in the world. A process where the people are called upon, where the people are listened to, where the opinion of the people is heard regarding a constitutional project. And not only are they heard, but their opinion is taken into account... (Dec_21_2018/2/38-41).

By equating the "immense majority" support for the consultation (Dec_21_2018/2/48) with endorsement of the Cuban Revolution and its leadership, Acosta effectively reduced public engagement to affirmation of the party-state. This was reinforced by repeated references to the people's commitment to the *perfeccionamiento* ("perfection") of the socialist system.

These consultation results followed a familiar pattern of past consultations in Cuba: vague, generalized claims, with little transparency about how aggregate figures were calculated.[9] The constitutional consultation, though the most extensive to date, adhered to the

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[9]See Viera Cañive et al. (2022) for an extensive review of these consultation experiences from 1976 onward.

same template—reporting total numbers of meetings, proposals, and participants alongside broad approval rates. The *actas* ("meeting minutes") were never made public, preventing any independent verification of the consultation's substance. Across cases, the government relied on numerical indicators to signal mass participation and support while revealing little about the actual content of citizen input.

When public consultation was referenced by non-Commission deputies, it served a primarily ceremonial or Legitimacy function. Deputies called the process "democratic" (Dec_20_2018/73/10), a "total victory" (Dec_22_2018/13/7), and praised "popular wisdom" (Dec_22_2018/135/1) being "heard" (Dec_22_2018/133/2). These comments, often accompanied by thanks to the people and the Drafting Commission, reflected ritualistic affirmation more than substantive engagement.

The absence of contestation is further illustrated by the minimal use of public input for agenda-setting—only six references (see Figure 4), most calling for minor edits. Only one non-Commission deputy, Daicar Saladrigas González of Camagüey and director of *Adelante*, used the consultation to push for a substantive change. She proposed removing the phrase *a las personas* ("to individuals") from Article 55 on freedom of the press, arguing that fundamental media should remain under collective socialist ownership. She tied this proposal directly to concerns raised during the consultation, stating:

> We have the sense that this was one of the fundamental demands made during the consultation process by the professional association, the Union of Journalists of Cuba. That is, that the Constitution should make it absolutely clear that the fundamental media outlets in Cuba can only belong to the people (Dec_22_2018/106/11-12).

Saladrigas's intervention stands out not only for invoking the consultation to propose a substantive amendment but also for the lack of support it received from leadership. Despite framing her proposal as consistent with public demands, two Drafting Commission members—Yailin Orta Rivera and Homero Acosta Álvarez—rejected the removal of *a las*

personas. Both emphasized that freedom of the press is an individual right, consistent with the socialist system's progressive principles. Orta defended the existing language as reflecting continuity with Cuba's 1940 and 1976 constitutions. Acosta was even more forceful, calling the proposed change a "visible and significant step backward" (Dec_22_2018/109/13).

Why defend an individual right to press freedom so adamantly? Explicitly protecting individual rights enhances the Constitution's democratic image—critical for both domestic and international legitimacy. Upholding this right allowed the leadership to reject popular proposals that conflicted with its ideological framework, while preserving the appearance of responsiveness. In this way, even modest challenges—like Saladrigas's attempt to restrict private ownership of media—were cast aside to maintain ideological coherence. This episode exemplifies selective engagement with consultation results: cherry-picking public input to reinforce the leadership's agenda while presenting the process as participatory and inclusive.

It also underscores a deeper dynamic: the absence of consultation-based debate on the Constitution's "engine room" (Gargarella 2013)—its framework for political power. Core structures, such as the role of the Communist Party as the *partido único* ("single party"), remained off-limits. Yet this institutional question surfaced in one key moment—not to invite discussion, but to discredit external critiques of the consultation. In a show of support for the process, Reina de la Caridad Torres Pérez, deputy from Florencia, declared:

> As we carried out our process of popular consultation...surveys were also conducted in parallel through mobile applications targeting Cubans who expressed their disagreement with, for example, having a single party with the irrevocable nature of socialism or with the fact that the main form of property in our country was socialist. Unfortunately for them, well, they had to acknowledge that this survey had only reached around 1,612 people. Even though their headlines claimed that 47% of the Cuban people were in disagreement with what we were analyzing, proposing, and endorsing in the Constitution itself, the numbers had nothing to do with the figures you [Homero Acosta] so masterfully presented yes-

terday, which show—not only the 62% favorable opinions—but also how in sync

and aligned we are with what we are building (Dec_22_2018/13/9-12).

Torres's statement encapsulates the consultation's dual role: legitimizing the process

domestically while deflecting external criticism. The Cubadata survey, one of the few inde-

pendent polls conducted on the island, offers a telling contrast. While any survey warrants

methodological scrutiny, Cubadata's approach was transparent: results and demographic

data from 1,612 respondents were publicly released.[10] By contrast, the Cuban government

never published detailed results from its consultation, shielding the process from indepen-

dent analysis. Selective release of favorable statistics ensured the party-state retained nar-

rative control while insulating foundational principles from scrutiny. Public input was wel-

comed—so long as it posed no threat to core regime structures.

The only major consultation-related discussion of Cuba's "engine room" (Gargarella

2013) concerned the direct election of the president. Members of the Drafting Commission,

including Ana María Mari Machado and Homero Acosta Álvarez, acknowledged that 12,264

interventions supported the proposal. Yet instead of engaging substantively, they reframed

the demand as incompatible with revolutionary ideals. All such references classified as

Rejection (13 in total) came from Drafting Commission members (see Figure 4), underscoring

that inconvenient public demands were dismissed—strategically, and from the top.

> Regarding these arguments about being more or less democratic when it comes to
>
> the direct election of the president, look, all of us—men and women in Cuba—should
>
> feel proud to have a very broad democratic experience in these 60 years of revolu-
>
> tion. We also have the lived history of comparing what elections were like before
>
> 1959, with those same electoral party systems that are sometimes so strongly
>
> pushed on us. Cuba already lived through that experience. Now, by refreshing,
>
> recreating, and perfecting—as the *Comandante en Jefe* [Fidel Castro] always

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[10]For example, 65% of respondents were men, and 45.5% reported not participating in the government's consultation.

told us, and continues to tell us, because we see it reflected in our daily actions—we must remember that to be democratic, what is needed is a political, economic, social, and cultural system that defends the interests of all people (Dec_20_2018/61/11-14).

This quote exemplifies the leadership's rhetorical strategy of acknowledging public input while rejecting results that challenge the party-state's ideological goals. Mari Machado shifts from the specific proposal for direct elections to a broader redefinition of democracy, invoking Cuba's "60 years of revolution" and "broad democratic experience." By comparing direct elections to pre-1959 systems, she frames the demand as regressive rather than modernizing—deflecting substantive engagement while reaffirming the superiority of the revolutionary model.

Her invocation of Fidel Castro further anchors the rejection of direct elections in revolutionary continuity. By portraying the current system as an evolving perfection of those ideals, the leadership discourages reforms that could disrupt the elite's privileged position. This response illustrates the broader cherry-picking strategy: public input is acknowledged but selectively engaged to affirm preexisting commitments. Proposals like direct elections, which threaten centralized control, are reframed or dismissed to preserve the status quo.

The most debated issue tied to the consultation, however, was same-sex marriage. The draft constitution initially redefined marriage as "between two people" (Article 68), departing from the 1976 Constitution. Following consultation, the Drafting Commission removed this clause and deferred the issue to the upcoming Family Code. Homero Acosta acknowledged that marriage generated 192,408 comments—24.57% of all input—with 82.3% favoring the traditional definition of marriage (Dec_21_2018/2/90).

At the same time, evangelical churches mounted a coordinated counter-campaign, gathering 178,000 signatures opposing Article 68 and delivering the petition to the National Assembly (Augustin 2019). This pressure, combined with vocal opposition during consultation meetings, prompted the leadership to withdraw the provision. Framing the deferral

as a democratic compromise, the Drafting Commission sought to maintain public consensus without directly confronting the church or conservative sectors.

Their response most clearly reveals the leadership's strategy of curating consensus. Here, the Drafting Commission used public input as Justification (see Figure 4)—validating dissent while defusing it. Teresa María Amarelle Boué, a member of the Central Committee, Politburo, and Drafting Commission, embodies this approach when she states:

> Well, I believe that, in the end, we have achieved a lot, and we thank all the people who expressed their opinions during the popular consultation—that 24% [of participants who opposed same-sex marriage]. I also think we must thank them for transparently sharing their views during the consultation because that reflects their feelings and perspectives, even if, perhaps, the majority of us do not agree. But that's how life is; we don't all have to agree with everything that is proposed. I believe this was an important democratic exercise, one that we carried out successfully. And why have we succeeded? First, because we have captured the sentiments of the population, and we now understand how people think, allowing us to adjust all the public policies that need adjustment and, above all, to focus on the work of raising awareness (Dec_20_2018/50/1-5).

By openly addressing opposition, Amarelle frames the consultation as inclusive and democratic, emphasizing that diverse views were heard. She presents the process not as direct decision-making but as a tool for gauging public opinion—mirroring consultation practices in other authoritarian settings, such as China (He 2006; Kornreich 2019). Rather than a concession, Amarelle casts the leadership's response as a strategic deferral to the Family Code, which, she explains, would follow the same format: "first, a consultation... and then a popular referendum" (Dec_20_2018/40/17).[11] This strategy allowed the leadership to retain control over the pace of social change, ensuring reforms like same-sex marriage remained

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[11] A second *consulta popular* was held for the Family Code in 2022, followed by a referendum that approved the measure with 66.87% support and 74.01% turnout.

under party-state authority. At the same time, their caution reflects the regime's fragility under new leadership, where a significant "no" vote could have created space for political dissent.

The consultation's limitations—especially the absence of mechanisms for capturing support or opposition to specific articles—mirror challenges seen in other contexts. All consultations face methodological constraints: ensuring representative participation, interpreting feedback, and balancing qualitative insight with usable data. But in Cuba, these were amplified by the centralized, opaque process, giving the leadership wide latitude to frame results as supportive. In one of only seven critiques (see Figure 4), Homero Acosta even questioned the representativeness of public opinion on same-sex marriage:

> In the way the consultation was conducted, people were never asked to give their approval of what was in the text. Therefore, there is always a zone of doubt... because there was no voting on whether people were in favor of or against one article or another... only the people who expressed opposition to an article are recorded... Therefore... there is always an area of certain empiricism as to the extent of those opinions within the population that participated in the popular consultation (Dec_21_2018/2/111-118).

By acknowledging the difficulty of gauging public support, Acosta concedes the consultation's methodological limits—but does so to justify deferring polarizing issues like same-sex marriage. His claim that only explicit dissent was recorded introduces ambiguity, implying that the absence of opposition reflects either consent or disinterest. This ambiguity legitimizes postponement by portraying further consultation—via the Family Code—as necessary, reinforcing the leadership's image as inclusive. At the same time, it allows the leadership to selectively interpret results, framing dissent as marginal and support as widespread. Acosta's explanation typifies how Cuban authorities leveraged the consultation's inherent imperfections to maintain narrative control.

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Ultimately, the consultation served as a rhetorical asset—but only for those in power. Beyond vague assurances like Yumil Rodríguez Fernández's claim that the rights chapter "improved significantly" from citizen input (Dec_20_2018/55/68), consultation results were primarily cited by the Drafting Commission to validate decisions (citation), affirm public support (legitimacy), and explain or deflect controversy (justification/rejection). The Commission claimed to have made 760 changes[12] to the draft, asserting that they accepted "everything that contributed to improving the text."

6   Discussion

Public consultation played a pivotal role in the constitutional debates of both Chile and Cuba, distinguishing them from earlier constitution-making efforts (see Hudson 2021a). But rather than systematically gauging and incorporating citizen preferences, consultations functioned as rhetorical tools deployed by political elites to advance their agendas. In both cases, references to public input were highly selective, reinforcing preexisting positions rather than fostering genuine deliberation. Just as there is a relationship between control over the constitution-making process and the use of consultation mechanisms (Martin 2025), my findings show a similarly strategic logic in how elites reference public input in practice.

Yet how consultation results were used—and by whom—varied significantly. In Chile, a pluralistic and competitive process, actors across the ideological spectrum invoked public input to justify proposals, contest decisions, critique the process, or affirm the Convention's legitimacy. For the left-wing majority, consultation validated its break from the past, framing public input as a mandate for transformative change. In Cuba, by contrast, where the process was tightly controlled, references were concentrated among a small group—primarily the Drafting Commission. Consultation results were used not to justify a rupture but to reinforce state authority and portray societal consensus, affirming the constitutional status quo.

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[12]Homero Acosta stated that 4,809 proposals from the consultation were accepted (50.1%). Of these, about 1,000 were directly incorporated into the text, with 3,000 others indirectly considered. Yet the 10,000 proposals and the minutes from 133,681 meetings were never released, leaving these claims unverifiable (Chaguaceda and Viera Cañive 2021).

These divergences suggest that the political logic of consultation is shaped less by ideology than by institutional context—whether deliberation is fragmented and competitive, as in Chile, or centralized and hierarchical, as in Cuba. To capture this variation, I distinguish between *passive* and *active* cherry-picking as two modes of leveraging public input in constitutional debates.

Passive cherry-picking, seen in Chile, emerges in pluralistic environments where multiple actors selectively highlight or ignore public input to serve their ideological and strategic goals. In this fragmented process, both the left and right invoked consultation to shape competing narratives, turning public input into a contested political resource rather than a neutral guide for drafting. This dynamic was exacerbated by institutional constraints. The Convention's one-year timeline and limited resources made systematic integration of public input difficult. Of the 1,719 public hearings held, only 1,180 were fully systematized by the end of drafting (Delamaza 2024, pp. 131–132). Other mechanisms—like town halls and self-organized meetings—were poorly integrated, reducing their influence to anecdotal appeals.

Active cherry-picking, exemplified by Cuba, occurs in hierarchical processes where a small group monopolizes both drafting and the interpretation of public input. Unlike Chile's decentralized contestation, Cuban authorities overwhelmingly invoked consultation to reinforce legitimacy and suppress dissent. The Drafting Commission dominated references in the Citation, Legitimacy, and Justification categories, carefully curating consensus and marginalizing inconvenient views.

This institutional design prioritized control at all costs. Though framed as inclusive, the Cuban consultation concentrated authority in the Drafting Commission. The National Processing Team was neither independent nor publicly accountable; classification methods were undisclosed, and participation data selectively released to support state narratives. In this context, consultation served not to guide reform but to affirm preexisting ideological commitments—functioning less as democratic deliberation than institutional legitimation.

At the heart of my cherry-picking framework lies the fundamental dilemma of public consultation in constitutional design: ordinary politics. The same actors tasked with gathering and processing citizen input are also those empowered to decide what counts. Public input is not simply aggregated but filtered through the normative and strategic commitments of drafters. While participatory mechanisms may project an image of broad inclusion, ultimate authority over which voices are elevated or dismissed remains concentrated among political elites.

This filtering process raises a critical question: Can impartial actors—such as academics or civil society—help systematize and analyze consultation data to limit cherry-picking? Cruz et al. (2023) propose using natural language processing to more transparently measure constitutional preferences, potentially constraining drafters' discretion. In Chile's third attempt at reform, a university-led Secretariat of Public Participation sought to institutionalize more substantive public input (Heiss 2023). Yet even this effort faltered, underscoring that high-quality input is not enough; its impact depends on how decision-makers engage with it. Historically, few models have successfully bridged collective will formation and elite deliberation—those that try to bypass elites entirely, such as Iceland's, carry their own risks of failure (see Hudson 2018; Landemore 2020b).

These findings point to several avenues for future research. In Chile, further analysis could explore whether the rhetorical use of public input in plenary debates also occurred in the Convention's seven thematic commissions. All commission meetings were live-streamed and transcribed by the Comparative Constitutions Project, where I serve as a senior research analyst. Because these sessions were less public-facing, they may reveal different strategies of referencing consultation data. Moreover, Chile's more recent reform effort via a Constitutional Council presents a fresh opportunity to examine how drafters engage—or sideline—public input in subsequent processes.

Beyond Chile and Cuba, future research could examine public consultation in hybrid regimes (Levitsky and Way 2010), where blurred boundaries between democracy and au-

tocracy create fertile ground for both passive and active cherry-picking. These dynamics may shift with changes in elite control or institutional constraints. Cross-regional comparisons—particularly in Sub-Saharan Africa, Southeast Asia, or Eastern Europe—could illuminate how political, cultural, and historical contexts shape consultation practices. As cases such as Côte d'Ivoire illustrates (see Martin 2025, p. 13), active cherry-picking is not exclusive to entrenched autocracies but can surface wherever a narrow elite dominates constitution-making.

Further work should also examine how strategic engagement with public input affects constitutional outcomes. If elites' use of public input signals procedural fairness (Hirschl and Hudson 2024), what signals does cherry-picking send—and with what consequences? Constitutions shaped through selective engagement may face legitimacy crises, especially if excluded groups mobilize in response. In Chile, it remains unclear whether cherry-picking contributed to the rejection of the Convention's draft—or the failure of the subsequent Constitutional Council. Longitudinal studies could assess whether such practices erode legitimacy or governance over time.

This study offers a methodological foundation for such inquiry. My dual-pronged approach—combining n-gram searches with semantic similarity tools—captures both explicit and implicit references to public input, providing a comprehensive and replicable framework for analyzing deliberative discourse while minimizing the risks of bias or omission.

Ultimately, public consultation in constitution-making is not a neutral exercise in uncovering citizen preferences but a strategic tool wielded by elites. It helps constitution-makers construct the appearance of a *pouvoir constituant* at work—framing elite-driven settlements as expressions of popular will. Recognizing this dynamic is crucial for scholars of constitutional legitimacy and for practitioners designing participatory frameworks. If consultation is to empower citizens rather than serve as political theater, its design must reckon with how elites filter, reframe, and selectively deploy public input. As the black box of elite deliberation begins to open, the real challenge is not only to understand how consultation shapes

constitutional design, but to rethink how these processes might more faithfully reflect the diverse and often contradictory voices they claim to represent.

References

Alianza Regional por la Libertad de Expresión e Información (2019). *Audiencia temática sobre la reforma constitucional cubana*. Tech. rep. Sucre, Bolivia. URL: https://www.alianzaregional.net/la-alianza-regional-se-presenta-ante-la-cidh-en-audiencia-tematica-sobre-la-reforma-constitucional-cubana/.

Anckar, Carsten (2008). "On the Applicability of the Most Similar Systems Design and the Most Different Systems Design in Comparative Research". In: *International Journal of Social Research Methodology* 11.5, pp. 389–401.

Ansaldi, Octavio and María Pardo-Vergara (2020). "What Constitution? On Chile's Constitutional Awakening". In: *Law and Critique* 31.1, pp. 7–39.

Asamblea Nacional del Poder Popular (2019). *Comisión Electoral Nacional informa resultados finales del Referendo Constitucional*. URL: http://www.parlamentocubano.gob.cu/index.php/comision-electoral-nacional-informa-resultados-finales-del-referendo-constitucional/..

Atria, Fernando (2013). *La constitucion tramposa*. 1. reimpr. Colección Ciencias sociales y humanas. Santiago de Chile: LOM Ediciones.

Augustin, Ed (2019). "Cuba's churches reject gay marriage before vote on new constitution". In: *The Guardian*. URL: https://www.theguardian.com/world/2019/feb/18/cubas-churches-reject-gay-marriage-before-vote-on-new-constitution.

Backer, Larry Catá and Flora Sapio (2019). "Popular Consultation and Referendum in the Making of Contemporary Cuban Socialist Democracy Practice and Constitutional Theory". In: *U. Miami Int'l & Comp. L. Rev.* 27. Publisher: HeinOnline, p. 37.

Bain, Max et al. (2023). *WhisperX: Time-Accurate Speech Transcription of Long-Form Audio*. arXiv:2303.00747 [cs, eess]. URL: http://arxiv.org/abs/2303.00747.

Barandiaran, Javiera and Tristan Partridge, eds. (2025). *Demanding a Radical Constitution: Environmentalism, Resilience, and Participation in Chile's 2022 Reform Efforts*. Cham: Springer Nature Switzerland.

Barros, Robert (2002). *Constitutionalism and dictatorship: Pinochet, the Junta, and the 1980 constitution*. Vol. 4. Cambridge University Press.

Blount, Justin (2011). "Participation in Constitutional Design". In: *Comparative Constitutional Law*. Ed. by Tom Ginsburg and Rosalind Dixon. Edward Elgar Publishing, pp. 38–56.

Brandt, Michele et al. (2011). *Constitution-making and Reform: Options for the Process*. Interpeace.

Brinks, Daniel M. and Abby Blass (2018). *The DNA of Constitutional Justice in Latin America: Politics, Governance and Judicial Design*. Comparative Constitutional Law and Policy. New York: Cambridge University Press.

Bui, Ngoc Son (2020). *Constitutional change in the contemporary socialist world*. Oxford University Press.

Cer, Daniel et al. (2018). *Universal Sentence Encoder*. arXiv:1803.11175 [cs]. URL: http://arxiv.org/abs/1803.11175.

Chaguaceda, Armando and Eloy Viera Cañive (2021). "El destino de Sísifo. Régimen político y nueva Constitución en Cuba". In: *Polis (Santiago)* 20.58.

Chernykh, Svitlana and Zachary Elkins (2022). "How Constitutional Drafters Use Comparative Evidence". In: *Journal of Comparative Policy Analysis: Research and Practice* 24.6, pp. 529–556.

Choudhry, Sujit and Mark Tushnet (2020). "Participatory constitution-making: Introduction". In: *International Journal of Constitutional Law* 18.1, pp. 173–178.

Convención Constitucional de Chile (2021). *Reglamento de participación y consulta indígena*. URL: https://www.chileconvencion.cl/wp-content/uploads/2021/10/Reglamento-definitivo-Participacio%CC%81n-y-Consulta-Indi%CC%81gena.pdf.

Couso, Javier (2011). "Models of Democracy and Models of Constitutionalism: The Case of Chile's Constitutional Court, 1970–2010". In: *Texas Law Review* 89.7. Number: 7, pp. 1517–1536.

Couso, Javier and Alberto Coddou (2010). "Las asignaturas pendientes de la reforma constitucional chilena". In: *En nombre del pueblo: Debate sobre el cambio constitucional en Chile*. Ed. by Claudio Fuentes. Santiago, Chile: Heinrich Böll Stiftung-Cono Sur, pp. 191–213.

Cozza, Joseph Francesco (2024). "Trust the process: citizen participation and procedural legitimacy in constitutional change". In: *Journal of Elections, Public Opinion and Parties*, pp. 1–22.

Cruz, Andrés et al. (2023). "Measuring constitutional preferences: A new method for analyzing public consultation data". In: *PLOS ONE* 18.12. Ed. by Jerg Gutmann, e0295396.

Cubadebate (2018). "Presentan a los diputados resultados de la consulta popular del Proyecto de Constitución". In: *Cubadebate*. Publication Title: Cuba Debate. URL: http://www.cubadebate.cu/noticias/2018/12/18/presentan-cambios-en-el-proyecto-de-constitucion-derivados-de-la-consulta-popular/.

Dahl, Robert A. (1971). *Polyarchy: Participation and Opposition*. New Haven, Connecticut: Yale University Press.

Delamaza, Gonzalo (2024). *Por un Chile diferente: Participación popular en el proceso constituyente (2019-2022)*. Santiago, Chile: LOM Ediciones.

Dingemans Calderón, Alfonso (2023). "La economía política del proceso de cambio constitucional (2019-2022)". In: *El Proceso Constituyente Chileno (2019-2022): Análisis, interpretaciones y perspectivas*. Santiago, Chile: RiL Editores, p. 330.

Dixon, Rosalind and David Landau (2021). *Abusive constitutional borrowing: legal globalization and the subversion of liberal democracy*. First edition. Oxford comparative constitutionalism. OCLC: on1235415493. Oxford, United Kingdom: Oxford University Press.

Ebrahim, Hassen, Kayode Fayemi, and Stephanie Loomis (1999). *Promoting a Culture of Constitutionalism and Democracy in Commonwealth Africa*. Technical report. New Delhi, India: Commonwealth Human Rights Initiative.

Eisenstadt, Todd A., A. Carl LeVan, and Tofigh Maboudi (2015). "When Talk Trumps Text: The Democratizing Effects of Deliberation during Constitution-Making, 1974–2011". In: *American Political Science Review* 109.3, pp. 592–612.

Eisenstadt, Todd A. and Tofigh Maboudi (2019). "Being There Is Half the Battle: Group Inclusion, Constitution-Writing, and Democracy". In: *Comparative Political Studies* 52.13-14. Publisher: SAGE Publications Inc, pp. 2135–2170.

Elkins, Zachary, Tom Ginsburg, and Justin Blount (2008). "The Citizen as Founder: Public Participation in Constitutional Approval". In: *Temple Law Review* 81.2, pp. 361–382.

Elkins, Zachary, Tom Ginsburg, and James Melton (2009). "Chronology of Constitutional Events, Version 1.3". In: URL: http://www.comparativeconstitutionsproject.org..

Elkins, Zachary and Alexander Hudson (2019). "The constitutional referendum in historical perspective". In: *Comparative Constitution Making*. Edward Elgar Publishing, pp. 142–164.

— (2022). "The Strange Case of the Package Deal: Amendments and Replacements in Constitutional Reform". In: *The Limits and Legitimacy of Referendums*. Ed. by Richard Albert and Richard Stacey.

Elster, Jon (1997). "Ways of constitution-making". In: *Democracy's Victory and Crisis*. Ed. by Axel Hadenius. Cambridge: Cambridge University Press, pp. 123–142.

Fábrega, Jorge (2022). "Ordenamiento Ideológico en la Convención Constitucional Chilena". In: *Revista de Ciencia Política* 42.1. Number: 1, pp. 127–151.

Fallon Jr, Richard H (2005). "Legitimacy and the Constitution". In: *Harvard Law Review*. Publisher: JSTOR, pp. 1787–1853.

Franck, Thomas M. and Arun K. Thiruvengadam (2010). "Norms of International Law Relating to the Constitution-Making Process". In: *Framing the State in Times of Transition: Case Studies in Constitution-Making*. Ed. by Laurel E. Miller. Washington, DC: United States Institute of Peace., pp. 3–19.

Fuentes, Claudio, ed. (2023). *El proceso fallido: la dinámica constituyente en Chile 2020-2022*. Primera edición. OCLC: on1392286209. Santiago de Chile: Catalonia.

García, José Francisco (2024). "A failed but useful constitution-making process: How Bachelet's process contributed to constitution-making in Chile". In: *Global Constitutionalism* 13.1, pp. 239–249.

García-Huidobro, Luis Eugenio (2024). "Elite non-cooperation in polarized democracies: Constitution-making deferral, the entry referendum and the seeds of the Chilean failure". In: *Global Constitutionalism* 13.1, pp. 168–181.

Gargarella, Roberto (2013). *Latin American constitutionalism, 1810-2010: the engine room of the Constitution*. Oxford University Press.

Geissel, Brigitte (2023). "Linking citizens' assemblies to policymaking: Real-life and visionary connections". In: *De Gruyter Handbook of Citizens' Assemblies*. Ed. by Min Reuchamps, Julien Vrydagh, and Yanina Welp. De Gruyter, pp. 59–72.

Geissel, Brigitte and Ank Michels (2018). "Participatory Developments in Majoritarian and Consensus Democracies". In: *Representation* 54.2, pp. 129–146.

Gerring, John (2016). *Case Study Research: Principles and Practices*. 2nd ed. Cambridge University Press.

Gerschewski, Johannes (2013). "The three pillars of stability: legitimation, repression, and co-optation in autocratic regimes". In: *Democratization* 20.1, pp. 13–38.

Granma (2018). "Preparan proceso de consulta del Proyecto de Constitución". In: *Granma*. Publication Title: Granma. URL: https://www.granma.cu/reforma-constitucional/2018-07-30/preparan-proceso-de-consulta-del-proyecto-de-constitucion-30-07-2018-19-07-28.

— (2019). "A text enriched by the contributions of the Cuban people". In: *Granma*. Publication Title: Granma. URL: https://en.granma.cu/cuba/2019-01-03/a-text-enriched-by-the-contributions-of-the-cuban-people.

Grimmer, Justin, Margaret E. Roberts, and Brandon M. Stewart (2022). *Text as Data: A new framework for machine learning and the social sciences*. OCLC: on1295105650. Princeton: Princeton University Press.

Hall, Alexander, ed. (2023). *Cuba 11J: Perspectivas contrahegemónicas de las protestas sociales*. Havana, Cuba: Marx21.

Harding, David J. and Kristin S. Seefeldt (2013). "Mixed Methods and Causal Analysis". In: *Handbook of Causal Analysis for Social Research*. Ed. by Stephen L. Morgan. Series Title: Handbooks of Sociology and Social Research. Dordrecht: Springer Netherlands, pp. 91–110.

Hart, Vivien (2003). *Democratic Constitution Making*. Tech. rep. Publication Title: Special Report. Washington, DC: United States Institute of Peace.

— (2010). "Constitution Making and the Right to Take Part in a Public Affair". In: *Framing the State in Times of Transition: Case Studies in Constitution-Making*. Ed. by Laurel E. Miller. Washington, D.C.: United States Institute of Peace, pp. 20–54.

He, Baogang (2006). "Western theories of deliberative democracy and the Chinese practice of complex deliberative governance". In: *The search for deliberative democracy in China*. Springer, pp. 133–148.

Heiss, Claudia (2017). "Legitimacy crisis and the constitutional problem in Chile: A legacy of authoritarianism". In: *Constellations* 24.3, pp. 470–479.

— (2018). "Political Participation and Constitution-Making: The Case of Chile". In: *Panorama*. URL: https://panoramas.secure.pitt.edu/health-and-society/political-participation-and-constitution-making-case-chile.

— (2021). "Latin America Erupts: Re-Founding Chile". In: *Journal of Democracy* 32.3, pp. 33–47.

— (2023). *The new Chilean constituent process: exercising the 'muscle' of public participation in an adverse context*. URL: http://constitutionnet.org/news/new-chilean-constituent-process-public-participation.

Higley, John and Michael G. Burton (2006). *Elite Foundations of Liberal Democracy.* Elite transformations. Lanham, Md.: Rowman & Littlefield Publ.

Hirschl, Ran and Alexander Hudson (2024). "A Fair Process Matters: The Relationship between Public Participation and Constitutional Legitimacy". In: *Law & Social Inquiry*, pp. 1–28.

Horowitz, Donald L. (2021). *Constitutional Processes and Democratic Commitment.* Castle lectures in ethics, politics, and economics. OCLC: on1184234159. New Haven: Yale University Press.

Houlihan, Erin C and Sumit Bisarya (2021). *Practical Considerations for Public Participation in Constitution-Building: What, When, How and Why?* Tech. rep. Issue: Policy Paper No. 24. International IDEA.

Hudson, Alexander (2018). "When Does Public Participation Make a Difference? Evidence From Iceland's Crowdsourced Constitution: Public Participation in Constitution Drafting in Iceland". In: *Policy & Internet* 10.2, pp. 185–217.

— (2021a). "Political Parties and Public Participation in Constitution Making: Legitimation, Distraction, or Real Influence?" In: *Comparative Politics* 53.3, pp. 501–524.

— (2021b). *The Veil of Participation: Citizens and Political Parties in Constitution-Making Processes.* 1st ed. Cambridge University Press.

Jacobsohn, Gary J. and Yaniv Roznai (2020). *Constitutional Revolution.* OCLC: on1121603796. New Haven: Yale University Press.

Khanal, Krishna (2014). "The Participatory Constitution Making Process in Nepal: An Assessment of the CA Process (2008-2012)". In: *Participatory Constitution Making in Nepal: Issues of Process and Substance.* Ed. by Budhi Karki and Rohan Edrisinha. Vol. I. United Nations Development Programme (UNDP) and Support to Participatory Constitution Building in Nepal (SPCBN), pp. 1–42.

Kies, Raphaël et al. (2023). "Inclusiveness and effectiveness of digital participatory experiments in constitutional reforms". In: *Deliberative Constitution-making*. 1st ed. London: Routledge, pp. 110–126.

Kornreich, Yoel (2019). "Authoritarian responsiveness: Online consultation with "issue publics" in China". In: *Governance* 32.3, pp. 547–564.

Landau, David and Hanna Lerner, eds. (2019). *Comparative Constitution Making*. Edward Elgar Publishing.

Landemore, Hélène (2020a). *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*. Princeton: Princeton University Press.

— (2020b). "When Public Participation Matters: The 2010-2013 Icelandic Constitutional Process". In: *International Journal of Constitutional Law* 18.1, pp. 179–205.

Larrain, Guillermo, Gabriel Negretto, and Stefan Voigt (2023). "How not to write a constitution: lessons from Chile". In: *Public Choice* 194.3, pp. 233–247.

Levitsky, Steven and Lucan A. Way (2010). *Competitive Authoritarianism: Hybrid Regimes after the Cold War*. Problems of International Politics. Cambridge: Cambridge University Press.

Lijphart, Arend (1984). *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries*. Yale University Press.

Lindahl, Hans (2015). "Possibility, Actuality, Rupture: Constituent Power and the Ontology of Change". In: *Constellations* 22.2, pp. 163–174.

Luna, Juan Pablo (2016). "Delegative Democracy Revisited. Chile's Crisis of Representation". In: *Journal of Democracy* 27.3, pp. 129–138.

Maboudi, Tofigh and Ghazal P. Nadi (2016). "Crowdsourcing the Egyptian Constitution: Social Media, Elites, and the Populace". In: *Political Research Quarterly* 69.4, pp. 716–731.

Maboudi, Tofigh and Ghazal P. Nadi (2022). "From Public Participation to Constitutional Legitimacy: Evidence from Tunisia". In: *Political Research Quarterly* 75.2. Publisher: SAGE Publications Inc, pp. 441–457.

Martin, Matthew (2025). "Elite Fractures, Public Capture: The Strategic Use of Public Consultation in Global Constitution-Making". In: *Journal of Law and Courts*, pp. 1–34.

McDonald, Daniel (2022). "Making the "Citizen Constitution": Popular Participation in the Brazilian Transition to Democracy, 1985-1988". In: *The Americas* 79.4, pp. 619–652.

Mercier, Hugo and Hélène Landemore (2012). "Reasoning Is for Arguing: Understanding the Successes and Failures of Deliberation". In: *Political Psychology* 33.2, pp. 243–258.

Mesa-Lago, Carmelo and Jorge Pérez-López (2013). *Cuba under Raul Castro: Assessing the Reforms*. Boulder.

Moehler, Devra (2006). "Participation and support for the constitution in Uganda". In: *The Journal of Modern African Studies* 44.2, pp. 275–308.

— (2008). *Distrusting Democrats: Outcomes of Participatory Constitution Making*. Ann Arbor, MI: University of Michigan Press.

Montes, Rocío (2022). *Fernando Atria: "Espero que el proceso constituyente chileno sea refundacional"*. Section: Chile. URL: https://elpais.com/chile/2022-07-04/fernando-atria-espero-que-el-proceso-constituyente-chileno-sea-refundacional.html.

Morales Quiroga, Mauricio (2020). "Estallido social en Chile 2019: Participación, representación, confianza institucional y escándalos públicos". In: *Análisis Político* 33.98. Publisher: Instituto de Estudios Políticos y Relaciones Internacionales (IEPRI), Universidad Nacional de Colombia, pp. 3–25.

Morgan, Edmund Sears (1989). *Inventing the People: The Rise of Popular Sovereignty in England and America*. New York: W. W. Norton.

Negretto, Gabriel L. (2018). "Democratic constitution-making bodies: The perils of a partisan convention". In: *International Journal of Constitutional Law* 16.1. Publisher: Oxford University Press, pp. 254–279.

Nickerson, Raymond S. (1998). "Confirmation Bias: A Ubiquitous Phenomenon in Many Guises". In: *Review of General Psychology* 2.2. Publisher: SAGE Publications Inc, pp. 175–220.

Noguera Fernández, Albert (2023). "El fracaso del proyecto de Constitución chilena de 2022: el doble desajuste entre la agenda social y la agenda de la convención". In: *Revista Catalana de Dret Públic* 67, pp. 221–239.

Olivares, Eduardo (2022). *Iniciativas Populares de Norma: los técnicos desmienten información de la Mesa.* URL: https : / / www . pauta . cl / actualidad / 2022 / 05 / 05 / iniciativas-populares-de-norma-tecnicos-desmienten-informacion-mesa.html.

Partlett, William and Zim Nwokora (2019). "The foundations of democratic dualism: Why constitutional politics and ordinary politics are different". In: *Constellations* 26.2, pp. 177–193.

Popescu, Delia and Matthew Loveland (2022). "Judging Deliberation: An Assessment of the Crowdsourced Icelandic Constitutional Project". In: *Journal of Deliberative Democracy* 18.1.

Przeworski, Adam (2020). "Authoritarianism, Authority, and Representation". In: *Asian Survey* 60.2, pp. 347–365.

Przeworski, Adam and Henry Teune (1970). *The logic of comparative social inquiry.* New York, NY: John Wiley & Sons, Inc.

Qvortrup, Matt (2002). *A Comparative Study of Referendums: Government by the People.* Manchester, UK: Manchester University Press.

Radford, Alec et al. (2023). "Robust Speech Recognition via Large-Scale Weak Supervision". In: *Proceedings of the 40th International Conference on Machine Learning.* ISSN: 2640-

3498. PMLR, pp. 28492–28518. URL: https://proceedings.mlr.press/v202/radford23a.html.

Raveau, M P et al. (2020). "Citizens at the Forefront of the Constitutional Debate: Participation Determinants and Emergent Content in Chile". In: arXiv: physics, stat/2006.00140. URL: http://arxiv.org/abs/2006.00140.

Ríos Tobar, Marcela (2021). *Chile's Constitutional Convention: A triumph of inclusion*. URL: https://www.undp.org/latin-america/blog/chiles-constitutional-convention-triumph-inclusion.

Rozas, Joaquin, Alejandro Olivares L., and Antoine Maillet (2023). "Entre la independencia y la militancia: análisis de la vinculación partidaria de los convencionales constituyentes de Chile". In: 9, pp. 67–100.

Ruiz-Tagle, Pablo (2021). *Five Republics and One Tradition: A History of Constitutionalism in Chile 1810–2020*. 1st ed. Cambridge University Press.

Saati, Abrak (2015). "The Participation Myth: Outcomes of Participatory Constitution Building Processes on Democracy". PhD thesis. Ume\aa{}University.

Segovia, Macarena and Paulina Toro (2022). *Los cuatro días clave que llevaron al Rechazo al tope de las encuestas y los cinco meses de campaña para mantener esa ventaja*. URL: https://www.ciperchile.cl/2022/09/05/los-cuatro-dias-clave-que-llevaron-al-rechazo-al-tope-de-las-encuestas-y-los-cinco-meses-de-campana-para-mantener-esa-ventaja/.

Setälä, Maija (2017). "Connecting deliberative mini-publics to representative decision making". In: *European Journal of Political Research* 56.4, pp. 846–863.

Sethi, Amal (2024). "Looking beyond the constituent power theory: The theory of equitable elite bargaining". In: *Global Constitutionalism* 13.1, pp. 126–153.

Simon, Herbert A. (1990). "Bounded Rationality". In: *Utility and Probability*. Ed. by John Eatwell, Murray Milgate, and Peter Newman. London: Palgrave Macmillan UK, pp. 15–18.

Sintomer, Yves, Carsten Herzberg, and Anja Röcke (2008). "Participatory Budgeting in Europe: Potentials and Challenges". In: *International Journal of Urban and Regional Research* 32.1, pp. 164–178.

Skocpol, Theda and Margaret Somers (1980). "The Uses of Comparative History in Macrosocial Inquiry". In: *Comparative Studies in Society and History* 22.2, pp. 174–197.

Smith, Graham (2009). *Democratic Innovations: Designing Institutions for Citizen Participation*. 1st ed. Cambridge University Press.

Suarez-Cao, Julieta (2021). "Reconstructing Legitimacy After Crisis: The Chilean Path to a New Constitution". In: *Hague Journal on the Rule of Law* 13.2-3, pp. 253–264.

Tyler, Tom R. (2000). "Social Justice: Outcome and Procedure". In: *International Journal of Psychology* 35.2, pp. 117–125.

Verdugo, Sergio (2023). "Is it time to abandon the theory of constituent power? A rejoinder". In: *International Journal of Constitutional Law* 21.4, pp. 1213–1224.

Viera Cañive, Eloy, Johanna Cilano, and Valentina Cuevas (2022). *Informe Enero 2022*. Tech. rep. DemoAmLat, p. 27. URL: https://observatoriolegislativodecuba.org/1171-2/.

Weber, Max (1922). *Economy and society: An outline of interpretive sociology*. Vol. 2. University of California press.

Welp, Yanina (2021). "Deliberation in the Constitutional Reform Process: Cuba in Comparative Context". In: *Social Policies and Institutional Reform in Post-COVID Cuba*. Ed. by Bert Hoffmann. Toronto: Verlag Barbara Budrich, pp. 281–299.

Yaffe, Helen (2020). *We Are Cuba!: How a Revolutionary People Have Survived in a Post-Soviet World*. Yale University Press.

Yang, Yinfei et al. (2020). "Multilingual Universal Sentence Encoder for Semantic Retrieval". In: *Proceedings of the 58th Annual Meeting of the Association for Computational Linguistics: System Demonstrations*. Online: Association for Computational Linguistics, pp. 87–94.

A   Supplementary Material

A.1   N-gram searches

To ensure proper coding of n-gram appearances, the context window was used to display segments in their immediate context in the transcripts. This enabled more accurate coding choices that would not have been possible if the segments were categorized in isolation. To demonstrate when the tool is most useful, I provide some examples here.

In the transcripts of the Chilean Constitutional Convention's plenary sessions, for example the following segment appeared in the results of my search for the n-gram "audiencias":

> This commission has received more than 1,600 public hearings" (Matías Ignacio Orellana Cuellar, Sesión_41_Plenario/17/15).

In isolation, this segment appears to be a neutral acknowledgment of the number of hearings conducted, making "citation" the most plausible category. However, upon inspection of its immediate context, the following segment clarifies Orellana's intended framing:

> Therefore, with this issue [centralization], despite the lack of communication that this Convention has had in terms of the human resources it has been able to count on, we have still reached a large number of people who are interested in participating in this process and interested in telling us what their real need is so that we can get involved, which is the value of this week in creating norms that will eventually provide direct solutions to citizens (Matías Ignacio Orellana Cuellar, Sesón_41_Plenario/17/16).

While the initial segment alone appears to be a neutral factual statement, its context reveals that Orellana is making an argument about the process's effectiveness and credibility, despite resource limitations. The mention of public engagement shaping constitutional norms further reinforces this. Therefore, by incorporating the immediate context, the segment

uncovered through the n-gram search is labeled as a "legitimacy" claim rather than a mere citation.

Although there is a critique present regarding the lack of resources, the primary function of this segment is to affirm the legitimacy of the process. Based on the priority rule in my coding system (see A.5.5), legitimacy takes precedence in this case, even though a critique is mentioned. This ensures the classification reflects the overall value of the process, which is the focus of the speaker's statement.

Below is another example where the context window helped inform my coding decision, changing the input category from legitimacy to critique:

> This commission considered the possibility of dividing itself into four groups to listen to these public hearings, to cover more than one hundred hearings per week, given, as I mentioned, the large number of hearings requested (Damaris Nicole Abarca González, Sesión_44_Plenario/26/13).

The following segment continues:

> However, due to the lack of technical support to do so, this was not possible, since, as the rules that regulate our work in the Convention indicate, there is only the possibility of creating two subcommittees, which is why our methodology had to be modified for the internal functioning of the commission (Damaris Nicole Abarca González, Sesión_44_Plenario/26/14).

While the first segment seems to affirm the success of the public hearing process, the following segment acknowledges that the commission wanted to divide into four groups to process over 100 hearings per week but was unable to do so due to technical limitations and procedural rules. Abarca discusses a procedural constraint that only allowed two sub-commissions, which forced them to modify their methodology to receive public hearings. Therefore, the segment is classified as a critique.

These examples illustrate how my coding process relies not only on explicit textual markers within individual segments but also on their immediate discourse environment to ensure accuracy. The use of the context window in my tool was essential for making this distinction, as it allowed for the classification of public input references in a way that better reflects their rhetorical function.

A.2 Semantic searches

To ensure a comprehensive analysis of the transcripts, I employed a semantic search tool to identify references to public input that did not contain the exact search terms captured by the n-gram searches. By filtering out segments already identified through n-gram analysis, the semantic search expanded the scope of relevant data, uncovering nuanced references that would have been difficult to detect through manual reading alone. Below, I provide examples where the semantic search tool identified more subtle mentions of public input that escaped detection via exact term matching.

For instance, the semantic search revealed a comparison between the Convention's indigenous consultation process and the earlier process organized by President Michelle Bachelet's government, which was cited to legitimize the Convention's efforts:

> Caution is needed when comparing the consultation process carried out during President Bachelet's government with the current one, since Bachelet's indigenous participation and consultation process had two stages: one of participation, which brought together 17,000 people between August and December 2016, and one stage of consultation process, in which local and regional meetings were held, in addition to a national meeting (Tiare Maeva Carolina Aguilera Hey, Sesión_92_Plenario/73/11).

In another case, the tool uncovered a reference justifying a proposal under consideration, which lacked any of the searched n-grams:

> We would like to point out that the construction of these norm proposals is char-

acterized by a common factor, which is to collect the comments and observations made by specialists, academics, and different civil society organizations, as well as the valuable contributions of the rest of the constitutional convention members, since the objective is to enrich the text of the draft Constitution and adopt transversal agreements (Claudio Gómez, Sesión_64_Plenario/6/11).

A.3   Search terms and topics

A.3.1   N-gram search terms

- aportes ("contributions")
- asamblea ("assembly")
- audiencias públicas ("public hearings")
- cabildo ("town hall")
- Con Mi Plata NO ("NOT With My Money")
- consulta indígena ("indigenous consultation")
- consultas indígenas ("indigenous consultations")
- consulta popular ("popular consultation")
- dirimente ("binding")
- discusión ("discussion")
- encuentros ("meetings")
- encuentros autoconvocados ("self-convened meetings")
- foros ("forums")
- hablemos de un chile justo ("Let's talk about a just Chile," name of the national week of deliberation)
- iniciativa popular ("popular initiative")
- iniciativas constituyentes indígenas ("indigenous constituent initiatives")
- iniciativas indígenas ("indigenous initiatives")
- iniciativas populares ("popular initiatives")

- jornada nacional ("national week [of deliberation]")

- jornadas nacionales ("national weeks [of deliberation]")

- la consulta ("the consultation")

- la audiencia ("the hearing")

- opiniones ("opiniones")

- participación ciudadana ("citizen participation")

- participación popular ("popular participation")

- planteamientos ("approaches")

- propuestas ("proposals")

- propuestas populares ("popular proposals")

- reunión ("meeting")

- reuniones ("meetings")

- semana territorial ("territorial week")

- semanas territoriales ("territorial weeks")

- una asamblea ("an assembly")

- una consula ("a consultation")

- una audiencia ("a hearing")

A.3.2   Semantic search topics

- Explicaciones de cómo las preocupaciones públicas influyeron en las decisiones ("Explanations of how public concerns influenced decisions")

- Referencias a la consulta indígena y sus resultados ("References to the indigenous consultation and its results")

- Referencias a propuestas populares de los ciudadanos ("References to popular proposals from citizens")

- Relatos de encuentros, asambleas, o reuniones con la ciudadanía ("Stories of meetings, assemblies, or reunions with the citizenry")

- Referencias a las aportaciones públicas recogidas durante la consulta popular ("Refer-

ences to public input gathered during the popular consultation")

A.4 Coding Scheme

The following categories classify references to public input in constitutional debates. Each reference is assigned to only *one* category based on its rhetorical function in discourse.

A.4.1 Indicators for Each Category

Table 2: Indicators for Public Input Categories

Category	Indicators
Citation of Public Input (Citation)	• Mentions of survey results, public hearing feedback, or written submissions. • Data-driven references or paraphrased feedback from consultation processes. • References to how consultations were organized or executed (e.g., mobile apps, town hall meetings).
Justification of a Proposal (Justification)	• References linking public input to a specific constitutional provision or clause. • Statements like: "We included this because citizens asked for it." • Justification based on consultation feedback (e.g., "Survey responses showed strong support for..."").
Rejection of a Proposal (Rejection)	• Statements tying public consultation outcomes to the dismissal of an idea. • Phrases like: "The consultations showed no support for this." • Mention of consultation mechanisms where feedback indicated opposition.
Broad Claims of Legitimacy (Legitimacy)	• General claims about the "will of the people" or inclusiveness. • Absence of specific references to consultation results. • Statements like: "This process was inclusive because it involved public hearings, online surveys, and regional meetings."

Agenda-Setting (Agenda)	• Statements linking public consultation to previously unaddressed issues. • Phrases like: "The public emphasized the importance of..." • References to specific mechanisms (e.g., community discussions, online platforms) that introduced new topics.
Critiques of Public Consultation (Critique)	• References to flaws in consultation processes, such as bias or exclusion. • Statements like: "The public hearings were not representative." or "The survey methodology was flawed." • Critiques of opposition voices when aimed at delegitimizing or questioning their validity.

A.5 Decision Rules for Coding References to Public Input

The following decision rules ensure consistency in coding references to public input across the dataset. While the six categories are mutually exclusive in principle, some references may be ambiguous. The guidelines below clarify how categories are distinguished and which takes priority when overlap occurs.

A.5.1 Agenda-Setting vs. Legitimacy

- **Agenda-Setting** is assigned if public input introduces or elevates an issue not yet central to the debate, such as a new proposal or a new area of focus.

- **Legitimacy** is assigned if public input affirms the credibility, inclusiveness, or success of the consultation process without introducing a new issue.

Priority Rule: If a segment introduces a new issue (e.g., a forthcoming proposal or a new area of focus) and also emphasizes the credibility or success of the consultation process, *Agenda-Setting* takes priority. If the segment primarily affirms the legitimacy of the process without introducing a new issue, *Legitimacy* takes priority.

A.5.2 Citation vs. Justification vs. Agenda-Setting

- **Citation** is assigned if the reference is purely descriptive, without evaluating its significance, endorsing a position, or suggesting action.

- **Justification** is assigned if public input is invoked to support a specific decision or proposal already under debate.

- **Agenda-Setting** is assigned if public input introduces or elevates an issue not yet central to the debate.

Priority Rule: If a reference both introduces a new issue (*Agenda-Setting*) and advocates for a decision (*Justification*), *Justification* takes priority.

A.5.3 Legitimacy vs. Justification

- **Legitimacy** is assigned if the reference affirms the credibility, inclusiveness, or success of the consultation process without supporting a specific decision.

- **Justification** is assigned if public input is used to both affirm legitimacy and justify a decision.

Priority Rule: If a reference both affirms legitimacy and justifies a decision, *Justification* takes priority.

A.5.4 Rejection vs. Critique

- **Rejection** is assigned if public input is invoked to argue against a specific proposal already under debate.

- **Critique** is assigned if the reference questions the quality, design, or execution of the consultation process itself.

Priority Rule: If a statement both critiques the process and rejects input, *Critique* takes priority.

A.5.5 Legitimacy vs. Critique

- **Legitimacy** is assigned if the reference affirms the credibility, inclusiveness, or success of the consultation process without supporting a specific decision.

- **Critique** is assigned if the reference questions the quality, design, or execution of the consultation process itself, such as criticizing a lack of resources or other logistical

challenges.

Priority Rule: If a statement both affirms Legitimacy (such as the process's success or inclusiveness) and includes a Critique (such as criticizing a lack of resources or other issues), *Legitimacy* takes priority, as it emphasizes the overall validation of the consultation process despite acknowledging the shortcomings.