

From Citizen Input to Elite Legitimation: The Logic of Will-Confirmation in Constitution-Making

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Abstract

Constitution-making is portrayed as a dialogue between state and society, with public consultation sustaining the legal fiction that “the people” write their constitution. This paper introduces will-confirmation—an interpretive practice whereby elites transform underdetermined public input into legitimation of their representative claims. Will-confirmation operates through two modes: constructive (synthesizing ambiguous input into alignment) and dismissive (excluding contrary input as unrepresentative). Drawing on 37 interviews with members of Chile’s Constitutional Convention and Cuba’s Drafting Commission, I show how will-confirmation operates when public consultation is deployed amid crises of representation. In Chile, consultation exposed rather than resolved the absence of elite consensus—drafters claiming to speak as the people produced parallel monologues, deepening fragmentation. In Cuba, consultation obscured rather than remedied the absence of ideological pluralism—input proved consequential only where elite consensus was already unsettled. Will-confirmation thus rendered consultation a source of elite self-legitimation rather than a check on interpretation.

Keywords: Public consultation; constitution-making; political elites; will-confirmation.

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1 Introduction

Constitution-making is often imagined as a dialogue—a democratic exercise that articulates the will of the people.¹ Public consultation has become the primary vehicle for this vision, underwriting the legal fiction² that citizens are co-authors of the new social contract even as drafters retain ultimate interpretive control. Constitutions gain an aura of legitimacy, and political elites a body of citizen input—not one that binds them, but one they invoke to negotiate political settlements.³ Armed with this resource, drafters navigate competing interests, shifting alliances, and institutional legacies⁴ while presenting themselves as steadfast representatives translating the people’s will into constitutional form. How these actors understand their interpretive role—and reconcile it with the decision-making power they exercise—is less clear than the democratic ideal suggests.

¹ Simone Chambers, “Democracy, Popular Sovereignty, and Constitutional Legitimacy,” *Constellations* 11, no. 2 (2004): 153–73, <https://doi.org/10.1111/j.1351-0487.2004.0370.x>; Jon Elster, “Forces and Mechanisms in the Constitution-Making Process,” *Duke Law Journal* 45, no. 2 (1995): 364–96; Vivien Hart, “Constitution-making and the Transformation of Conflict,” *Peace & Change* 26, no. 2 (2001): 153–76, <https://doi.org/10.1111/0149-0508.00185>; James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity*, 1st ed. (Cambridge University Press, 1995), <https://doi.org/10.1017/CBO9781139170888>.

² L. L. Fuller, “Legal Fictions,” *Illinois Law Review* 25, no. 4 (1930): 363–99.

³ Matthew Martin, “Elite Fractures, Public Capture: The Strategic Use of Public Consultation in Global Constitution-Making,” *Journal of Law and Courts*, January 10, 2025, 1–34, <https://doi.org/10.1017/jlc.2024.9>; Matthew Martin, “Constitutional Cherry-Picking: How Drafters Leverage Public Input in Constitution-Making,” unpublished manuscript, Austin, TX, January 2025.

⁴ Daniel M. Brinks and Abby Blass, *The DNA of Constitutional Justice in Latin America* (2018); Jodi S. Finkel, *Judicial Reform as Political Insurance: Argentina, Peru, and Mexico in the 1990s* (University of Notre Dame Press, 2008), <https://doi.org/10.2307/jj.21995819>; Tom Ginsburg, *Judicial Review in New Democracies: Constitutional Courts in Asian Cases* (Cambridge University Press, 2003); Ran Hirschl, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*, First Harvard University Press paperback edition (Harvard University Press, 2007).

This paper introduces will-confirmation—an interpretive practice through which political elites render public input as aligned with their preexisting preferences, transforming citizen voices into validation of their representative authority. This concept captures the intersection of institutional context, cognitive bias, and representative claims.⁵ It draws on familiar psychological mechanisms such as confirmation bias and motivated reasoning,⁶ but incorporates a key vertical dimension: the citizen-elite divide. Will-confirmation is not merely individual belief maintenance; it is the construction of representative legitimacy by those wielding formal decision-making authority. When consulting the public, constitutional drafters encounter mass preferences that are ambiguous and often contradictory.⁷ In response, they engage in selective interpretation, reframing input as aligned with their vision or delegitimizing it as unrepresentative. Will-confirmation legitimates decisions not only to external audiences but in drafters’ own accounts of their practice, framing constructed alignment as discovered consensus.

I develop this concept through the study of constitution-making, where these dynamics are particularly acute. The explicit mandate to speak for “the people,” consultation mechanisms that demand engagement with citizen input, and the pressure to construct political legitimacy create conditions ripe for will-confirmation. Constitution-making is often cast as an exceptional

⁵ Michael Saward, *The Representative Claim* (Oxford University Press, 2010), <https://doi.org/10.1093/acprof:oso/9780199579389.001.0001>.

⁶ Ziva Kunda, “The Case for Motivated Reasoning,” *Psychological Bulletin* 108, no. 3 (1990): 480–98, <https://doi.org/10.1037/0033-2909.108.3.480>; Raymond S. Nickerson, “Confirmation Bias: A Ubiquitous Phenomenon in Many Guises,” *Review of General Psychology* 2, no. 2 (1998): 175–220, <https://doi.org/10.1037/1089-2680.2.2.175>; Charles S. Taber and Milton Lodge, “Motivated Skepticism in the Evaluation of Political Beliefs,” *American Journal of Political Science* 50, no. 3 (2006): 755–69, <https://doi.org/10.1111/j.1540-5907.2006.00214.x>.

⁷ Andrés Cruz et al., “Measuring Constitutional Preferences: A New Method for Analyzing Public Consultation Data,” *PLOS ONE* 18, no. 12 (2023): e0295396, <https://doi.org/10.1371/journal.pone.0295396>.

moment transcending everyday political distortions,⁸ yet these processes are defined by high stakes, uncertainty, and partisan conflict over the rules of future competition.⁹ In this setting, drafters’ perceptions of public input and their evaluations of consultation processes reveal patterns of selective interpretation. Through will-confirmation, elites transform raw citizen input into representative claims about the demos, portraying the public as demanding institutional continuity or transformational change in ways that validate their own constitutional preferences.

This paper extends previous research by examining how drafters internally process public input rather than how they publicly deploy it. Elsewhere, I uncover a clear relationship between the level of control over the constitution-making process by a single party or coalition and the likelihood of public consultation.¹⁰ I also show “constitutional cherry-picking” across democratic and autocratic regimes—the selective invocation of public input during elite deliberations to support partisan outcomes.¹¹ Cherry-picking, however, describes only the rhetorical surface. Here, I turn to the interpretive work that happens offstage—how drafters process and engage with citizen feedback, reconstructing selective decisions as expressions of the people’s will rather than impositions of their own. Will-confirmation thus exposes a paradox at the heart of

⁸ Bruce A. Ackerman, *We The People: Foundations*, 1st ed. (Belknap Press of Harvard University Press, 1991); Elster, “Forces and Mechanisms in the Constitution-Making Process.”

⁹ Tom Ginsburg, “Public Choice and Constitutional Design,” in *Research Handbook on Public Choice and Public Law*, ed. Daniel A. Farber and Anne Joseph O’Connell (Edward Elgar Publishing, 2010), <https://doi.org/10.4337/9781849804899.00016>; William Partlett, “The Dangers of Popular Constitution-Making,” *Brooklyn Journal of International Law* 38, no. 1 (2012): 193–238; William Partlett and Zim Nwokora, “The Foundations of Democratic Dualism: Why Constitutional Politics and Ordinary Politics Are Different,” *Constellations* 26, no. 2 (2019): 177–93, <https://doi.org/10.1111/1467-8675.12400>.

¹⁰ Martin, “Elite Fractures, Public Capture.”

¹¹ Martin, “Constitutional Cherry-Picking: How Drafters Leverage Public Input in Constitution-Making.”

participatory constitution-making: the consultation mechanisms meant to constrain elite authority often become the very source of its legitimation.

This study draws on 37 in-depth interviews in Chile (30) and Cuba (7). The sample focuses on those responsible for preparing constitutional texts: former members of the Chilean Constitutional Convention (2021–22) and the Cuban Drafting Commission (2018–19). These cases reveal how will-confirmation operates under different representational pressures. In Chile’s fragmented democratic context, consultation substituted for elite consensus, though competing factions offered incompatible readings of what citizens said. In Cuba’s consolidated authoritarian system, consultation substituted for ideological pluralism, with drafters monopolizing the reading of citizen input through regime-loyal intermediaries. By examining consultation across cases that vary in elite consensus and system openness, I demonstrate how will-confirmation shapes elite interpretation across distinct institutional contexts.

These findings have broader implications for how scholars understand political representation. In the constitutional domain, the language of constituent power—“the power to create and re-create the constitutional order”—obscures the representational dynamics at work.¹² Those empowered to speak in the people’s name invoke, interpret, and construct constituent power rather than channel it. Constitution-making, in this view, is representation at its apogee—the site where political actors make claims to speak for, and thereby constitute, the pre-supposed demos they purport to represent.¹³ Public consultation becomes not only the stage where the

¹² Gary J. Jacobsohn and Yaniv Roznai, *Constitutional Revolution* (Yale University Press, 2020), 224.

¹³ Lisa Disch, “The People as ‘Presupposition’ of Representative Democracy - An Essay on the Political Theory of Pierre Rosanvallon,” *Redescriptions: Political Thought, Conceptual History and Feminist Theory* 12, no. 1 (2008): 47–71, <https://doi.org/10.7227/R.12.1.4>.

fiction of popular authorship is performed,¹⁴ but also the screen onto which drafters project their own preferences—seeing in the image of the people a reflection of themselves.

2 Public Consultation and Representative Claims

Public consultation is widely considered the gold standard for constitutional legitimacy.¹⁵

Indeed, the “seeming consensus” is that bringing citizens directly into constitution-making

generates public ownership of the document and, with it, legitimacy.¹⁶ Since the 1990s,

international organizations, NGOs, and other constitutional practitioners have helped cement

participatory constitution-making as a transnational legal norm.¹⁷ An emergent literature,

¹⁴ Martin, “Constitutional Cherry-Picking: How Drafters Leverage Public Input in Constitution-Making,” 2.

¹⁵ Michele Brandt et al., *Constitution-Making and Reform: Options for the Process* (Interpeace, 2011); Chambers, “Democracy, Popular Sovereignty, and Constitutional Legitimacy”; Philipp Dann et al., *Lessons Learned from Constitution-Making: Processes with Broad Based Public Participation*, Briefing Paper no. 20 (Democracy Reporting International, 2011); Zachary Elkins et al., “The Citizen as Founder: Public Participation in Constitutional Approval,” *Temple Law Review* 81, no. 2 (2008): 361–82; Vivien Hart, “Democratic Constitution Making,” in *Special Report* (United States Institute of Peace, 2003); Vivien Hart, “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. Laurel E. Miller (United States Institute of Peace, 2010); Jennifer Widner, “Constitution Writing in Post-Conflict Settings: An Overview,” *William and Mary Law Review* 49 (2008): 31.

¹⁶ Sujit Choudhry and Mark Tushnet, “Participatory Constitution-Making: Introduction,” *International Journal of Constitutional Law* 18, no. 1 (2020): 178, <https://doi.org/10.1093/icon/moaa014>; Donald L. Horowitz, *Constitutional Processes and Democratic Commitment*, Castle Lectures in Ethics, Politics, and Economics (Yale University Press, 2021).

¹⁷ Hassen Ebrahim et al., *Promoting a Culture of Constitutionalism and Democracy in Commonwealth Africa*, Technical report (Commonwealth Human Rights Initiative, 1999); Thomas M. Franck and Arun K. Thiruvengadam, “Norms of International Law Relating to the Constitution-Making Process,” in *Framing the State in Times of Transition: Case Studies in Constitution-Making*, ed. Laurel E. Miller (United States Institute of Peace., 2010); Abrak Saati, “Participatory Constitution-Making as a Transnational Legal Norm: Why Does It ‘Stick’ in Some Contexts and Not in Others?,” *Constitution-Making and Transnational Legal Order*, 2019, 283–311, <https://doi.org/10.1017/9781108561792.010>.

however, now questions whether consultation delivers on its promise.¹⁸ These critiques turn attention to political elites—specifically, how consultation becomes a legitimation resource for those who control its interpretation.¹⁹

The “strategic account” views consultation not as a neutral channel for translating public preferences into constitutional design, but as a tool for political elites to justify decisions, deflect criticism, and bolster partisan support. This follows from the argument that elites use constitutions to protect their interests, suggesting participatory mechanisms operate similarly.²⁰ Consultation mechanisms are most common where a single party or coalition of elites controls the drafting process and, by extension, the interpretation of citizen input.²¹ Drafters engage in “cherry-picking,” selectively invoking public input to support preferred constitutional

¹⁸ Alexander Hudson, “When Does Public Participation Make a Difference? Evidence From Iceland’s Crowdsourced Constitution: Public Participation in Constitution Drafting in Iceland,” *Policy & Internet* 10, no. 2 (2018): 185–217, <https://doi.org/10.1002/poi3.167>; Alexander Hudson, “Political Parties and Public Participation in Constitution Making: Legitimation, Distraction, or Real Influence?,” *Comparative Politics* 53, no. 3 (2021): 501–24, <https://doi.org/10.5129/001041521X15966512980176>; Alexander Hudson, *The Veil of Participation: Citizens and Political Parties in Constitution-Making Processes*, 1st ed. (Cambridge University Press, 2021), <https://doi.org/10.1017/9781108878685>; Abrak Saati, “The Participation Myth: Outcomes of Participatory Constitution Building Processes on Democracy” (Umeå University, 2015); Abrak Saati, “Participatory Constitution-Building in Fiji: A Comparison of the 1993–1997 and the 2012–2013 Processes,” *International Journal of Constitutional Law* 18, no. 1 (2020): 260–76, <https://doi.org/10.1093/icon/moaa001>.

¹⁹ Abrak Saati, “Public Participation, Representative Elites and Technocrats in Constitution-Making Processes: Nigeria, Uganda, South Africa and Kenya,” in *Comparative Constitutional Law in Africa* (Edward Elgar Publishing, 2022), <https://www.elgaronline.com/edcollchap/book/9781839106897/book-part-9781839106897-8.xml>.

²⁰ Brinks and Blass, *The DNA of Constitutional Justice in Latin America*; Ginsburg, *Judicial Review in New Democracies*; Hirschl, *Towards Juristocracy*.

²¹ Martin, “Elite Fractures, Public Capture.”

outcomes.²² These patterns echo findings in public policy, where consultation is structured to meet procedural expectations rather than produce substantive change,²³ structural factors concentrate influence among well-resourced actors,²⁴ and participatory mechanisms are used to avoid blame or neutralize dissent.²⁵ Across domains, public input is filtered, selectively integrated, or dismissed when it threatens elite preferences or institutional stability.

The strategic account captures how political elites leverage citizen input to justify decisions to colleagues and the public, but it leaves the internal logic of this behavior unexplained. Before elites can invoke public input strategically, they must render multivocal input into a coherent narrative. This transformation from raw input to pliable resource is inescapably representational. Even mechanisms designed to incorporate the public directly into decision-making operate through representative claims, such as who belongs to the “people” for

²² Martin, “Constitutional Cherry-Picking: How Drafters Leverage Public Input in Constitution-Making.”

²³ John S. Dryzek, “Democratization as Deliberative Capacity Building,” *Comparative Political Studies* 42, no. 11 (2009): 1379–402, <https://doi.org/10.1177/0010414009332129>; Joan Font et al., “Cherry-Picking Participation: Explaining the Fate of Proposals from Participatory Processes,” *European Journal of Political Research* 57, no. 3 (2018): 615–36, <https://doi.org/10.1111/1475-6765.12248>; Graham Smith, *Democratic Innovations: Designing Institutions for Citizen Participation*, 1st ed. (Cambridge University Press, 2009), <https://doi.org/10.1017/CBO9780511609848>.

²⁴ Ashlee Jollymore et al., “Whose Input Counts? Evaluating the Process and Outcomes of Public Consultation through the BC Water Act Modernization,” *Critical Policy Studies* 12, no. 4 (2018): 381–405, <https://doi.org/10.1080/19460171.2017.1282377>; M. P. Raveau et al., “Citizens at the Forefront of the Constitutional Debate: Participation Determinants and Emergent Content in Chile,” *PLOS ONE* 17, no. 6 (2020): 1–25, <https://doi.org/10.1371/journal.pone.0267443>.

²⁵ Tae-Hee Choi and Yee-Lok Wong, “Does Public Consultation Affect Policy Formulation? Negotiation Strategies between the Administration and Citizens,” *Journal of Education Policy* 39, no. 3 (2024): 455–79, <https://doi.org/10.1080/02680939.2023.2269373>; Anthony Kevins and Barbara Vis, “Do Public Consultations Reduce Blame Attribution? The Impact of Consultation Characteristics, Gender, and Gender Attitudes,” *Political Behavior* 45, no. 3 (2023): 1121–42, <https://doi.org/10.1007/s11109-021-09751-5>.

whom a constitution is written. Public consultation is *always* mediated by political institutions considered representative.²⁶ This is especially true in constitution-making, where “no social contract has ever been drafted by an entire nation.”²⁷

Representation theory, and constructivism in particular,²⁸ provides a framework for understanding this mediation. Representation is conceived not as responsiveness to constituents’ pre-supposed preferences but a performative act constituting the represented in real time.²⁹ Conventional accounts treat representation as presence—a social fact established through elections,³⁰ whereas constructivists define it as claim-making: an ongoing activity that “gives the impression of making present” something absent.³¹ A representative claim involves a maker who

²⁶ Lasse Thomassen, “Book Review,” *Redescriptions: Political Thought, Conceptual History and Feminist Theory* 15, no. 1 (2011): 243, <https://doi.org/10.7227/R.15.1.17>; Nino Junius, “From Representative to Represented Mini-Publics: How Mini-Publics’ Outputs Are Shaped by Representation,” *Political Studies Review* 22, no. 4 (2024): 914–29, <https://doi.org/10.1177/14789299231217619>.

²⁷ Martin, “Elite Fractures, Public Capture,” 11.

²⁸ Lisa Disch, “The ‘Constructivist Turn’ in Democratic Representation: A Normative Dead-End?,” *Constellations* 22, no. 4 (2015): 487–99, <https://doi.org/10.1111/1467-8675.12201>; Lisa Disch et al., eds., *The Constructivist Turn in Political Representation*, 1st ed. (Edinburgh University Press, 2019), <https://doi.org/10.3366/edinburgh/9781474442602.001.0001>; Dario Castiglione and Johannes Pollak, *Creating Political Presence: The New Politics of Democratic Representation* (University of Chicago Press, 2018), <https://doi.org/10.7208/chicago/9780226588674.001.0001>.

²⁹ Michael Saward, “Representation and Democracy: Revisions and Possibilities,” *Sociology Compass* 2, no. 3 (2008): 1000–1013, <https://doi.org/10.1111/j.1751-9020.2008.00102.x>; Saward, *The Representative Claim*.

³⁰ Jane Mansbridge, “Rethinking Representation,” *American Political Science Review* 97, no. 4 (2003): 515–28, <https://doi.org/10.1017/S0003055403000856>; Hanna Fenichel Pitkin, *The Concept of Representation* (University of California Press, 1967), <https://doi.org/10.1525/9780520340503>; Andrew Rehfeld, “Towards a General Theory of Political Representation,” *Journal of Politics* 68, no. 1 (2006): 1–21, <https://doi.org/10.1111/j.1468-2508.2006.00365.x>.

³¹ Saward, *The Representative Claim*, 43.

puts forward a subject standing for an object (a constructed portrayal) that is offered to an audience. Crucially, the object is derived from but never identical to the referent—the people (plural) being represented.

Importantly, there are two logically distinct forms of representation embedded within the constructivist framework. Fossen³² distinguishes between representative agency, *who* counts as a representative of whom, and substantive portrayal, *how* the represented are characterized in terms of interests, preferences, will, etc. The former relation is dyadic (x represents y) and the latter triadic (x represents y as z). Both are non-exclusive forms of representational performance, and status attributions, a “subcategory” of representation-as,³³ are triadic claims that posit a dyadic role by portraying someone as a representative (or as represented). In constitution-making, elections or appointments are triadic claims portraying someone as a representative (status attributions), thereby conferring the dyadic role. Consultation then provides material for substantive portrayal, whereby drafters characterize citizen input as demanding rupture or institutional continuity. Both claims depend on audience acceptance, not correspondence to the referent, making both contestable but in different ways.

The representative claim framework reveals the gap between referent and object but leaves underexplored the functional relationship between these forms of representation. Successful status attribution produces *standing*—the socially recognized capacity to make further representative claims. Standing alone, of course, does not produce legitimation. The perception of legitimate representation must be achieved through ongoing substantive portrayal of the

³² Thomas Fossen, “Constructivism and the Logic of Political Representation,” *American Political Science Review* 113, no. 3 (2019): 824–37, <https://doi.org/10.1017/S0003055419000273>.

³³ Fossen, “Constructivism and the Logic of Political Representation,” 831.

represented. Existing research applies the representative framework without distinguishing the contributions of status attributions and substantive portrayals,³⁴ comparable to how the strategic account focuses on the public deployment of claims without examining the interpretive work that produces them. Status attributions and substantive portrayals are both triadic in structure, but the former confers standing, whereas the latter produces legitimation. This formulation gives teeth to the idea that “representative claims constitute representative and constituency alike” by showing how the dyadic relation depends on both forms of triadic performance.³⁵

The judgments that determine how the referent is portrayed, or its “characterization,”³⁶ are often invisible to the audience. Political elites present their construction as simply what citizens said, and the interpretive frameworks they deploy to filter, synthesize, and render input coherent disappear from view. The object is presented as referent. This invisibility has political consequences precisely because “to be able to make the representative claim and to have it recognized is to occupy a position of relative power vis-à-vis the represented.”³⁷ Invisibility does not preclude contestation altogether, but it forecloses challenge at the level of interpretive judgments underlying substantive portrayal. In other words, citizens may reject outcomes based upon particular characterizations, but they cannot contest interpretive judgments they do not see.

³⁴ Pieter de Wilde, “Representative Claims Analysis: Theory Meets Method,” *Journal of European Public Policy* 20, no. 2 (2013): 278–94, <https://doi.org/10.1080/13501763.2013.746128>; Petra Guasti and Brigitte Geissel, “Saward’s Concept of the Representative Claim Revisited: An Empirical Perspective,” *Politics and Governance* 7, no. 3 (2019): 98–111, <https://doi.org/10.17645/pag.v7i3.2103>; Viola Joschko and Luis Glaser, “A New Approach to Map and Quantify Representative Claims and Measure Their Validation: A Case Study Analysis,” *Politics and Governance* 7, no. 3 (2019): 137–51, <https://doi.org/10.17645/pag.v7i3.2150>.

³⁵ Disch, “The ‘Constructivist Turn’ in Democratic Representation,” 487.

³⁶ Fossen, “Constructivism and the Logic of Political Representation,” 828.

³⁷ Thomassen, “Book Review,” 242.

Making the transformation visible is prerequisite both to understanding why participatory processes produce the outcomes they do and to designing institutions that enable contestation over how input is interpreted.

Public consultation presents a distinctive version of this problem. Unlike ordinary representation, where elites can claim to intuit or embody popular will without external evidence, consultation produces a documentary record—that is, actual citizen input that drafters must confront. This record stands as an intermediary between referent and object, creating the appearance of grounded, evidence-based representation. Yet the record is always underdetermined relative to the constitutional choices drafters face. Citizens may clearly want change, but their specific preferences on content remain diffuse, contradictory, or silent on key questions.³⁸ This underdetermination is where interpretive power operates—and where it becomes most invisible—because the documentary record lends evidentiary authority to what remains elite construction.

3 Will-confirmation

Will-confirmation names a top-down interpretive practice through which political elites transform underdetermined public input into legitimation of their representative claims. It operates at the level of substantive portrayal, where citizen input is characterized as having particular meaning, but functions to secure the dyadic relation of representative agency. “Will” refers to the constructed preferences attributed to the represented, and “confirmation” to the self-validating interpretive judgments that render elite preferences as popular demand. Before any

³⁸ Zachary Elkins and Alexander Hudson, “The Strange Case of the Package Deal: Amendments and Replacements in Constitutional Reform,” in *The Limits and Legitimacy of Referendums*, ed. Richard Albert and Richard Stacey (Oxford University Press, 2022).

audience can assess this characterization, the maker must decide what to portray—whose voices count, which demands matter, what “the people” want. In this way, will-confirmation specifies what Saward³⁹ warns of: efforts to “deny any constructedness of the construction.”

Will-confirmation operates through two primary modes: the *constructive* mode and the *dismissive* mode. Both modes involve characterizing citizen input in ways that align with elite preferences. In the constructive mode, elite decision-makers encounter ambiguous input and actively synthesize it into a narrative of alignment, representing the referent as supportive of their position. In the dismissive mode, these actors encounter contrary input and delegitimize it as unrepresentative or procedurally suspect, representing the referent as excluding those voices. Both modes serve to construct an object that appears to be oriented toward the interests of the represented while obscuring selective judgments.

The relationship between will-confirmation and strategy requires clarification. Claim-making is inherently strategic because “the work of the maker must pass the test of people’s receptivity.”⁴⁰ Political elites choose which inputs to emphasize, how to frame proposals, and which voices to amplify. Will-confirmation does not contradict this selectivity but addresses a distinct question. The issue is not what elites present but how they account for what they present. Cherry-picking is the strategic deployment of characterizations to audiences; will-confirmation is the discursive practice that frames those characterizations as derived from the evidentiary record. Both are observable, but in different sites: cherry-picking in public justifications and

³⁹ Saward, *The Representative Claim*, 52.

⁴⁰ Nadia Urbinati, “Representative Constructivism’s Conundrum,” in *The Constructivist Turn in Political Representation*, ed. Lisa Disch et al. (Edinburgh University Press, 2019), 199, <https://doi.org/10.3366/edinburgh/9781474442602.003.0011>; see also Disch, “The ‘Constructivist Turn’ in Democratic Representation,” 492.

deliberations, will-confirmation in interviews and retrospective accounts. Will-confirmation lends strategic deployment its evidentiary grounding.

This interpretive work is grounded, first and foremost, in the preferences of political elites. Confirmation bias leads individuals to favor information aligning with prior beliefs,⁴¹ and motivated reasoning guides the evaluation of evidence according to ideological commitments.⁴² These cognitive tendencies help explain why accounts of citizen input tend to align with prior commitments, but they describe belief maintenance. In contrast, will-confirmation is an interpretive practice observable in how elites account for their interpretive choices. It adds two dimensions central to representation: the interpretive (triadic) relationship and the authority (dyadic) relationship. Will-confirmation operates through the former to legitimate the latter. Political elites (of all stripes) are the relevant actors by virtue of their institutional standing that makes their characterizations consequential. Wherever they must interpret citizen input to make binding decisions, the conditions for will-confirmation are present. The problem arises when will-confirmation forecloses responsiveness—when elites treat discrepancies between competing accounts not as occasions for questioning but as obstacles to alignment with “one’s own conceited view” of the represented.⁴³

Rather than challenging elite interpretation, consultation often lends it evidentiary authority. The documentary record stands between referent and object, yet it is always

⁴¹ Nickerson, “Confirmation Bias.”

⁴² Kunda, “The Case for Motivated Reasoning”; Milton Lodge and Charles S. Taber, *The Rationalizing Voter*, 1st ed. (Cambridge University Press, 2013), <https://doi.org/10.1017/CBO9781139032490>; Taber and Lodge, “Motivated Skepticism in the Evaluation of Political Beliefs.”

⁴³ Fossen, “Constructivism and the Logic of Political Representation,” 835.

underdetermined relative to the decisions drafters face. Will-confirmation operates in this gap, enabling makers to construct objects that align with their preferences while framing those objects as faithful to the referent. Unlike the false consensus effect,⁴⁴ which involves projection without external evidence, will-confirmation operates on actual citizen feedback, lending the resulting alignment an empirical veneer. The documentary record obscures rather than reveals this interpretive work. “We listened to 10,000 comments” appears more grounded than “we know what the people want,” but both are representative claims, and the former may be harder to contest precisely because it appears evidence-based. As Saward⁴⁵ observes, “surface claims that are able to rest upon deeper institutional and constitutional structures have a head start in terms of familiarity and perceived legitimacy.” Consultation provides that deeper structure.

Constitution-making with public consultation presents an acute case for studying will-confirmation. Drafters do not make surface-level representative claims but instead foundational claims that purport to constitute the demos itself, thus “creating the people as an institutional reality.”⁴⁶ Unlike discrete amendments, constitutional replacement presents a “package deal” requiring comprehensive interpretation.⁴⁷ Will-confirmation captures how elites navigate this indeterminacy, establishing both the boundaries of the “sphere of constitutional justice”⁴⁸ and whose voices count in resolving constitutional questions. These foundational stakes are

⁴⁴ Lee Ross et al., “The ‘False Consensus Effect’: An Egocentric Bias in Social Perception and Attribution Processes,” *Journal of Experimental Social Psychology* 13, no. 3 (1977): 279–301, [https://doi.org/10.1016/0022-1031\(77\)90049-X](https://doi.org/10.1016/0022-1031(77)90049-X).

⁴⁵ Saward, *The Representative Claim*, 65.

⁴⁶ Urbinati, “Representative Constructivism’s Conundrum,” 199.

⁴⁷ Elkins and Hudson, “The Strange Case of the Package Deal: Amendments and Replacements in Constitutional Reform.”

⁴⁸ Brinks and Blass, *The DNA of Constitutional Justice in Latin America*, 5.

compounded by the conditions under which constitution-making typically unfolds. As Elster⁴⁹ notes, “constitution-making generally emerges in conditions that are likely to work against good constitution-making.” Tight deadlines, partisan competition, and elevated public expectations constrain deliberative capacity.⁵⁰

The driving factor across contexts is the “psycho-legal need”⁵¹ to resolve dissonance between the normative ideal of popular authorship and the reality of elite design. Drafters occupy a position needing validation. Their decisions must be framed as expressions of popular will rather than impositions of elite preference. Will-confirmation resolves this tension by closing two gaps: between referent and object, and between maker's preferences and the claim they advance. In drafters’ accounts, the object appears faithful to the referent, and the claim appears to follow from citizen input rather than elite preference. The gaps remain, but they are rendered invisible. This is the quiet power of consultation—not merely to perform legitimation to audiences, but to produce it in the very accounts elites give of their own practice.

4 Materials and Methods

4.1 Research questions

My analysis is guided by two research questions: (1) How do drafters account for the influence of public input on constitutional debates and decision-making? (2) How do they retrospectively make sense of the consultation process, and what lessons do they draw from it? These questions

⁴⁹ Elster, “Forces and Mechanisms in the Constitution-Making Process,” 394.

⁵⁰ Maija Setälä, “Connecting Deliberative Mini-Publics to Representative Decision Making,” *European Journal of Political Research* 56, no. 4 (2017): 846–63, <https://doi.org/10.1111/1475-6765.12207>; Hudson, *The Veil of Participation*.

⁵¹ Barbara Darby, “Amending Authors and Constitutional Discourse,” *Dalhousie Law Journal* 25, no. 2 (2002): 221.

operationalize the theoretical puzzle of will-confirmation for empirical inquiry. By asking how drafters account for public input and retrospectively evaluate consultation, I examine the interpretive frameworks through which they transform citizen voices into representative claims.

4.2 Data Collection

This study draws on 37 semi-structured interviews with individuals involved in the constitution-making processes of Chile and Cuba. My core sample consisted of constitutional drafters—members of Chile’s Constitutional Convention (2021–22) and Cuba’s Drafting Commission (2018–19)—who were directly responsible for evaluating and incorporating public input. To supplement these perspectives, I also interviewed technicians, academics, and deputies involved in the consultation process.

This study employs a “parallel demonstration of theory” approach,⁵² drawing on Chile and Cuba as contrasting cases of democratic and authoritarian constitution-making. Chile’s Convention operated amid elite fragmentation and public scrutiny; Cuba’s Drafting Commission functioned in a centralized, tightly controlled environment. Rather than testing causal claims across regime types, these divergent contexts enable theory-building by illuminating how will-confirmation operates under different institutional conditions.

[Insert Table 1 here]

⁵² Theda Skocpol and Margaret Somers, “The Uses of Comparative History in Macrosocial Inquiry,” *Comparative Studies in Society and History* 22, no. 2 (1980): 191, <https://doi.org/10.1017/S0010417500009282>.

Interviewees (see Table 1) were identified through purposive sampling, a strategy well-suited to elite populations,⁵³ and supplemented by snowball referrals.⁵⁴ I prioritized ideological variation in Chile and positional variation in Cuba. In Chile, interviewees spanned the Convention's electoral lists: six from *Apruebo Dignidad* (left-wing to far-left), seven from *Lista del Apruebo* (center-left), five from *Lista del Pueblo* (left-wing to far-left), four from *Vamos por Chile* (center-right to right-wing), three from *Independientes No Neutrales* (center-left), one unaffiliated independent, one indigenous representative, and three technical staff. While the sample captures voices from across the political spectrum, left-leaning lists are somewhat overrepresented. In Cuba, my sample includes two Drafting Commission members (both Central Committee members, one from the Politburo), two Working Group members (one from the constitutional process, one from the later Family Code consultation), one National Assembly deputy, and two University of Havana professors with direct knowledge of the consultation process.

The asymmetry in sample size reflects access constraints. As a U.S. researcher, securing interviews in Cuba required navigating significant bureaucratic and political obstacles (see Appendix). The 33-member Cuban Drafting Commission was also far smaller than Chile's 155-member Convention. Access came only through personal referrals after sustained trust-building

⁵³ Robert Mikecz, "Interviewing Elites: Addressing Methodological Issues," *Qualitative Inquiry* 18, no. 6 (2012): 482–93, <https://doi.org/10.1177/1077800412442818>; Oisín Tansey, "Process Tracing and Elite Interviewing: A Case for Non-Probability Sampling," *PS: Political Science & Politics* 40, no. 4 (2007): 765–72, <https://doi.org/10.1017/S1049096507071211>.

⁵⁴ Nissim Cohen and Tamar Arieli, "Field Research in Conflict Environments: Methodological Challenges and Snowball Sampling," *Journal of Peace Research* 48, no. 4 (2011): 423–35, <https://doi.org/10.1177/0022343311405698>; Lauren M. MacLean, "The Power of the Interviewer," in *Interview Research in Political Science*, ed. Layna Mosley (Cornell University Press, 2013).

during preliminary fieldwork in 2023; intermediaries later vouched for my discretion. Given the centralized nature of Cuban decision-making and my interviewees' seniority, their accounts likely reflect broader Commission consensus rather than idiosyncratic views. At the same time, Cuban elites operate under political and professional constraints, including expectations of loyalty to the revolutionary project, that shape what they can say, even confidentially. I treat their accounts not as unfiltered private beliefs but as discursive accounts consistent with regime expectations, which, for studying will-confirmation, is precisely the appropriate data.

Interviews averaged 56 minutes and were conducted between November 2024 and January 2025—most in person, with a smaller number over Zoom. Interviews took place five years after the conclusion of the Cuban process and two years after Chile's. This temporal distance introduces the possibility of recall bias and retrospective rationalization. However, for studying will-confirmation, retrospective accounts are an asset rather than a limitation. Because will-confirmation shapes how elites account for their choices, it is visible in retrospective as well as contemporaneous discourse. Indeed, it may be more visible when elites no longer face immediate strategic pressures.

Interviews followed a structured guide (see Appendix) organized around consultation design, interpretation of public input, and retrospective evaluations. In Chile, I asked openly about intra-elite dynamics and rhetorical strategies. In Cuba, where foreign researchers face greater scrutiny,⁵⁵ I framed questions more cautiously, emphasizing procedure and reflection

⁵⁵ Larry Hubbell, "False Starts, Suspicious Interviewees and Nearly Impossible Tasks: Some Reflections on the Difficulty of Conducting Field Research Abroad," *The Qualitative Report*, ahead of print, January 23, 2015, <https://doi.org/10.46743/2160-3715/2003.1887>; Raymond J. Michalowski, "Ethnography and Anxiety: Field Work and Reflexivity in the Vortex of U.S.-Cuban Relations," *Qualitative Sociology* 19, no. 1 (1996): 59–82, <https://doi.org/10.1007/BF02393248>.

over critique. Following a model of “rigorous subjectivity,”⁵⁶ I adopted a dialogic approach intended to reduce social distance and elicit candid responses.⁵⁷ All interviewees were assured anonymity and are referenced using gender-neutral pronouns and role-based identifiers.

4.3 Data Coding

Interviews were audio recorded and transcribed using WhisperX.⁵⁸ The final dataset consists of 510 single-spaced pages—425 from Chile and 85 from Cuba—analyzed using NVivo. I employed abductive flexible coding,⁵⁹ which differs from traditional grounded theory,⁶⁰ starting with provisional categories informed by theory then iteratively adjusting them through engagement with the data.⁶¹ My coding structure was guided by my two research questions, with

⁵⁶ MacLean, “The Power of the Interviewer.”

⁵⁷ Andrew Herod, “Reflections on Interviewing Foreign Elites: Praxis, Positionality, Validity, and the Cult of the Insider,” *Geoforum* 30 (1999): 313–27; Elizabeth Chacko, “Positionality and Praxis: Fieldwork Experiences in Rural India,” *Singapore Journal of Tropical Geography* 25, no. 1 (2004): 51–63, <https://doi.org/10.1111/j.0129-7619.2004.00172.x>.

⁵⁸ Max Bain et al., “WhisperX: Time-Accurate Speech Transcription of Long-Form Audio,” arXiv:2303.00747, preprint, arXiv, July 11, 2023, <http://arxiv.org/abs/2303.00747>; Alec Radford et al., “Robust Speech Recognition via Large-Scale Weak Supervision,” *Proceedings of the 40th International Conference on Machine Learning*, July 3, 2023, 28492–518, <https://proceedings.mlr.press/v202/radford23a.html>.

⁵⁹ Nicole M. Deterding and Mary C. Waters, “Flexible Coding of In-Depth Interviews: A Twenty-First-Century Approach,” *Sociological Methods & Research* 50, no. 2 (2021): 708–39, <https://doi.org/10.1177/0049124118799377>.

⁶⁰ Juliet Corbin and Anselm Strauss, *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*, 3rd ed. (SAGE Publications, Inc., 2008), <https://doi.org/10.4135/9781452230153>; Barney G. Glaser and Anselm L. Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research*, 1st ed. (Routledge, 2017), <https://doi.org/10.4324/9780203793206>.

⁶¹ Stefan Timmermans and Iddo Tavory, “Theory Construction in Qualitative Research: From Grounded Theory to Abductive Analysis,” *Sociological Theory* 30, no. 3 (2012): 167–86, <https://doi.org/10.1177/0735275112457914>.

a preliminary scheme rooted in the theoretical framework of will-confirmation. This scheme was constructed before formal coding began but treated as provisional, balancing theoretical grounding with empirical responsiveness.

[Insert Table 2 here]

Codes under the constructive mode capture instances where drafters synthesize ambiguous input into narratives of alignment; codes under the dismissive mode capture instances where drafters exclude contrary input as unrepresentative or procedurally suspect. Contextual codes capture broader patterns of retrospective sense-making. I began coding with constitutional drafters, then extended the analysis to technicians, academics, and deputies to identify overlap and divergence. Coding proceeded iteratively, with initial codes refined as patterns emerged. Where passages exhibited both modes, I double-coded to capture complexity. Given the semi-structured nature of the interviews, I prioritized identifying patterns across accounts rather than quantifying code frequency. Importantly, this study does not attempt to infer drafters' intentions or assess their sincerity. Instead, it focuses on how public input is accounted for and retrospectively framed, revealing the discursive patterns through which elites articulate alignment between citizen feedback and their own constitutional decisions.

5 Results

5.1 Chile

Chile's 2021–22 Constitutional Convention featured one of the most extensive participatory processes in modern constitution-making.⁶² Yet framing this as a triumph of participatory

⁶² Convención Constitucional de Chile, “Reglamento de Participación y Consulta Indígena,” December 1, 2021; Gonzalo Delamaza, *Por Un Chile Diferente: Participación Popular En El Proceso Constituyente (2019-2022)* (LOM Ediciones, 2024).

democracy overlooks how unevenly public input was interpreted within the Convention.⁶³ Consultation functioned as a site of will-confirmation, where delegates interpreted popular sentiment in ways that reinforced their existing positions.

While participatory roots extended to President Michelle Bachelet’s 2015–16 “pre-constituent” process,⁶⁴ it was the October 2019 *estallido social* (“social outburst”) that transformed participation into a political imperative. Despite broad endorsement of participation in principle, its implementation emerged in an ad hoc fashion. The Convention established various mechanisms, including public hearings, self-convened meetings, and territorial weeks.⁶⁵ Delegates grew divided—often along independent versus party lines—over whether mechanisms should be *vinculante* (“binding”) or merely *incidente* (“advisory”).

The most consequential mechanism—the *iniciativa popular de norma* (“popular norm initiative,” or IPN)—allowed citizens to submit proposals that, with sufficient signatures, were guaranteed discussion in the appropriate commission. Ten interviewees identified the IPN as the most important participatory tool, both symbolically and substantively. Of approximately 6,100 IPNs submitted, 78 reached deliberation, alongside over 1,700 public hearings.⁶⁶

⁶³ Martin, “Constitutional Cherry-Picking: How Drafters Leverage Public Input in Constitution-Making.”

⁶⁴ Claudia Heiss, “Legitimacy Crisis and the Constitutional Problem in Chile: A Legacy of Authoritarianism,” *Constellations* 24, no. 3 (2017): 470–79, <https://doi.org/10.1111/1467-8675.12309>; José Francisco García, “A Failed but Useful Constitution-Making Process: How Bachelet’s Process Contributed to Constitution-Making in Chile,” *Global Constitutionalism* 13, no. 1 (2024): 239–49, <https://doi.org/10.1017/S2045381723000254>.

⁶⁵ Delamaza, *Por Un Chile Diferente: Participación Popular En El Proceso Constituyente (2019-2022)*, 84–87.

⁶⁶ Delamaza, *Por Un Chile Diferente: Participación Popular En El Proceso Constituyente (2019-2022)*, 131–32.

Within thematic commissions, delegates faced both the practical challenge of volume and the interpretive challenge of navigating contradictory demands. Even in this pluralistic context, will-confirmation prevailed: citizen input was synthesized into narratives of alignment when it matched existing ideological frameworks and dismissed as unrepresentative when it conflicted.

5.1.1 Interpretation of public input

Members of the Constitutional Convention—particularly those from the newly elected, largely independent left-wing supermajority—often interpreted citizen input through the lens of their own convictions. Many interviewees described a widespread perception that the citizen discontent fueling the *estallido* aligned deeply with the supermajority’s “re-foundational” agenda.⁶⁷ Will-confirmation operated as an interpretive stance, treating resonance as proof of popular support while framing dissonance as peripheral or politically suspect.

Some delegates framed this alignment in representational terms, suggesting that proposals they supported were already embedded in their electoral platforms. As one prominent member of *Apruebo Dignidad* put it:

People say we did whatever we wanted inside the Convention... but you always have to remember—we were elected based on our platform. What we did was bring that into the Convention... We weren’t inventing anything. The assemblies had already sketched

⁶⁷ Javiera Barandiaran and Tristan Partridge, eds., *Demanding a Radical Constitution: Environmentalism, Resilience, and Participation in Chile’s 2022 Reform Efforts* (Springer Nature Switzerland, 2025), <https://doi.org/10.1007/978-3-031-75690-0>; Rocío Montes, “Fernando Atria: ‘Espero que el proceso constituyente chileno sea refundacional,’” *El País Chile*, July 4, 2022, <https://elpais.com/chile/2022-07-04/fernando-atrta-espero-que-el-proceso-constituyente-chileno-sea-refundacional.html>; Armin Von Bogdandy, “Chilean Insights for Progressive Constitutionalism,” *Zeitschrift Für Ausländisches Öffentliches Recht Und Völkerrecht / Heidelberg Journal of International Law* 83, no. 1 (2023): 1–10, <https://doi.org/10.17104/0044-2348-2023-1-1>.

out a framework, and we brought that in as a program... The Popular Initiatives were very similar to the programs the delegates brought. So most of the Popular Initiatives were rejected because they were already incorporated into Convention members' proposals. (CL_18)

This reflects the constructive mode: rejection is framed not as dismissal but as evidence of prior alignment. In this view, public input did not reshape deliberation so much as validate an agenda already embraced by the left-wing supermajority. This alignment was especially important given that 104 of 155 members (67%) were independents, making the core challenge less about ideological negotiation than translating shared values into a coherent text.

This sense of continuity was especially common among activist sectors, who saw themselves less as traditional representatives and more as instruments for implementing demands from the 2019 uprising. Indeed, many independents elected to the Convention emerged directly from movements that had mobilized during the *estallido*. One *Apruebo Dignidad* delegate was blunt: "We wanted to advance what the people wanted, whereas the right promoted what their sector wanted to preserve" (CL_06).

This created a feedback loop where external input often mirrored internal priorities. A *Lista del Apruebo* delegate described how "activists on the inside would overshadow what was coming from outside," (CL_25) articulating how alignment between drafters and citizen input was baked into the Convention. As actors who once led street-level mobilization took up institutional roles, the line between participation and representation blurred.

Yet some drafters later recognized that apparent consensus inside the Convention may have been an echo chamber. Reflecting back, another member of *Lista del Apruebo* offered this reassessment:

Now, the thing about the public hearings—I see it differently now. At the time, I didn’t realize it, but now I understand that those public hearings... the people who showed up were us. It was the same people who had voted in favor—those 76% who voted for a new constitution, for a constitutional assembly, etc. That’s who showed up. (CL_20)

A delegate from *Independientes No Neutrales* similarly described the difficulty of engaging participants beyond the “40% that had voted to elect us” (CL_05), referring to the turnout.

What emerged was a kind of ideological enclosure held together by shared affinities and reinforced through entangled networks of activism and representation. Will-confirmation thus operated as an interpretive habit: aligned input was treated as inherently representative, while dissonant views were framed as peripheral or unrepresentative.

If the constructive mode synthesized aligned input into narratives of popular support, the dismissive mode helped drafters manage the volume and heterogeneity of public input. Confronted with a deluge of citizen contributions, members relied on practical shortcuts to judge which voices were credible and which proposals worth pursuing. Even procedurally legitimate contributions often failed to register due to the Convention’s compressed timeline and fragmented structure. One *Lista del Apruebo* drafter acknowledged the gap between aspiration and impact:

In the end, I’m really proud of what we did, because we managed to innovate and roll out these mechanisms. But they were important in and of themselves—not necessarily because they had an impact. ... There was no opportunity for those mechanisms to actually influence anything. When would they have even read the report? I don’t think anyone read it—not because they weren’t interested, but because there wasn’t time. (CL_28)

Participation and drafting proceeded on parallel tracks, rather than in sustained dialogue. Of 1,719 public hearings, for example, only 1,180 were fully systematized before drafting concluded.⁶⁸ The Convention’s decentralized model meant some commissions had far greater capacity to engage with citizen input than others.⁶⁹

These procedural issues reinforced selective uptake, with drafters often using political alignment as a proxy for credibility. One commission secretary emphasized: “I’d say there were majority political considerations. Basically, they would take up the [proposals] they liked... But the rest? No. Zero criteria. Zero legal or democratic criteria. Zero. It was all about political convenience” (CL_17).

Nowhere was this filtering more visible than in responses to *Con Mi Plata No*, a popular initiative defending Chile’s privatized pension system that received the highest number of signatures (60,850). Despite this support, it was widely dismissed by the left-wing supermajority. One delegate from *Apruebo Dignidad* offered a stark rationale:

That *Con Mi Plata No* received that many votes, in my personal opinion, in no way obligated us—not legally, of course, but not even ethically or otherwise—to treat that as something binding or necessary to include in the constitutional proposal. What it showed is that there were 7,000 people or more, or 15,000, or however many, who thought it was an important idea. But in the end, when drafting a constitution, one has to consider many more elements—it wasn’t the only element to consider, it wasn’t binding on those of us drafting the text. (CL_01)

⁶⁸ Delamaza, *Por Un Chile Diferente: Participación Popular En El Proceso Constituyente (2019-2022)*, 131–32.

⁶⁹ Guillermo Larrain et al., “How Not to Write a Constitution: Lessons from Chile,” *Public Choice* 194, no. 3 (2023): 233–47, <https://doi.org/10.1007/s11127-023-01046-z>.

Another prominent *Apruebo Dignidad* member dismissed the initiative as irrelevant, framing public backing as both expected and immaterial:

There are 40,000 people in Chile who support a system of individual retirement accounts. Big news, huh? ... But why should the fact that I learn this in the Convention—something I already knew—that there are at least 40,000 people in Chile willing to make three clicks to defend the AFP system—why should that lead me to defend the AFP system? ... If the AFP association paid 40,000 people to do it, they absolutely could have. I have no idea. But the basic point is: why should I change my vote because of that? (CL_12)

Both passages capture the dismissive mode of will-confirmation. Neither drafter engages with the initiative's substance; instead, both construct rationales for its exclusion from the object of "what the people want." The former acknowledges the input as "an important idea" to some citizens but subordinates it to the drafter's broader judgment, treating it as one element among many and not binding on those drafting the text. The latter goes further, delegitimizing the input as procedurally suspect (possibly astroturfed) and therefore excludable from authentic popular will. In both accounts, the high signature count is treated as neither determinate nor evidence of popular support. Rather, it is framed as irrelevant to the drafter's representative authority.

Dismissal here is not the absence of interpretation but a form of it.

One opposition delegate from *Vamos por Chile* recalled how this pattern of dismissal affected multiple popular initiatives:

Popular initiatives... were debated for three minutes and then immediately rejected...
Con Mi Plata No, the preferential right of parents to educate their children, freedom of choice in health care or education... they were voted down without any real analysis.

What the people had to say didn't matter much to them, because they already had their own proposals—and they believed they represented the people. (CL_24)

For the left-wing supermajority, legitimacy flowed not from public input but from their own convictions and identity as representatives of popular will. Participation functioned less as an external check than as an internal resource for refining priorities, helping members recognize factional boundaries and move from ideological agreement to textual consensus, but rarely extending across partisan lines. One *Apruebo Dignidad* delegate summarized the dynamic:

[Public participation] helped build consensus and understand each sector's red lines. That was really useful. But when it came to actually developing the proposal... it was very difficult, because that's where all the nuances come in... It was more about balancing among objectives we were already putting on the table. (CL_09)

How elites respond to citizen input sends powerful signals about the fairness and credibility of the process.⁷⁰ When the dismissive pattern repeated across proposals and commissions, those signals reached first opposition colleagues, then the broader public—amplified through a media landscape dominated by right-leaning outlets.⁷¹

A clear example of public input shaping elite consensus was the right to housing initiative. As one delegate from *Independientes No Neutrales* noted (CL_05), its popular legitimacy helped resolve internal disagreements over scope and wording. However, as a delegate from *Lista del Pueblo* observed, this openness was selective: “I think a mistake was

⁷⁰ Ran Hirschl and Alexander Hudson, “A Fair Process Matters: The Relationship between Public Participation and Constitutional Legitimacy,” *Law & Social Inquiry*, January 12, 2024, 1–28, <https://doi.org/10.1017/lis.2023.82>.

⁷¹ María Elena Gronemeyer and William Porath, “Un Estudio de La Homogeneidad Entre Las Posturas Editoriales y de Las Fuentes Informativas En La Prensa de Referencia Chilena,” *Cuadernos.Info*, no. 36 (2015): 139–53, <https://doi.org/10.7764/cdi.36.567>.

made there... that logic, from my point of view, should have been applied to all the initiatives—not just the ones that came from our side” (CL_07). These reflections show how ideological alignment conditioned the impact of public input. Proposals like the housing norm helped the left-wing majority refine and legitimize goals they already supported. Meanwhile, opposition initiatives—no less procedurally valid—were denied comparable deliberation.

In contrast, the Convention’s right-wing minority—lacking veto power and marginalized within the Convention’s deliberative structures—saw citizen participation not as a tool for coordination, but as one of the few remaining paths to political recognition. While the left used public input to consolidate internal consensus, the right used participatory mechanisms to project their positions outward—what one delegate called “a path to present issues that we felt were popular among civil society” (CL_15). Another *Vamos por Chile* delegate described the approach more concretely:

I had proposals... that I submitted simultaneously through civil society organizations, as Popular Initiatives. I thought, well, maybe this way at least they’ll read it. Because anything I submitted inside was rejected in advance, even before its content was considered. So I used Popular Initiatives as a kind of shield. I told myself, well, if this has no chance inside, maybe dressed as a Popular Initiative it will be taken more seriously. (CL_26)

For these delegates, citizen participation became a representational proxy—an indirect method for advancing minority views in a process they could not otherwise influence. Yet this too involved will-confirmation. Opposition delegates consistently framed their selective engagement not as partisan maneuvering but as representing authentic popular sentiment—what one called “the common-sense sector” rather than “the center-right sector” (CL_24). Another characterized

non-aligned citizens who began attending assemblies as “ordinary citizens without a political agenda”—farmers, small miners, “common people” who felt threatened by the process (CL_27). By constructing their base as “common sense” (CL_26) rather than ideology, opposition delegates made the same interpretive move the left made from a position of power.

Will-confirmation and strategy operated in tandem: the same delegates who framed their engagement as “common sense” also consciously leveraged participatory mechanisms for political advantage and saw no contradiction between the two. The interpretive framing rendered strategic deployment legitimate in their own accounts. In Chile’s media landscape—marked by concentrated ownership and center-right editorial lines⁷²—signals of exclusion were amplified into a powerful narrative of procedural marginalization. One delegate made explicit how this unfolded:

All of these direct participation tools... were mechanisms that the left... thought would benefit them. And the opposition... saw an opportunity and tried to influence those spaces as much as possible. So, for example, during the public hearings, we would invite a ton of people to come. And when they weren’t allowed to speak, they’d go to the press and say, ‘They didn’t let us speak.’ That kept building the impression that they were only listening to those they wanted to hear. Later on, with the Popular Initiatives, we made sure to promote them and get people to sign. The opposition...

⁷² Jorge Bahamonde et al., “Power Structure in Chilean News Media,” *PLOS ONE* 13, no. 6 (2018): e0197150, <https://doi.org/10.1371/journal.pone.0197150>; Gronemeyer and Porath, “Un Estudio de La Homogeneidad Entre Las Posturas Editoriales y de Las Fuentes Informativas En La Prensa de Referencia Chilena”; Enrique Núñez-Mussa, *Chile: Crisis of Trust and a Precarious Industry* (Nordicom, University of Gothenburg, 2021), <https://doi.org/10.48335/9789188855428-3>; Magdalena Saldaña et al., “‘Your House Won’t Be Yours Anymore!’ Effects of Misinformation, News Use, and Media Trust on Chile’s Constitutional Referendum,” *The International Journal of Press/Politics*, December 4, 2024, 19401612241298853, <https://doi.org/10.1177/19401612241298853>.

took advantage of all this. And yes, we knew that this would feed into the rejection at the end (CL_27).

This quote reveals the strategic dimension of claim-making—the opposition consciously leveraged participatory mechanisms to reshape public perceptions. Yet in the delegate’s own account, this was not cynical manipulation but legitimate representation—giving voice to “common sense” against ideological excess. Will-confirmation is what bridges the gap: strategic selectivity becomes faithful representation in the maker’s account of their own practice.

The failure to meaningfully engage dissenting input did more than alienate political rivals; it created conditions for the opposition to contest the representative claims put forward by the supermajority, reshaping public perceptions of the entire process. Mechanisms intended to democratize constitution-making came to symbolize its closure. Public input shaped deliberations not through the direct translation of citizen preferences, but as an interpretive resource—filtered, framed, and selectively invoked across factions. The left used it to consolidate internal coherence; the right, to claim symbolic recognition. This asymmetrical politics of impact—underpinned by will-confirmation on both sides—ultimately undermined both the credibility of participation and the trust essential for cross-ideological consensus.

5.1.2 Retrospective assessments

Retrospective accounts reveal will-confirmation not as a hidden process but as one that became partially visible to Chilean drafters after the draft’s rejection in September 2022. While delegates reaffirmed the legitimacy of the participatory model, many acknowledged structural failures that enabled selective interpretation to go unchecked. Time constraints emerged as the most commonly cited limitation—across ideological lines, delegates identified the one-year drafting deadline as undermining both public engagement and cross-bloc dialogue. But for many, the

failure ran deeper than limited time to review proposals. One member of *Apruebo Dignidad* reflected, “We were in a kind of tunnel where we fed off each other, where we didn’t have organized outside groups monitoring what was happening” (CL_04). This insularity was the condition under which will-confirmation operated unchallenged.

Despite sustained interaction with civil society, the Convention often engaged the public on its own terms, treating participation less as a check on drafters’ assumptions than as a space to confirm them. This insularity extended beyond procedural pressures to the very structure of deliberation. A delegate from *Independientes No Neutrales* described the participatory mechanisms as sites of parallel monologues:

That was the most serious failure of the Convention. There was no dialogue—neither among the convention members, nor through citizen participation... But that could have meant that, after hearing from five people, the members of the commission would then discuss what we’d heard among ourselves, you know? But that didn’t happen.

Everyone listened—and then just went back to their own position. (CL_22)

Will-confirmation took hold in siloed form—drafters interpreted citizen input through partisan filters, rarely confronting competing interpretations. The result was a participatory process rich in symbolism but thin in cross-ideological traction, reinforcing fragmentation rather than bridging it.

This insularity rested on a foundational assumption: that the public was unified, politically awakened, and ready to co-author a new (progressive) constitutional order. Another *Independientes No Neutrales* delegate confronted this myth directly: “I don’t believe in this idea that Chile woke up... There were many who believed that the popular will was going to lead us to a better future” (CL_14). Input that conflicted with the supermajority’s agenda could be

dismissed not as legitimate dissent but as evidence that those citizens had not yet “woken up”—or worse, that they had been captured by elite interests, as mentioned above (CL_12). The myth thus undergirded both modes of will-confirmation. Consonant input confirmed the people’s will, while misaligned input confirmed only that some voices remained outside the authentic popular consensus.

For some, this reckoning extended to skepticism toward universal participation itself. As one *Lista del Apruebo* delegate acknowledged:

My original position was that everyone should participate. And of course, people now say to me, “Oh, now that you lost, you’re no longer interested in everyone voting.”

Yes, the truth is, I have my doubts about universal participation... My position today is that those who are interested should participate. When someone who isn’t interested is forced to vote, they often vote against everything—it’s a vote of resentment, a rejection of the process. It’s an uninformed vote. It has the same weight as the one next to it, but not the same substance. (CL_18).

These comments reveal a shift from democratic idealism to a more exclusionary logic that questions the value of universal participation in light of the supposed irrationality of voters. This represents will-confirmation in its boundary-setting—that is, dismissive—mode. When participation yields results that conflict with the drafter’s preferences, the scope of legitimate participation is revised rather than the drafter’s own assumptions. Dissonant voices are reframed as “uninformed” or driven by “resentment”—not as citizens with substantive disagreements but as participants whose input lacks “substance.” Put differently, the referent, upon which a representative claim is based, is narrowed so that the object can remain aligned with the maker’s commitments.

Right-wing opposition members recalibrated differently. Initially skeptical of consultation, some came to see it as politically consequential—if not for shaping the text, then for revealing the supermajority’s blind spots. One opposition delegate stressed that popular initiatives were the “main factor” that “determined the outcome of the plebiscite” (CL_24). Yet even this retrospective embrace came with caveats. Citizen input, they argued, was useful insofar as it remained subordinate to the authority of elected representatives. As one *Vamos por Chile* delegate put it:

I think the great lesson is that citizen participation is very valuable, but it has to be administered in the correct doses. An excess of citizen participation can paradoxically harm the process. If you’re going to elect convention members to write a constitution, then make sure citizen participation complements and legitimizes the work of those members—but doesn’t replace it, doesn’t compete with it. Because it can’t. (CL_15)

For the opposition, participation’s value lay not in shaping constitutional content but in exposing the supermajority’s interpretive closure—a tool for contesting representative claims rather than informing them.

Yet across the political spectrum, participation often functioned less as substantive influence than as expressive ritual. One commission secretary noted this quality:

What emerged was more of a space for catharsis... I think many of those associations or groups weren’t particularly interested in having their contributions translated into actual text. There was more of a need to be heard. Just being invited to the commission was enough. (CL_10)

This assessment characterizes consultation as performative yet politically necessary, creating a culture of expressive participation⁷³ where being heard was the end in itself. Many delegates' sense of legitimacy stemmed not from procedural deliberation or institutional authority but from identification with "the people" they believed themselves to embody.

Several interviewees acknowledged that participation often provided reinforcement rather than friction—a space for validation, not challenge. As one delegate from *La Lista del Pueblo* observed:

In the end, we're driven a lot by ego and by the need to reconfirm that what we're doing is right... What I gained when I went into spaces that weren't aligned with me was recognition, you know?... But in spaces I already knew, all I got was reconfirmation that I was great. So of course, if you're an artist, you're going to sing to the audience that wants to hear you—you're not going to go sing to people who don't.

(CL_29)

This quote captures the affective core of will-confirmation: the pursuit of resonance to reaffirm one's social identity and maintain narrative coherence. For many drafters, particularly those who came from social movements, civil society was already inside the Chilean Convention. They saw themselves as direct extensions of the movements they had once led, interpreting public input through the lens of shared identity and political mission. This fusion of activist and institutional roles collapsed the distance between maker and referent. If drafters claimed to speak as the people rather than *for* them, the object would appear to reflect authentic popular will rather than elite interpretation.

⁷³ Alan Hamlin and Colin Jennings, "Expressive Political Behaviour: Foundations, Scope and Implications," *British Journal of Political Science* 41, no. 3 (2011): 645–70, <https://doi.org/10.1017/S0007123411000020>.

Over time, however, some drafters came to question the assumptions underpinning the convergence of activist identity and institutional authority. In retrospect, a few recognized that the participatory process had drawn primarily from an ideologically committed base rather than a representative cross-section of Chilean society. One *Apruebo Dignidad* delegate captured this realization:

It was the super-convinced [who participated]... And in reality, we never saw that it was just a small group getting excited—while most of the country either didn't know, didn't understand, or had this vague idea in their heads of what the Convention was... I also had this idea that the more participation there was, the more people would feel ownership of the process... But that didn't happen. (CL_04)

This quote captures the central irony of Chile's participatory turn: more participation did not lead to broader legitimacy.⁷⁴ The belief that procedural inclusion would foster shared ownership gave way to the reality that consultation had become a closed loop, reinforcing the convictions of those already aligned with the process while failing to engage or persuade the broader public.

This realization led some drafters to reconsider not just the reach but the depth of participation. If participation simply reaffirmed the worldview of those in power, it ceased to function as a space for genuine deliberation. For one *Lista del Apruebo* member, the Convention's failure lay not in the volume of citizen input but in its selective processing:

Citizen participation has to be uncomfortable... if you have a Convention that's very feminist, you're also going to have public input that's anti-abortion... You have to find space for that. And we didn't do that either. So the issue wasn't really citizen

⁷⁴ Matthew Martin, "Consultation Without Consensus: Lessons from Chile's Constitutional Convention (2021-2022)," *Revista de Ciencia Política* 63, no. 2 (2025).

participation itself—it was how the political body processed it so that it could have real weight (CL_28).

Together, these reflections suggest that the real cost of will-confirmation was the expansion of blind spots. By treating public input as part of the performance rather than as signals from an audience, drafters overlooked early signs of disaffection. Participation became legible only when it aligned with the majority’s convictions, making it difficult to detect the fractures that would later prove fatal.

Chile’s will-confirmation thus manifested through parallel monologues, each faction convinced of its own representative truth. Unlike the more centralized Cuban case examined below, fragmentation was the condition rather than the obstacle. Drafters became self-styled embodiments of the people’s will—activists turned authors—less invested in processing dissent than in fulfilling a perceived mandate. When those monologues failed to converge, the project they sustained unraveled—not for lack of participation, but for lack of a shared grammar to make that participation matter.

5.2 Cuba

The *consulta popular* (“popular consultation”) held during Cuba’s 2018–19 constitution-making process was a tightly managed exercise.⁷⁵ To frame it as mere window dressing, however, would obscure the deeper functions of the process: to validate elite consensus and identify manageable

⁷⁵ Ngoc Son Bui, *Constitutional Change in the Contemporary Socialist World* (Oxford University Press, 2020); Armando Chaguaceda and Eloy Viera Cañive, “El destino de Sísifo. Régimen político y nueva Constitución en Cuba,” *Polis (Santiago)* 20, no. 58 (2021), <https://doi.org/10.32735/S0718-6568/2021-N58-1578>; Martin, “Constitutional Cherry-Picking: How Drafters Leverage Public Input in Constitution-Making”; Yanina Welp, “Deliberation in the Constitutional Reform Process: Cuba in Comparative Context,” in *Social Policies and Institutional Reform in Post-COVID Cuba*, ed. Bert Hoffmann (Verlag Barbara Budrich, 2021), <https://doi.org/10.3224/84742546>.

zones of dissensus. In this sense, the consultation operated as a vehicle for will-confirmation, reinforcing political priors under the guise of participatory responsiveness.

The groundwork for the consultation was laid years earlier, in 2013, when then-president Raúl Castro convened a group of Communist Party officials to explore the question of constitutional reform. One of my interviewees—a high-ranking Council of State official—acknowledged that “the process was closed, it was secret” (CU_03) in order to manage public expectations. This group identified sensitive issues and shaped how they would later be presented to the public. Although officially framed as a response to the socioeconomic reforms of the 2010s,⁷⁶ the most consequential decisions were made well before the public was consulted.

More than 133,000 meetings were held across the country, producing hundreds of thousands of comments. These were processed manually by a team of legal professionals affiliated with the Communist Party, who distilled them into 9,595 standardized proposals. Though presented as a technical exercise, this systematization filtered public input through a controlled interpretive apparatus while projecting an image of responsiveness.

5.2.1 Interpretation of public input

In Cuba’s constitutional reform process, will-confirmation operated through accounts of fundamental alignment between the ruling coalition’s goals and public preferences. The consultation functioned not merely as a channel for citizen input but as a stage where citizens could perform values already embedded in the draft. One Central Committee member explained that the process helped surface “possible points of conflict” within the party-state leadership that

⁷⁶ Carmelo Mesa-Lago and Jorge Pérez-López, *Cuba under Raul Castro: Assessing the Reforms* (Lynne Rienner Publishers, 2013); Helen Yaffe, *We Are Cuba!: How a Revolutionary People Have Survived in a Post-Soviet World* (Yale University Press, 2020).

could be safely opened to public discussion (CU_03). This selective resonance exemplifies the constructive mode whereby public input validated elite priorities.

Cuban drafters emphasized a structural symmetry between public and elite deliberation. In their accounts, public opinion served not as a challenge to regime authority but as evidence of ideological cohesion flowing from top to bottom. One Drafting Commission member put it this way:

The debates that were happening in the drafting commission were later also reflected in the [National] Assembly, among the people. In other words, everything was interconnected. (CU_01)

In a political system that privileges unity over contestation, the appearance of consensus between state and society is foundational. This framing positioned public consultation as confirmation that core constitutional debates had already occurred—quietly, internally, and on ideologically acceptable terms. A second Commission member described how issues raised by the public largely echoed elite deliberations:

So, I mean, those debates—those debates in society—were also reflected in the parliamentary debate and in the Commission’s debate, in many respects. Some of them were clarified... not just on the issue of marriage, exactly, on other topics as well. On the issues of age, term limits, the structure of provincial government, etc.—all of that. (CU_03)

Unlike in pluralistic systems, Cuba’s consultation did not function to absorb novel or oppositional demands. Instead, it broadcast internal deliberations outward, ensuring that resonance between public and elite discourse emerged from a managed process in which only ideologically compatible proposals filtered upward.

This framing of alignment appeared across interviews. One Cuban academic who observed the process closely characterized the relationship between leadership and public:

I believe the leadership understood—and even appreciated—the fact that there was a synergy between their intention to modify elements of the country’s design and the public’s interest in seeing those changes realized. That was the main point of articulation in terms of consensus. (CU_02)

For Cuban elites, consensus was not merely a communicative strategy but a pillar of regime stability. Consultation renewed the revolutionary project through managed mass engagement, confirming ideological boundaries rather than expanding them. Will-confirmation operated as the interpretive stance underwriting this renewal: alignment was treated as self-evident, consensus as a starting point rather than an outcome. One drafter framed the experience as nothing less than a “political process that helped strengthen the foundations of the Cuban Revolution” (CU_01).

While accounts of alignment affirmed drafters’ constitutional vision, institutional filtering shaped which inputs could be recognized as coherent. The consultation’s design performed this filtering in advance. The National Processing Team—approximately 100 prosecutors, judges, and legal experts handpicked by the Drafting Commission—reviewed tens of thousands of meeting minutes and condensed them into 9,595 standardized proposals, operating under the authority of the Center for Sociopolitical Opinion Studies within the Communist Party’s Central Committee.

These proposals then went to the working group responsible for recommending acceptance or rejection. Working group members articulated an interpretive process that prioritized coherence with guiding principles over frequency or popularity:

So, those thematic groups did the initial work. And then they would go to the executive group... like, okay, why are you proposing this? Because we had to go back again... to the Drafting Commission: why this yes, and why this no, and why this yes and this too—without any prejudice. And not based on numbers, because it could be that something... quantitatively has support, but that’s a mistake. There were some proposals that came from only a few people, but they made sense... [given] the logic of the project, the principles, with what was being drafted. (CU_03)

This logic of “fit” maintained the appearance of openness while constraining which inputs could shape the draft. The Drafting Commission claimed that 50.1% of standardized proposals were incorporated,⁷⁷ yet the Working Group evaluated proposals for ideological coherence rather than following fixed rules of aggregation. One member explained:

We had to analyze all the proposals, but for us, the fact that a proposal came from just one person was never a limitation—on the contrary. If it’s what that person was proposing, well, we considered that it had value. (CU_06)

The same filtering logic that allowed drafters to embrace ideologically aligned minority proposals also justified exclusion of popular but ideologically incompatible ones. As this working group member further elaborated: “what represents anti-rights or setbacks, you can’t accept... but I had to argue why [a certain proposal] was discriminatory. I have to justify everything, the positive and the negative” (CU_06). Even dismissal required justification within the ideological framework. The constructive and dismissive modes thus operated through the

⁷⁷ Granma, “A Text Enriched by the Contributions of the Cuban People,” *Granma* (Havana, Cuba), January 3, 2019, <https://en.granma.cu/cuba/2019-01-03/a-text-enriched-by-the-contributions-of-the-cuban-people>.

same interpretive apparatus; “fit” with the project’s logic determined which inputs could be recognized as legitimate and which were reframed as obstacles.

Proposals touching the symbolic foundations of the revolutionary state—particularly the Communist Party’s constitutional role—were met with resistance. Here the dismissive mode operated explicitly. When public input conflicted with regime ideology, it was suppressed. One academic observer recalled debates about the Party’s position:

For example, the draft of the constitution established a special position for the Communist Party within the country’s political structure... one that even seemed to place the Party above the Constitution itself. This sparked a strong debate... especially among segments of the population with greater political education and deeper engagement in these issues... Although this issue was raised in the National Assembly, it was ultimately not accepted by the official structure. In fact, key public defenders of the constitutional project... forcefully upheld the idea of the Party’s primacy. (CU_02)

This critique, raised by politically engaged segments like academics, was notably absent from official results, televised debates, and elite interviews. At most, one drafter acknowledged “objections to the Communist Party” (CU_03)—but only to demonstrate the consultation’s apparent openness, not to address the substance of the critique. Even dissent was reframed as evidence of legitimacy. All views were ostensibly heard while ideologically threatening input was excluded from decision-making.

Where elite consensus was less stable, however, public input found greater traction. The clearest example was Article 68 on same-sex marriage—what one drafter called the

consultation's "star paragraph" (CU_03). This provision attracted 24.96% of citizen opinions and organized opposition from evangelical churches.⁷⁸ Internal division on this issue was genuine.

One Drafting Commission member recalled that the topic "could put at risk even the vote" on the entire text (CU_01). Unlike the Party's constitutional role, same-sex marriage represented contested terrain within the regime itself, creating space for public input to shape outcomes.

Yet even here, influence was mediated by technocratic expertise. The decision to remove the provision and defer it to the Family Code was guided by legal professionals in the working group—30 members including eight from the Drafting Commission and 22 experts from various branches of law. These were not independent actors but ideologically aligned professionals with interpretive authority, selected through party-state channels. One working group member described their role:

[I was chosen] because the Drafting Commission requested that the working group include representation from civil society organizations... And one of the demands of [our 2017 congress] was precisely that jurists have greater participation in legislative processes... And starting in 2018, when the popular consultation process began... I was assigned the task of joining the group. (CU_06)

During exchanges between the working group and the Drafting Commission, "almost all" of their proposals on handling the same-sex marriage issue were accepted, forming the basis for "another important [consultation] process that we had in 2022, which was that of the Family

⁷⁸ Ed Augustin, "Cuba's Churches Reject Gay Marriage before Vote on New Constitution," World News, *The Guardian*, February 18, 2019, <https://www.theguardian.com/world/2019/feb/18/cubas-churches-reject-gay-marriage-before-vote-on-new-constitution>.

Code” (CU_06). These professionals interpreted public feedback for both ideological consistency and legal feasibility. Their authority stemmed not from distance from the regime but from proximity to it—and from their ability to translate societal friction into technically sound, politically palatable compromise.

Indeed, two Drafting Commission members described removing the same-sex marriage provision as a strategic response to preserve the broader legitimacy of the project. One explained:

We had to find a solution that could strike a balance for everyone, the most balanced solution possible—or the one with the least impact on the project. And the solution we arrived at was to move the subject to the new Family Code, which would also be approved through popular consultation and referendum, so that no one could say we imposed it through parliamentary means. (CU_03)

Some drafters openly recognized this move as strategically motivated. One Commission member recalled internal debate: “There were colleagues, I include myself among them, who supported that if the topic was removed and put in the [Family] Code, the Code should also be discussed and should be ratified. And there was a view that no, that codes generally are not submitted to popular consultation” (CU_01). Yet even those who recognized the strategic dimension did not frame it as cynical manipulation—deferral was justified as ensuring the issue would eventually receive its own popular mandate. Will-confirmation rendered strategic accommodation legitimate in drafters’ own accounts. Public input was thus most consequential not where the regime held firm ideological commitments, but where “there was not unanimity” among elites (CU_03). In these spaces of internal uncertainty, input could be strategically reframed rather than rejected outright, preserving the constitutional project without triggering open rupture.

In sum, Cuba's incorporation of legal experts functioned not as a concession to pluralism but as a mechanism substituting professional diversity for political dissent. Public impact was real—but aligned with elite priorities, constrained by institutional design, filtered through ideological interpretation, and mediated by regime-loyal experts. This strategic accommodation exemplifies will-confirmation in an authoritarian context. Public consultation provided a controlled mechanism through which drafters could selectively interpret, defer, or incorporate citizen input while maintaining the narrative of popular authorship. The result affirmed the ruling coalition's constitutional vision within ideological parameters that preserved the regime's foundational commitments. Unlike Chile's fragmented will-confirmation—where parallel monologues competed without shared grammar—Cuba's operated through centralized coherence, channeling input toward a singular object that the regime could claim as authentically popular.

5.2.2 Retrospective assessments

Whereas Chile's referendum defeat unsettled the alignment narrative, Cuba's resounding approval (86.85%) naturalized will-confirmation as credible representation. Success left little occasion to question whether consultation had functioned as a genuine check or as a managed performance of consensus. Retrospective accounts reinforced the legitimacy of both the process and outcome as an affirmation of revolutionary continuity.

Cuban interviewees notably avoided critiques of the process. When confronted with suggestions of muted public criticism, drafters emphasized participants' apparent freedom to express views without fear:

No one [was persecuted] because of their opinion—it would be contradictory... there were people who stood up and said whatever they wanted. No one was summoned or

called in to ask, ‘Why did you say this?’ No, everyone gave their opinion, even some that were contrary to the project and its concepts. ‘I don’t agree with the Party, I don’t agree with this.’ (CU_03)

This claim sits uneasily alongside several documented instances of arbitrary political arrests before and during the consultation.⁷⁹ Such realities were absent from drafters’ accounts, which systematically privileged incidents affirming revolutionary legitimacy while omitting those threatening it.

Instead of addressing controversy, drafters emphasized the consultation’s transformative power. A sense of triumphalism pervaded these accounts. One drafter characterized the process:

I believe it demonstrated the strength of a people as drafter [constituyente]... We couldn’t find examples in the world of an entire people becoming drafters. And I believe the way it was done showed that you’re not just writing a constitution, you’re doing something more transcendent than a constitution itself. You’re carrying out a political process of formation, of learning, of legal education for the population... so that people also feel like protagonists of the changes and main transformations of a country. (CU_01)

⁷⁹ Diario de Cuba, *El régimen prohíbe viajar a diez activistas, mientras presume de “debate constitucional,”* (Montevideo, Uruguay), September 17, 2018, https://diariodecuba.com/derechos-humanos/1537199307_41898.html; Yolanda Huerga, “UNPACU denuncia incremento en allanamientos y detenciones contra sus activistas,” *Martí Noticias*, June 10, 2018, <https://www.martinoticias.com/a/cuba-unpacu-denuncia-incremento-allanamientos-detenciones-contra-activistas/178689.html>; Martí Noticias, *Observatorio de Derechos Humanos constata aumento de la represión en Cuba*, September 2, 2018, <https://www.martinoticias.com/a/cuba-observatorio-derechos-humanos-constata-aumento-represion/208914.html>; Rafa Perez, “Arrestan a 15 opositores cubanos para impedir que participen en un taller sobre la nueva Constitución,” *CiberCuba*, September 16, 2018, <https://www.cibercuba.com/noticias/2018-09-16-u73624-e73624-s27061-arrestan-15-opositores-cubanos-impedir-participen-taller>.

This framing reveals Cuban drafters' ideological investment in the narrative of popular authorship. The empowerment described here is didactic: citizens were invited not to challenge the constitution but to be formed by it. Will-confirmation thus extended beyond filtering input to constructing meaning retrospectively—the consultation remembered as a moment where elite vision and popular participation fused into a narrative of unity and revolutionary continuity.

This perspective also shaped drafters' assessments of their own role in state-society exchange:

We did a lot of work... so that people could see that this didn't fall on deaf ears, that it was actually analyzed. That's why we had to say, 'Look, comrade, here's this, this, and this. Why did we choose this one? Because this one is coherent, because this one—exactly.' (CU_03)

The goal was not merely to register input but to explain which proposals were taken up and why. Drafters positioned themselves as both interpreters and instructors, responsible for distinguishing what was “coherent” within the constitutional framework. Public engagement was valued not for producing political alternatives but for allowing leadership to clarify and reaffirm the project's ideological contours. Will-confirmation operated here through retroactive legitimation, where responsiveness is apparently demonstrated through explanation rather than revision.

Yet the parameters of participation were never truly open. One law professor with direct access to decision-makers described the state-society exchange as “co-responsibility” between citizen and representative, but the relationship envisioned was not one of equal agency:

For many years we have understood the exercise of political rights as those convened by institutions... but we haven't understood as well that we ourselves can convene.

And people say, ‘But I’m saying this against the system.’ Gentlemen, in what country in the world is acting against the system legalized? Open your eyes! (CU_05)

The sharp distinction between legitimate critique and “acting against the system” captures a central tension. While interviewees remembered the consultation as a moment of political openness, citizens had been invited to participate only on terms set from above. The consultation widened expression but stopped short of empowering autonomous initiative—citizens could engage but not oppose, speak but not dissent. As in Chile, participation functioned, in part, as catharsis—a space for expression that affirmed the process without unsettling its foundations.

But the catharsis operated differently. Chilean drafters sought reassurance about their own representative identity; Cuban drafters sought to demonstrate responsiveness. In Chile, catharsis validated the maker’s fusion with the referent; in Cuba, it validated the regime’s claim to have faithfully channeled the referent into a coherent object.

Civil society actors, especially legal professionals, played a central role in this political socialization. Positioned between state and society, they served as intermediaries translating the revolutionary project into accessible terms and assessing which proposals could be assimilated without disrupting ideological foundations. One law professor explained it this way:

Those popular debates—if you’re on the ground and you listen to them—you can interact with them. They help you grow, without a doubt; they help you to support people, and they even allow you to see which ideas are prevailing the most, so that, from within the political dynamic, you can take the measures that are best. (CU_05)

Here, civil society functions not as a counterweight to state authority but as an instrument of its extension embedded in the political apparatus and mobilized to assess public sentiment, preserve

consensus, and guide citizens toward the “best” conclusions. Socialization became central to managing reform without disrupting continuity.

Interviewees framed the incorporation of such actors as a key lesson from the 2018 consultation, part of a broader emphasis on methodological refinement. Retrospective accounts focused on how the filtering process could be made more efficient, reaching more citizens, processing input faster, explaining outcomes more clearly. Legal professionals were systematically mobilized through professional networks: “The call went out through our municipal offices so we could go explain [the draft] in the communities” (CU_06). Academics first participated in specialized consultations, then later among the general population “not so much as moderators, but rather as specialists who could clarify doubts and explain certain legal concepts” (CU_04). These professionals functioned as institutional translators making the state’s vision intelligible while interpreting public input affirmatively. By the 2022 Family Code consultation, specialized consultations had become formalized. President Miguel Díaz-Canel captured the regime’s instrumental logic: “With the specialized consultations and with what people begin to say as they learn more, we are going to achieve a more robust and quicker consensus.”⁸⁰

The inclusion of civil society was frequently cited as evidence of democratic deepening, but functioned less as pluralism than as a mechanism for reproducing elite consensus through institutionally vetted voices. As one legal expert put it:

It’s been very positive—the inclusion of civil society’s perspective in this Drafting Commission, and in later ones as well. Not just in the consultation itself, which was

⁸⁰ Alina Perera Robbio, “Código de las Familias: da nuevos pasos un texto que es para todos,” *Granma* (Havana, Cuba), September 6, 2021, <https://www.granma.cu/cuba/2021-09-06/codigo-de-las-familias-da-nuevos-pasos-un-texto-que-es-para-todos>.

important, but also within the drafting commissions. That there be a diversity of perspectives. We're doing that... because that diversity is important... And I think it's also something that came through in the Constitution and that has since been carried forward into other legislative projects. (CU_06)

The “diversity” referenced here refers to professional affiliation and technical expertise—all from within the regime’s trusted orbit. Civil society actors acted as stewards of the revolutionary project, deployed to interpret, explain, and reinforce its terms. Their incorporation extended the regime’s representational reach without ceding interpretive control. By rendering public input legible, these actors allowed drafters to present themselves as constitutional co-authors with the people rather than gatekeepers above them. The result was a choreography of constitutional consensus, fusing ideological continuity with the symbolic weight of mass participation.

6 Discussion

The Chilean and Cuban constitution-making processes offer contrasting yet instructive models of how political elites interpret public input. In both cases, public consultation became a mechanism through which these actors reaffirmed their normative commitments and legitimated their constitutional visions. But Chile’s parallel monologues failed to generate a shared grammar for making participation matter—each faction convinced of its own representative truth, none capable of recognizing others’ claims. Cuba’s managed coherence foreclosed the possibility that participation might unsettle the regime’s foundational commitments, channeling input toward a singular object that leadership could claim as popular. Same mechanism, different configurations: Chile’s fragmented will-confirmation produced competing objects that could not converge; Cuba’s centralized will-confirmation produced a singular object that could not be contested.

In Chile, activist-drafters collapsed the distance between maker and referent, claiming to speak as the people rather than for them. The constructive mode validated this identity. Aligned input confirmed that drafters had faithfully channeled the demands of the 2019 uprising. The dismissive mode operated when participation yielded results that conflicted with the supermajority's preferences—the scope of legitimate participation was revised rather than the drafters' own assumptions. Each faction constructed its own object from the same referent, producing incompatible representative claims that could not be adjudicated without returning to the partisan conflicts consultation was meant to bypass.⁸¹

In Cuba, will-confirmation manifested through centralized coherence. Institutional filtering by regime-loyal intermediaries ensured resonance between public input and elite priorities. The constructive mode framed this alignment as discovery—drafters described a “synergy” between leadership intentions and public preferences as though it had emerged organically. The dismissive mode excluded ideologically threatening input from the object. Critiques of the Communist Party's constitutional role were acknowledged only to demonstrate the consultation's apparent openness, not to address their substance. Where elite consensus was unsettled—most notably on same-sex marriage—public input found genuine traction, shaping outcomes through strategic deferral rather than outright rejection.

Will-confirmation is not tied to regime type but to the representational voids that consultation is called upon to fill. A representational void exists when status attribution has conferred standing but ongoing substantive portrayal fails to produce legitimation—when traditional sources of representative authority are insufficient to legitimate the object and the

⁸¹ María Cristina Escudero, “Institutional Resistance: The Case of the Chilean Convention 2021–22,” *Global Constitutionalism* 13, no. 1 (2024): 199, <https://doi.org/10.1017/S2045381723000291>.

broader “regime of representation” it sustains.⁸² Historically, political parties performed this function but, in many countries, have grown hollow.⁸³ Constitutional scholars suggest that public consultation may substitute for representation⁸⁴ because “it travels well... and its ostensibly democratic pedigree is difficult to dispute.”⁸⁵ This study gives teeth to this argument by demonstrating how consultation operates as a compensatory device across democracies and autocracies.

Chile’s void emerged from fragmentation. No shared institutional framework existed for processing public input; each faction developed its own reading without mechanisms to adjudicate competing interpretations. Consultation exposed the void rather than substituting for elite consensus. Conversely, the Cuban Communist Party constructed an apparatus for channeling input to serve elite consensus, but that apparatus was designed to reproduce regime coherence rather than aggregate competing demands. Consultation obscured the void by lending democratic legitimacy to elite construction rather than substituting for ideological pluralism. In both cases, elites resorted to consultation in constitution-making to address structural representational deficits their political systems could not resolve by ordinary means.

The type of representational void—or more precisely, the form of interpretive control—shapes the configuration of will-confirmation, not its presence. Representative claims operate across democratic and nondemocratic contexts,⁸⁶ but what differs between the two is how

⁸² Saward, *The Representative Claim*, 122.

⁸³ Peter Mair, *Ruling the Void: The Hollowing of Western Democracy* (Verso, 2013).

⁸⁴ Jennifer Widner, “Constitution Writing and Conflict Resolution,” *The Round Table* 94, no. 381 (2005): 5, <https://doi.org/10.1080/00358530500243542>.

⁸⁵ Horowitz, *Constitutional Processes and Democratic Commitment*, 165.

⁸⁶ Saward, *The Representative Claim*, 103.

interpretive authority is distributed and whether characterizations are contestable. In fragmented systems like Chile, competing claims fail to check one another; in monopolized systems like Cuba, the checking function is suppressed altogether. Both conditions stymie meaningful “upward transmission of popular demands,”⁸⁷ allowing will-confirmation to operate in the shadow of the representational void.

These dynamics suggest that today’s global “crisis of representation”⁸⁸ is not confined to democracies. All regimes of representation, democratic and non-democratic, share a need for legitimation.⁸⁹ Consultation proliferates as the conventional infrastructure breaks down—whether party systems or charismatic leadership—offered as a remedy for constitutional claims to represent “the people” that no longer stick. Yet “the public, though they may be an audience, have never been the principal audience in the theatre of” what Barker⁹⁰ refers to as “the

⁸⁷ Adam Przeworski, “Authoritarianism, Authority, and Representation,” *Asian Survey* 60, no. 2 (2020): 359, <https://doi.org/10.1525/as.2020.60.2.347>.

⁸⁸ Nancy Bermeo, “On Democratic Backsliding,” *Journal of Democracy* 27, no. 1 (2016): 5–19, <https://doi.org/10.1353/jod.2016.0012>; Scott Mainwaring et al., eds., *The Crisis of Democratic Representation in the Andes*, 1st ed. (Stanford University Press, 2006), <https://doi.org/10.2307/j.ctvr0qsgk>; Mair, *Ruling the Void*; Peter M. Siavelis, “Crisis of Representation in Chile? The Institutional Connection,” *Journal of Politics in Latin America* 8, no. 3 (2016): 61–93, <https://doi.org/10.1177/1866802X1600800303>.

⁸⁹ Johannes Gerschewski, “The Three Pillars of Stability: Legitimation, Repression, and Co-Optation in Autocratic Regimes,” *Democratization* 20, no. 1 (2013): 13–38, <https://doi.org/10.1080/13510347.2013.738860>; Margaret Levi et al., “Conceptualizing Legitimacy, Measuring Legitimizing Beliefs,” *American Behavioral Scientist* 53, no. 3 (2009): 354–75, <https://doi.org/10.1177/0002764209338797>; Andrew J. Nathan, “The Puzzle of Authoritarian Legitimacy,” *Journal of Democracy* 31, no. 1 (2020): 158–68, <https://doi.org/10.1353/jod.2020.0013>; Christian von Soest and Julia Grauvogel, “Identity, Procedures and Performance: How Authoritarian Regimes Legitimize Their Rule,” *Contemporary Politics* 23, no. 3 (2017): 287–305, <https://doi.org/10.1080/13569775.2017.1304319>.

⁹⁰ Rodney Barker, *Legitimizing Identities: The Self-Presentations of Rulers and Subjects* (Cambridge University Press, 2001), 54, 45, Cambridge Core, <https://doi.org/10.1017/CBO9780511490163>.

legitimation of rulers, by rulers, for rulers.” Consultation may be staged for citizens, but will-confirmation reveals that it also serves an inward function. Someone must still construct the object from the referent, and will-confirmation describes how elites fill this gap in ways endogenous to their prior commitments, legitimating their authority to themselves as much as to the public they claim to represent.

These dynamics reveal a paradox at the very core of participatory constitution-making. Even as public consultation is thought to serve laudable goals such as constitutional ownership, legitimacy, and the quality of democracy itself,⁹¹ it may, under certain conditions, insulate elite interpretation more effectively than non-participatory processes precisely because of the appearance of evidence-based representation. The danger is not consultation per se but consultation without institutional mechanisms that make the interpretive work visible and, by extension, contestable by audiences. Will-confirmation cannot be eliminated—not because it is inherent to representation as such, but because it is structural to how large-scale representative institutions are currently arranged. Under conditions of interpretive discretion, power asymmetry, and underdetermined evidence, the cognitive and institutional incentives align toward confirmation. But it can (and should) be constrained.

Three institutional mechanisms can make visible elite interpretive work: sequencing (when consultation happens relative to drafting), aggregation (who processes input into

⁹¹ Chambers, “Democracy, Popular Sovereignty, and Constitutional Legitimacy”; Todd A. Eisenstadt et al., “When Talk Trumps Text: The Democratizing Effects of Deliberation during Constitution-Making, 1974–2011,” *American Political Science Review* 109, no. 3 (2015): 592–612, <https://doi.org/10.1017/S0003055415000222>; Todd A. Eisenstadt et al., *Constituents Before Assembly: Participation, Deliberation, and Representation in the Crafting of New Constitutions*, 1st ed. (Cambridge University Press, 2017), <https://doi.org/10.1017/9781316717080>; Hart, “Constitution Making and the Right to Take Part in a Public Affair”; Hirschl and Hudson, “A Fair Process Matters.”

actionable proposals), and authority (what binding force participation carries). I develop these mechanisms in detail elsewhere.⁹² Each creates a checkpoint where the gap between record and claim can be seen and challenged—making visible when input was solicited, how it was processed, and whether it was followed. These mechanisms do not close the gap between referent and object. Elites retain interpretive authority, and the tendency toward will-confirmation persists. But visibility decentralizes interpretation, creating multiple points where the construction of the object can be contested, exposing rather than obscuring the power asymmetries that the legal fiction of co-authorship conceals. Such contestability is a precondition for resisting the elite capture of participatory processes.⁹³

The present study suggests several avenues for future research. First, the framework should be extended to other participatory arenas where elites interpret contested input under high stakes, including mini-publics, climate assemblies, and truth commissions. If will-confirmation operates wherever interpretive authority meets underdetermined input, its reach should extend well beyond constitutional moments. Second, the visibility conditions proposed above require empirical testing. Do proper sequencing, independent aggregation, and defined authority actually constrain will-confirmation, or do they merely shift contestation to new terrain? Chile’s contrasting constitutional processes—the 2021-22 Convention and the 2023 Constitutional Council—offer a natural comparison. Third, how do citizens perceive elite interpretive patterns? When do they recognize that their input has been filtered through elite preferences, and how does

⁹² Martin, “Consultation Without Consensus: Lessons from Chile’s Constitutional Convention (2021-2022).”

⁹³ Samuel Ely Bagg, *The Dispersion of Power: A Critical Realist Theory of Democracy*, 1st ed. (Oxford University Press, 2024), <https://doi.org/10.1093/oso/9780192848826.001.0001>.

such recognition affect trust and political engagement?⁹⁴ Media control, in particular, mediates the strength of representative claims, including in the cases analyzed here.⁹⁵

Constitution-making elites are not conduits of constituent power but authors of representative claims, crafting narratives that cast their preferred outcomes as expressions of popular demand. Indeed, both Chile and Cuba provide further evidence that constituent power theory “can barely apply on its own terms to the realities of contemporary constitution-making.”⁹⁶ Left unchecked, will-confirmation renders construction invisible—elite authorship disguised as faithful transmission, the gap between referent and object hidden from view. Consultation does not dispel the “make-believe” of the representative claim⁹⁷ but provides the material from which elites improvise their script.

The fiction of popular authorship is central to constitution-making and unlikely to disappear. There is no doubt, moreover, “that the push for public participation, i.e., ‘bottom-up’

⁹⁴ Joseph Francesco Cozza, “Trust the Process: Citizen Participation and Procedural Legitimacy in Constitutional Change,” *Journal of Elections, Public Opinion and Parties*, October 29, 2024, 1–22, <https://doi.org/10.1080/17457289.2024.2421556>; Hirschl and Hudson, “A Fair Process Matters”; Tofigh Maboudi and Ghazal P. Nadi, “From Public Participation to Constitutional Legitimacy: Evidence from Tunisia,” *Political Research Quarterly* 75, no. 2 (2022): 441–57, <https://doi.org/10.1177/10659129211014279>.

⁹⁵ Dasniel Olivera Pérez and Mariana De Maio, “Cuban Media During the Presidency of Raúl Castro: A Multidimensional Approach to Understanding Patterns of Change and Continuity in Media Systems,” *The International Journal of Press/Politics* 28, no. 3 (2023): 493–515, <https://doi.org/10.1177/19401612211047188>; Saldaña et al., “‘Your House Won’t Be Yours Anymore!’ Effects of Misinformation, News Use, and Media Trust on Chile’s Constitutional Referendum.”

⁹⁶ Amal Sethi, “Looking beyond the Constituent Power Theory: The Theory of Equitable Elite Bargaining,” *Global Constitutionalism* 13, no. 1 (2024): 129, <https://doi.org/10.1017/S2045381723000096>.

⁹⁷ Edmund Sears Morgan, *Inventing the People: The Rise of Popular Sovereignty in England and America* (W. W. Norton, 1989).

influence is coming from above.”⁹⁸ Elites will continue to claim that constitutions reflect “the people’s will,” and citizens will continue to judge those claims against their experiences of participation. The question is whether the interpretive frame shifts—from confirmation to contestation, from resonance to recognition of difference. Public consultation cannot realize its democratic potential until the power to interpret is itself subject to democratic scrutiny. The answer to the representational void is not more elaborate participatory mechanisms but institutional arrangements that make visible, and therefore contestable, the construction of the people’s will from citizen voices. Otherwise, the fiction of popular authorship risks cementing itself as farce.

⁹⁸ Abrak Saati, “Public Participation and Grand Narratives of Constitutional Transitions: The Case of Fiji,” *Verfassung Und Recht in Übersee (WRÜ) / World Comparative Law, Grand Narratives of Constitutional Journeys and the Crisis of Democracy*, vol. 2, no. 58 (2025): 194.

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Location	Drafters	Technicians	Academics	Deputies	Total
Chile	27	3	0	0	30
Cuba	2	2	2	1	7
Total	29	5	2	1	37

Table 1: Interviewees Across Countries

Table 2: Coding Framework

Category	Description
Constructive Mode	
Framed Alignment	Descriptions of citizen input as confirming drafters' prior beliefs or decisions.
Attributed Impact	Statements about how public input shaped debates or constitutional provisions.
Retrospective Validation	Affirmations that consultation enhanced the legitimacy or moral authority of the process.
Dismissive Mode	
Selective Interpretation	Descriptions of simplifying, prioritizing, or selectively making sense of ambiguous or overwhelming input.
Boundary-Setting	Reflections on which voices or issues were treated as relevant to the constitutional process.
Critique of Consultation	Negative reflections on the consultation's fairness, structure, or political utility.
Contextual	
Affective Framing	Expressions of pride, reassurance, or validation derived from citizen input.
Lessons Learned	Evaluations of what worked, what did not, and what should be improved in future consultation.

Table 3: Interview Methods for Chile

Interviewee	Status	Source	Format	Length	Recording	Transcript
Convention Members						
Convention member 1	Conducted via Zoom 10/22/24	Sample frame	Semi-structured	47 mins	Video recording	Posted
Convention member 2	Conducted via Zoom 11/08/24	Sample frame	Semi-structured	55 mins	Video recording	Posted
Convention member 3	Conducted in person 11/08/24	Sample frame	Semi-structured	58 mins	Audio recording	Posted
Convention member 4	Conducted in person 11/11/24	Sample frame	Semi-structured	1 hr 20 mins	Audio recording	Posted
Convention member 5	Conducted via Zoom 11/11/24	Sample frame	Semi-structured	47 mins	Video recording	Posted
Convention member 6	Conducted in person 11/11/24	Sample frame	Semi-structured	55 mins	Audio recording	Posted
Convention member 7	Conducted in person 11/12/24	Sample frame	Semi-structured	1 hr 3 mins	Audio recording	Posted
Convention member 8	Conducted via Zoom 11/14/24	Sample frame	Semi-structured	52 mins	Video recording	Posted
Convention member 9	Conducted in person 11/14/24	Sample frame	Semi-structured	1 hr 5 mins	Audio recording	Posted

Convention member 10	Conducted in person 11/15/24	Sample frame	Semi-structured	50 mins	Audio recording	Posted
Convention member 11	Conducted in person 11/15/24	Sample frame	Semi-structured	35 mins	Audio recording	Posted
Convention member 12	Conducted in person 11/19/24	Sample frame	Semi-structured	35 mins	Audio recording	Posted
Convention member 13	Conducted via Zoom 11/19/24	Sample frame	Semi-structured	46 mins	Video recording	Posted
Convention member 14	Conducted via Zoom 11/19/24	Sample frame	Semi-structured	58 mins	Video recording	Posted
Convention member 15	Conducted via Zoom 11/20/24	Sample frame	Semi-structured	57 mins	Video recording	Posted
Convention member 16	Conducted in person 11/20/24	Sample frame	Semi-structured	29 mins	Audio recording	Posted
Convention member 17	Conducted via Zoom 11/21/24	Sample frame	Semi-structured	49 mins	Video recording	Posted
Convention member 18	Conducted in person 11/22/24	Sample frame	Semi-structured	1 hr	Audio recording	Posted
Convention member 19	Conducted in person 11/25/24	Sample frame	Semi-structured	53 mins	Audio recording	Posted
Convention member 20	Conducted via Zoom 11/27/24	Sample frame	Semi-structured	25 mins	Video recording	Posted

Convention member 21	Conducted via Zoom 11/27/24	Sample frame	Semi-structured	54 mins	Video recording	Posted
Convention member 22	Conducted via Zoom 11/30/24	Sample frame	Semi-structured	1 hr 40 mins	Video recording	Posted
Convention member 23	Conducted via Zoom 12/03/24	Sample frame	Semi-structured	1 hr 10 mins	Video recording	Posted
Convention member 24	Conducted via Zoom 12/05/24	Sample frame	Semi-structured	49 mins	Video recording	Posted
Convention member 25	Conducted via Zoom 12/05/24	Sample frame	Semi-structured	55 mins	Video recording	Posted
Convention member 26	Conducted via Zoom 12/10/24	Sample frame	Semi-structured	1 hr 10 mins	Video recording	Posted
Convention member 27	Conducted via Zoom 12/17/24	Sample frame	Semi-structured	1 hr 2 mins	Video recording	Posted
Convention member 28	Accepted 10/03/24; then no response	Sample frame				
Convention member 29	Accepted 10/17/24; then no response	Sample frame				
Convention member 30	Accepted 11/12/24; then no response	Sample frame				
Convention member 31	Accepted 12/13/24; then no response	Sample frame				

Convention member 32	Declined 10/12/24	Sample frame
Convention member 33	Declined 10/26/24	Sample frame
Convention member 34	Declined 11/08/24	Sample frame
Convention member 35	No response	Sample frame
Convention member 36	No response	Sample frame
Convention member 37	No response	Sample frame
Convention member 38	No response	Sample frame
Convention member 39	No response	Sample frame
Convention member 40	No response	Sample frame
Convention member 41	No response	Sample frame
Convention member 42	No response	Sample frame

Convention member 43	No response	Sample frame
Convention member 44	No response	Sample frame
Convention member 45	No response	Sample frame
Convention member 46	No response	Sample frame

Technicians

Secretary 1	Conducted in person 11/12/24	Referred by Convention Member 7	Open-ended	1 hr 3 mins	Audio recording	Posted
Secretary 2 and 3	Conducted via Zoom	Referred by Convention Member 7	Open-ended	42 mins	Video recording	Posted

30 interviews	13 in person, 17 via Zoom, 16 no response, 2 declined	27 sample frame, 2 additional	27 semi-structured, 2 open-ended	26 hours 24 minutes	13 audio recordings, 16 video recordings	29 transcripts
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Table 4: Interview Methods for Cuba

Interviewee	Status	Source	Format	Length	Recording	Transcript
Drafting Commission Members						
Drafting Commission Member 1	Conducted in person 01/14/2025	Sample frame	Semi-structured	1 hr 19 mins	Audio recording	Posted
Drafting Commission Member 2	Conducted in person 01/15/2025	Sample frame	Semi-structured	1 hr 11 mins	Audio recording	Posted
Drafting Commission Member 3	No response	Sample frame				
Academics						
Academic 1	Conducted in person 01/14/2025	Substitute in sample frame	Semi-structured	41 mins	Audio recording	Posted
Academic 2	Conducted in person 01/15/2025	Substitute in sample frame	Semi-structured	1 hr 6 mins	Audio recording	Posted
Academic 3	Conducted in person 01/16/2025	Substitute in sample frame	Semi-structured	1 hr 11 mins	Audio recording	Posted
Technicians						
Technician 1	Conducted in person 01/15/2025	Sample frame	Semi-structured	1 hr 11 mins	Audio recording	Posted

Technician 2	No response	Sample frame
Technician 3	No response	Sample frame

National Assembly Deputies

Deputy 1	Conducted via WhatsApp 01/08/25	Supplementary, referred by friend	Open-ended	45 mins	Concurrent notes	None
Deputy 2	No response	Supplementary				
Deputy 3	No response	Supplementary				

7 interviews	7 in person, 1 via WhatsApp, 4 no response	3 sample frame, 3 substitutes, 1 supplementary	6 semi-structured, 1 open-ended	7 hours 24 minutes	6 audio recordings	6 transcripts
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A Interview Methods Appendix

This appendix outlines my methodology and summarizes the data collected, covering sample selection, interview procedures, and data management.

A.1 Format of Interviews

For interviewees within my sample frame, I conducted semi-structured interviews divided into five general sections: (1) introduction; (2) creation of consultation mechanisms; (3) consideration of public input in negotiations; (4) use of public input in debates; and (5) conclusion. For supplementary interviewees, the structure served as a flexible guide rather than a strict framework, allowing for a more open-ended discussion. Interviews were initially expected to last 30–40 minutes, though in practice they averaged 56 minutes, with some running shorter and several extending well beyond that. Interviews were recorded using the RØDE Wireless PRO system for in-person conversations and Zoom’s built-in recorder for remote interviews.

In both Chile and Cuba, interviews followed this structure but were adapted to fit the political context. Given Cuba’s closed political system and the sensitivity of certain topics, questions on disagreement, critiques of the process, and strategic uses of public input were framed to avoid direct confrontation, instead emphasizing coordination, consensus, and practical application. In contrast, Chilean interviews incorporated more open-ended and direct questions, enabling explicit discussions of conflict and elite strategy. Below, I provide the full set of interview questions for both countries.

A.2 Interview questions for Chile

Introduction

1. Could you briefly introduce yourself? What is your name? What do you do?

2. What motivated you to participate in the Constitutional Convention?

Questions about Public Participation Mechanisms

1. How were the mechanisms for citizen participation in the Convention created?
 - a. What was the process for selecting and designing these mechanisms?
 - b. Was it more of a top-down or bottom-up decision?
2. Was there consensus among Convention members regarding the decisions made about these mechanisms?
 - a. If not, what were the main points of disagreement?
3. What was the public's opinion on the participation mechanisms that were implemented?

Questions about Incorporating Public Opinion in Debates and Negotiations

1. How were the results of public consultation (e.g., hearings, IPNs, etc.) introduced and discussed during the Constitutional Convention?
 - a. Did this occur in plenary sessions, commissions, or informal discussions?
2. Could you provide examples of how citizen input influenced debates or changed the course of certain proposals?
 - a. Were there specific topics where public opinion had a notable impact?
3. Was there a formal mechanism for evaluating public opinion, or was it up to each member's discretion to determine its relevance?
 - a. Were some voices given more weight than others?
4. Were there challenges in integrating public opinion into decision-making?
 - a. Did some members selectively use public opinion to support their positions?

Questions about the Use of Public Consultation as a Rhetorical Tool

1. How were the results of public consultation used to build consensus during negotiations?

- a. Were there specific examples where consultation results helped overcome major disagreements among Convention members?
2. Did you observe any members using public opinion as a rhetorical tool during negotiations?
 - a. For example, did anyone cite public support to promote or block certain provisions?
3. How did the use of public opinion vary among different factions or coalitions within the Convention?
 - a. Were some groups more inclined to reference public opinion than others?
4. In what ways did citizen contributions help legitimize controversial decisions during the process?

Conclusion

1. In your opinion, what were the most important lessons from the 2021-22 Convention regarding the incorporation of public opinion in constitution-making?
 - a. Is there anything you think would be done differently in a future process?
2. Do you believe the public consultation process met the expectations set at the beginning?

A.3 Interview questions for Cuba

Introduction

1. Could you briefly introduce yourself? How did you become a member of the Drafting Commission for the Constitution?
2. What specific role did you play within the Commission?

Questions on the Design of the Popular Consultation

1. From the Commission's perspective, how were the mechanisms for gathering public opinion designed?
2. In your opinion, what were the most important factors in organizing the popular consultation?
3. To what extent were previous experiences, such as the 1976 consultation, considered when designing the 2018 process?
4. Were there aspects of the consultation methodology that stood out for their value in the drafting process?

Questions on the Analysis Group

1. Could you describe the role of the Analysis Group in the evaluation process of the proposals generated by the National Processing Team?
2. What general principles guided the evaluation of proposals arising from the consultation process?

Questions on the Drafting Commission

1. How were the consultation results and the recommendations of the Analysis Group discussed within the Drafting Commission? What method was used?
2. Was there any topic or area where a strong consensus emerged in the proposals?
3. Do you recall any case where the proposals generated significant debate or discussion within the Commission?
4. Were there moments when public opinion stood out for its impact on the constitutional text?
5. What types of citizen interventions were most useful in enriching the debates?

Other Questions

1. How did the Commission and the Assembly coordinate to ensure that the priorities gathered in the consultation were reflected in the final text?
2. In your experience, how were different perspectives harmonized within the Commission and the National Assembly when interpreting public contributions?
3. In what ways did the popular consultation strengthen the legitimacy of the constitutional process?

Conclusion

1. In your opinion, what are the main lessons that could be drawn from the 2018 popular consultation for future constitution-making processes, both in Cuba and in other countries?
2. What aspects of the process do you think could be improved in the future?

A.4 Interview methods tables

[Insert Table 3 here]

[Insert Table 4 here]

A.5 Challenges and constraints

I faced several challenges and constraints during my fieldwork. These limitations are particularly evident in the discrepancy between the number of interviews conducted in Chile (30) and Cuba (7)—a reflection of differences in political openness, institutional accessibility, and researcher positionality in each setting. While my research design prioritized interviews with constitutional drafters in both countries, the feasibility of securing these interviews was shaped by factors beyond my control.

In Chile, the political environment and institutional transparency surrounding the Constitutional Convention facilitated relatively easier access to drafters. The Convention was a

highly publicized, participatory process, and many former delegates were active in academia, civil society, or public discourse both before and after the collapse of the 2022 constitutional draft. As a result, Chilean interviewees were generally receptive to discussing their experiences, and networking opportunities—particularly through academic and policy-oriented circles—allowed me to build connections quickly and efficiently. By contrast, Cuba’s constitution-making process was tightly controlled by the party-state, making access to members of the Drafting Commission significantly more challenging. Cuban officials and elites tend to be far more cautious about engaging with foreign researchers, particularly those affiliated with U.S. institutions.

To facilitate access, I conducted pre-dissertation fieldwork in both countries during July–August 2023, where I engaged with academics, journalists, and activists who helped embed me in relevant networks. Most interviews were arranged via informal channels like WhatsApp. It was only through personal referrals, trust-building, and careful framing of interview questions that I was able to secure access to two key members of the Drafting Commission.

During my first 10 days in Cuba, I pursued multiple avenues to connect with members of the Drafting Commission. Ultimately, it was only through a personal reference that I gained access to my first contact within the Commission. This interviewee, in turn, insisted that I speak with another Commission member due to their expertise on public consultation. Both of these interviewees were, and remain, members of the Central Committee of the Communist Party of Cuba, with one being a leading figure within the Drafting Commission. Given the highly centralized nature of decision-making in Cuba, it is likely that their perspectives reflect the broader consensus within the Commission. As a result, these interviews may have been sufficient to reach saturation. While additional interviews with other Drafting Commission members may

have introduced minor variations, the highly centralized nature of Cuban decision-making suggests that major divergences in perspective were unlikely. To my knowledge, I am the first foreign researcher to secure direct, on-the-record interviews with them.

Timing, however, was not on my side. I conducted my fieldwork during the final months of U.S. President Biden's administration, with foreign policy changes regarding Cuba on the horizon. While this did not present any risks to my research in Chile, concerns about possible changes to regulations regarding academic travel to Cuba influenced my research timeline. To ensure I completed my fieldwork before any policy shifts could complicate travel or research logistics, I concluded my trip shortly before the presidential transition. This constraint further underscores the importance of the interviews I was able to conduct, as future opportunities for similar fieldwork may be affected by shifting diplomatic relations. At the same time, it highlights the broader reality of conducting research in geopolitically sensitive contexts where access is shaped not only by domestic conditions but also by the foreign policy landscape of the researcher's home country.

The discrepancy in the number of interviews between Chile and Cuba is not merely a function of researcher effort but rather a reflection of structural barriers to elite access in an authoritarian setting. In Chile, the open political environment, decentralized institutions, and active participation of former drafters in public discourse created a research-friendly environment. In Cuba, however, state control, elite caution, and restricted institutional access significantly limited the number of interviewees I could recruit. While these constraints affected the scale of data collection, they also highlight an important methodological insight—conducting elite interviews in closed political systems requires not only patience and persistence but also a creative approach to trust-building and recruitment strategies.