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Participation and support for the constitution in Uganda

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ABSTRACT

A major challenge for transitioning states is to create a constituency of citizens to support and defend the new constitution. Participatory constitution-making is one of the most often recommended methods for enhancing constitutional legitimacy. This research tests the claim that public participation in the Ugandan constitution-making process built support for the 1995 constitution. Contrary to expectations, multivariate analysis of survey data demonstrates that citizens who were active in the process were no more supportive of the constitution than those who stayed at home. In-depth interviews reveal that local political leaders, not participation, caused citizens to view the constitution as legitimate or illegitimate. Constitutions are difficult for citizens to evaluate, so they rely on political elites for information and opinions. To predict whether participation will strengthen or weaken constitutional support, we must examine the messages that elites communicate to citizens about their participation, the process, and the resulting constitution.

INTRODUCTION

Transitioning states are faced with the difficult task of creating a constituency of citizens who will support and defend the new constitution once it is adopted. In the current wave of democratisation, several countries embarked on innovative constitution-making programmes designed to develop a supportive political culture, in addition to creating formal institutions. The Ugandan process provided for extensive involvement of the general public over an eight-year period. Eritrea, South Africa, Albania and Kenya followed with analogous participatory processes. At present, reformers are championing a participatory model of constitution-building

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for countries as diverse as Iraq, India and Nigeria. Though there is considerable interest in this model among policy-makers, we lack empirical evidence that participation does enhance legitimacy, especially at the individual level. This article tests the claim that public participation in the Ugandan constitution-making process built support for the new constitution.

Contrary to the optimistic predictions of most academics and activists, my evidence indicates that participation did not have a direct effect on constitutional legitimacy, though it did educate citizens about the constitution. Multivariate analysis of survey data shows that Ugandans who were active in the constitution-making process were no more supportive of the constitution after its adoption than were those who were not involved in its creation. Participation does not automatically confer constitutional legitimacy, as advocates have assumed.

What accounts for this unexpected and (for many) disappointing outcome? Drawing on quantitative and qualitative analysis, I argue that the political leaders in a given area, and not public participation, influenced whether citizens came to view the constitution as legitimate or illegitimate. The constitution-making process, and the constitution itself, were difficult for ordinary Ugandans to evaluate. Due to deliberate efforts by leaders to influence public opinion, and given the scarcity of alternative sources of information, both active and inactive citizens were highly influenced by elite rhetoric. In most areas of Uganda, elites communicated positive messages about the process and the constitution; but in some areas citizens learned from their local government leaders that the process was unfair, and therefore concluded that the resulting constitution was deeply flawed. Given some of the democratic shortcomings of the process and the constitution, the opposition leaders and their constituents had good reasons to withhold their support.

This research warns policy-makers about the difficulties of using participatory constitution-making to build constitutional legitimacy. In transitioning states, most citizens lack the information and skills to assess the fairness of the constitution-making process on their own, and so they turn to local leaders for guidance. As a result, elites mediate between participation and constitutional legitimacy. If elites are divided and debates are antagonistic, citizens are likely to develop polarised views of the process and the constitution. In a polity with a robust opposition and no consensus, participatory constitution-making may significantly reduce rather than enhance constitutional legitimacy.

This article proceeds as follows. The first section introduces the theoretical literature on constitutional development and participation. The

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second describes the Ugandan case and the quantitative and qualitative data used in this article. The statistical analysis in the third section reveals that, contrary to predictions, an individual's level of participation has little or no effect on his or her support for the constitution. The fourth and fifth sections explain why participation failed to deliver the expected legitimacy boost. Drawing on both quantitative and qualitative evidence, I show that elites conditioned how participants viewed the outcomes of their involvement. The sixth section examines those individuals who were left out of the previous analysis because they failed to offer opinions about the constitution. While participation did not have a direct influence, it did expand constitutional support indirectly by enhancing constitutional knowledge. Participation can teach citizens about the constitution, even if it does not guarantee popular support. The final section reviews how participation did and did not influence support for the constitution, and recounts the main lessons from this research.

PARTICIPATORY CONSTITUTION-MAKING: PANACEA OR POISON?

In recent decades, constitutional reform has reached unprecedented levels. Over half of the national constitutions in existence today have been changed or created anew since the end of the 1970s (Hart 2003: 2).[1] From 1990 to 2000 alone, 17 African states, more than 14 Latin American states, and nearly all of the post-communist states in central Europe and the former Soviet Union drastically altered their constitutions or wrote new ones (van Cott 2000). Authoritarian rulers in Africa, Central Asia and the Middle East are facing serious challenges, so constitution-building activities are likely to continue in the foreseeable future. The current explosion of constitution-making activity is spurring a re-evaluation of the best practices for constitutional reform. Many scholars and practitioners are actively championing the participatory constitution-making model as the best way to achieve a culture of democratic constitutionalism. Against this clamour of support, a much quieter but historically stronger voice questions the desirability of extensive participatory processes, favouring instead elite-negotiated settlements.

The evolution of constitution-making

Constitutional development has traditionally been considered an elite affair that should be kept separate from everyday democratic politics. Until recently, constitution-making was restricted to politicians, legal experts and constitutional scholars. Direct involvement of the general

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public was considered unnecessary and even dangerous. A constitution was judged democratic according to the nature of its provisions, not by how it was created (Hart 2003).

This traditional model of constitution-making was called into question when liberal democratic constitutions adopted during the second wave of democratisation failed to engender liberal democratic governance. Leaders often disregarded constitutional limits on their power, and citizens seldom looked to constitutions for guidance or protection (Ghai 1996; Okoth-Ogendo 1991). The renewed attention to constitutionalism in the third wave has therefore been concerned not only with creating new institutions and rules, but also with developing supportive values (Oloka-Onyango & Ihonvbere 1999; Shivji 1991; Weingast 1997). Academics, activists and policy-makers concerned with fostering constitutionalism are focusing less on the content of constitutions and more on the process of constitution-making. They assert that the nature of the constitution-making process has important implications for creating a democratic political culture as well as for the provisions and power arrangements embodied in the final document (Gloppen 1997; Hart 2003; Howard 1993; Hyden & Venter 2001; Klug 1996; Lal 1997; Selassie 1998; USIP 2005; Waliggo 1995; Widner 2005).

Scholars and practitioners in search of a new model that would build legitimacy and create more durable institutions focused their attention on public participation. The initial cases of participatory constitution-making, devised by innovative reformers in Uganda and elsewhere, led to a new understanding of constitution-making and a global change in policy practices (USIP 2005: 7):

> Clearly, there is an emerging trend toward providing for more direct and far-reaching popular participation in the constitution-making process, not only through the election of a constituent assembly or voting in a referendum on the proposed constitutional text, but also in the form of civic education and popular consultation in the development of the constitution. Some scholars refer to this as 'new constitutionalism'. Aspects of this approach have been employed around the world in recent years, including in Europe, Africa, Latin America, and Asia.

Participatory programmes vary in the activities employed, the scope of public inclusion, the perceived legitimacy of the process and the ultimate impact on the system, but they share the common characteristic of soliciting active citizen participation rather than relying on appointed representatives or expert deliberations.[2]

Today reformers actively champion participatory programmes for countries undergoing transition (CFCR 1999; CHRI 1999; Daruwala 2001; Hatchard 2001; Hyden & Venter 2001; Kuria 1996; Majome

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1999; Wapakhabulo 2001). Some even argue that public participation is essential in modern-day constitution-making, and that 'constitutions produced without transparency and adequate public participation will lack legitimacy' (Benomar 2004: 89; see also Hart 2003; Mattei 1999; Oloka-Onyango & Ihonvbere 1999; van Cott 2000). Faith in the new participatory model is so strong that mass participation is encouraged even where conditions seem prohibitive, as in Iraq (Arato 2004; Benomar 2004; Diamond 2005; USIP 2005). Article 60 of the Law of Administration for the State of Iraq for the Transitional Period (TAL) specifies that the Iraqi National Assembly should broaden its constitution-making activities 'by encouraging debate on the constitution through regular general public meetings in all parts of Iraq and through the media, and receiving proposals from the citizens of Iraq' (quoted in USIP 2005: 3). Scholars and policy-makers advocate extending the public education and consultation phase to allow for more 'robust public participation' than just the election and referendum (USIP 2005: 10, 13; see also Diamond 2005). In short, participatory constitution-making has become the favoured solution for building constitutional legitimacy in the most challenging cases of democratisation.

Arguments for and against participatory constitution-making

The arguments in favour of participatory constitution-making derive from participatory theory. This rich scholarly tradition asserts that the primary function of participation is to develop the democratic characteristics of the participant, including support for the political system. Classical scholars of democracy, such as Rousseau (1968), Tocqueville (1945) and Mill (1948), and more recent participatory theorists, such as Barber (1984) and Pateman (1970), assert that participation increases knowledge of the system, produces a psychological attachment to the community and its institutions, inculcates a sense of duty to abide by the rules, and fosters dedication to the well-being of the organism. According to participatory theory, engaging in political activity directly affects the attitudes of the participants, irrespective of any effect on policy. Therefore, the participants alone experience the full development of civic attitudes and behaviours. In this sense, participants should be more supportive of the system than are non-participants.

The new constitution-making model, however, also has staunch critics who counter that the substantial resources devoted to participatory activities are unwarranted, ineffective and even counterproductive. The critics argue that the lengthy period required to foster mass participation

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prolongs the phase of transitional rule, distracts attention from other important democratisation and development issues, and legitimises the entrenchment of the regime overseeing the process. Some contend that constitutions created by multiple agents are prone to be cumbersome and inconsistent (Riker 1995; Rosenn 1990).[3] Others claim that political leaders have a hard time making concessions and striking political bargains when negotiations are open to public scrutiny (Gloppen 1997: 256).

Most importantly for this research, some critics assert that participatory constitution-making is likely to foster conflict, polarise public attitudes and diminish constitutional support – in part because the stakes are extraordinarily high and the mechanisms for mediating conflict and protecting minorities are not yet in place. Arato (2004) notes that 'populist democratic constitution-making' alarms some groups 'because populist democracy entails unbound assembly (representing the "constituent power"), restrained by no prior rules, nor by any separation of powers'. Furthermore, some argue that ordinary people have little understanding of constitutional issues and can easily be frustrated or manipulated by leaders. Finally, other critics fear that by bringing constitutional issues into the public realm to be debated and fought over, the constitution will lose its force as a higher and immutable law that must be respected regardless of personal preferences (for a detailed review see Hart 2003). Therefore, the critics predict that participants will be less supportive of the constitution than are non-participants.

Undeniably, the participatory model of constitution-making requires more time and resources than do traditional models, which are usually limited to parliamentary debate, a national conference or closed-door expert deliberations. However, it remains an empirical question whether the benefits touted by supporters of participation actually exist, or whether the critics' warnings are warranted (Widner 2005: 506–7). What is the effect of participatory constitution-making on the attitudes of the active public? Does participation cause citizens to support their new constitution, or does it leave them feeling confused, antagonistic, and divided?

THE UGANDAN CASE AND THE DATA

I seek to answer these questions by examining the individual-level effects of participation in the Ugandan constitution-making process. To date, empirical investigations of constitution-making have concentrated on the national level of analysis. I take a different approach by comparing individuals within a single country. Since the primary rationale for the participatory model is its long-term effect on political culture, an analysis

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of how participation influences the attitudes of individual citizens is needed. My research explores whether Ugandans who got involved in the constitution-making process are more or less supportive of the constitution than are those who stayed away. This section describes the research setting, the Ugandan constitution-making process, and the data used to analyse the effects of participation on constitutional support.

The Ugandan case

Uganda has historically been plagued by widespread instability, sectarian politics, gross human-rights abuses, coups, rebel activity, corruption and economic decline.[4] Since its independence in 1962, nine different governments have come to power through extra-legal means. Between 1964 and 1985 more than one million Ugandans were killed in politically motivated violence, and hundreds of thousands were forced to flee their homes. Prior to the 1995 constitution, Uganda had three others, which were abrogated, ignored or suspended with impunity by Uganda's leaders. This turbulent, undemocratic and violent past left the population with little or no knowledge of or attachment to democratic constitutional principles (HRW 1999; Kasozi 1999: 59).

On taking power in 1986, Museveni's National Resistance Movement (NRM) government had only a narrow base of support. Uganda's formal structures of governance had withered away, and the new government's sole claims to legitimacy were its promises to restore democracy, rule of law and economic growth (HRW 1999; Kasozi 1999: 59). In 1988, the NRM government established a 21-member Ugandan Constitutional Commission (UCC). From February 1989 to December 1992, the UCC (1) held 86 district seminars; (2) attended educational forums in all 870 sub-counties; (3) returned to each sub-county to collect oral testimony and written memoranda; (4) analysed 25,547 memoranda; (5) officiated over a student essay contest; (6) organised regular media discussions; and (7) prepared a draft constitution.[5] The second stage of the process began with nationwide campaigns for a Constituent Assembly (CA). After the CA election and 16 months of intense debate, a final constitution was promulgated on 22 September 1995, almost ten years after the NRM had taken power.

The Ugandan constitution-making process received widespread praise from both the international community and Ugandans themselves (CHRI 1999; Furley & Katalikawe 1997; Hansen & Twaddle 1995; Hyden & Venter 2001; Makara & Tukahebwa 1996; Oloka-Onyango & Tindifa 1991; Regan 1995; Waliggo 1995; see also interviews with Matembe,

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Nekyon and Odoki). Indications are that most Ugandans think the methodology employed was in the interest of society as a whole, and that it was conducted in a free and fair manner (Moehler forthcoming). At a minimum, the process generated excitement and interest among citizens eager to have their views heard. In Uganda a higher percentage of individuals participated in a larger variety of activities over a longer period of time than in any other participatory constitution-making process worldwide.[6]

Although many Ugandans were pleased, some argue that the process was tainted, illegitimate and unfair.[7] They assert that (1) opposition strongholds in northern Uganda did not have equal access to the process due to continuing civil war and instability; (2) the president appointed only commissioners who would support his positions; (3) the UCC's reliance on local council officials and biased questions in distributed materials produced submissions favouring the NRM; (4) the CA campaigns and elections were unfair; (5) the president unduly influenced the CA debates; (6) the uneducated and terrorised public was easily manipulated by the government; and perhaps most critically, (7) the NRM government stifled competition throughout the process by banning party activity. Opposition forces and democracy advocates also note that the resulting constitution is undemocratic because it prohibits parties from sponsoring candidates and organising at the local level (Barya 1993; Furley & Katalikawe 1997; Mujaju 1999; Oloka-Onyango 2000; and also interviews with Besigye, Ogwal and Ssemogerere). Furthermore, civil and political liberties deteriorated rather than improved after the adoption of the 1995 constitution (Tripp 2005). Certainly the process and the political aftermath favoured the NRM government, although Ugandans dispute the size of the inequities and whether incumbent advantages were the result of deliberate manipulation or not.[8] I emphasise that I do not think that those leaders and citizens who support the constitution are better democrats. Indeed, democrats had good reason to withhold their support, given the restrictions on political and civil freedoms described above.

Uganda's tumultuous past and current controversies make it an appropriate case for testing the effects of participatory constitution-making. Constitution-making is likely to be politically charged in any location; the constitution stipulates the rules of the political game and affects how power will be distributed for a long time to come. The quality of participation in constitution-making is likely to be imperfect in transitioning polities without a democratic past. It is precisely in these types of polities that participatory constitution-making is most often recommended to build constitutional legitimacy.[9] The relevant empirical question is

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not whether an ideal programme in a consolidated democracy builds legitimacy but, rather, whether participatory constitution-making holds promise for transitioning states that lack a democratic culture. Despite some serious democratic shortcomings in the Ugandan programme and its aftermath, the majority of citizens hold positive opinions of the process and the constitution. But why do some Ugandans support the constitution while others are dissatisfied? Given real-world limitations, does participation help or hinder the development of constitutional legitimacy?

The quantitative and qualitative data

From January to April 2001, I conducted a survey of 820 Ugandan citizens, randomly sampled from the adult citizen population according to a multistage, regionally stratified design.[10] The survey included questions to operationalise the key concepts (participation and constitutional support), and to measure demographic characteristics, socio-economic status, ethnic and religious background, attitudes, behaviour and residential location.[11] I accompanied the survey teams in the field and conducted 81 open-ended interviews with citizens and local leaders living in the areas where the survey was conducted. Respondents for the in-depth interviews included (1) citizens randomly sampled within a given location – though not in proportion to the population in that area; (2) local leaders who were likely to know about constitution-making activities in the area; (3) individuals whose names were chosen from lists of participants;[12] and (4) elite activists and academics. Unlike the survey sample, the interview sample is not representative of the general population. However, the interview transcripts contain richer descriptions of the respondents' attitudes and the influences on those attitudes than do the surveys. The interviews were conducted from a list of questions; follow-up questions were asked, and question ordering was altered depending on the responses. The analysis in the next sections relies primarily on the survey data, while the second half of the article draws more heavily on the qualitative analysis of the interviews.

TEST OF PARTICIPATION AND CONSTITUTIONAL SUPPORT

In this section I test the hypothesis that *the higher an individual's level of participation, ceteris paribus, the more supportive s/he is of the constitution*. The ideal research design for testing the effects of participation would be to measure the qualities and attitudes of an individual before and again after the treatment of participation was introduced. Such a panel study was not

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possible, given the long period over which the participatory constitution-making process took place. Instead, I rely on cross-sectional data –information gathered only after the participation has taken place. Thus, I have chosen to compare citizens who reported having participated with those who did not – or more accurately, to compare individuals with different levels of involvement. In doing so it is necessary to control for factors that might obscure the relationship between participation and attitudes.[13] I estimate the statistical models using an ordered probit or ordinary least squares (OLS) procedure where appropriate.[14]

Measuring support for the constitution

Support for the constitution is multidimensional, so I employed four different questions to measure whether the respondent felt the constitution (1) includes their views; (2) represents the national political community as a whole; (3) is worthy of compliance; and (4) should be preserved. The four questions address different aspects of support, but I initially expected them to be correlated and to be similarly affected by participation. Figure 1 shows the distribution of responses by category for each of the four measures. The figure represents only those individuals who were willing and able to answer the questions about the constitution.[15]

The first measure is termed *Individual Inclusion*, because it represents a respondent's perception of whether his or her own views were incorporated. The question asked: 'Are your views included in the current constitution of Uganda? Would you say: "all of your views", "most of your views", "some of your views", or "none at all"?' The variable ranges from zero (none) to one (all), and the mean value is 0·42, which indicates that the average person believed at least some of their ideas were included.[16]

The second measure of support is called *National Aspiration*. The interviewer asked respondents to agree or disagree with the following statement: 'Our constitution expresses the values and aspirations of the Ugandan people.' After respondents answered, they were asked if they agreed (or disagreed) 'strongly' or 'just somewhat'.[17] This variable also ranges from zero (strongly disagree) to one (strongly agree).[18] The mean for national aspiration is 0·77, indicating that the average respondent felt the constitution represents the Ugandan people.[19]

Compliance is the third measure of constitutional support. It was designed to measure whether citizens view the constitution as worthy of their compliance. Again, the interviewer asked respondents to agree or disagree with a statement: 'People should abide by what was written in the

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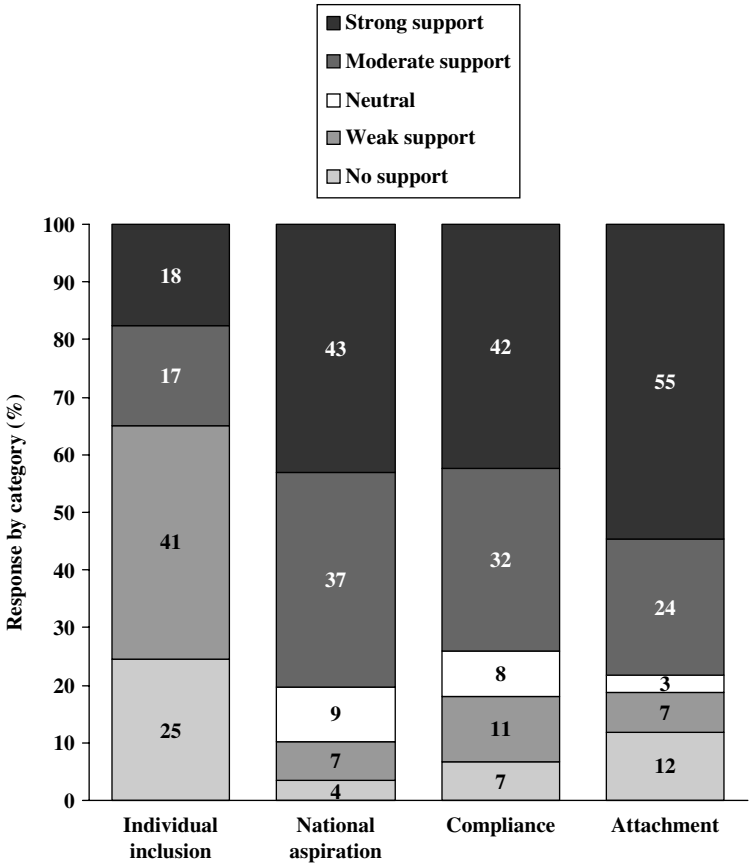


FIGURE 1
Four measures of support for the constitution in Uganda.

constitution whether they agree with what was written or not.' A question about intensity of views followed. The variable ranges from zero (strongly disagree) to one (strongly agree) and the mean is 0·73: the average Ugandan believes that people should comply with the constitution.

The last measure is titled *Attachment*, because it measures the respondent's connection to the current constitution. Respondents were asked whether they agreed most with statement A or statement B. The interviewer read statement A: 'Our present constitution should be able to deal with problems inherited from the past', followed by statement B: 'Our constitution hinders development so we should abandon it completely and design another.' After expressing a preference for A or B, respondents replied whether they agreed 'strongly' or 'just somewhat'

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with their chosen statement. Attachment ranges from zero (strongly agree with statement B) to one (strongly agree with statement A). The variable has five possible values, with a mean of 0·74 indicating general attachment to the current constitution.

Last, I add up those four measures of support for the constitution to create an index variable, the *Constitutional Support Index*,[20] that captures all the different aspects of constitutional support or legitimacy. The variable ranges from zero to four, with higher values indicating more support for the constitution. The mean is 2·73.

Overall, most Ugandans expressed support for the constitution: 75% felt at least some of their views were included;[21] 80% agreed with the statement about national aspirations; 74% agreed with the statement signifying compliance; and 78% agreed with the statement indicating attachment to the constitution.

Measuring participation

The key independent variable of interest is the respondents' reported participation in the constitution-making process. I use two different measures of participation to check that the findings are not subject to the question format. The primary measure of participation, the *Participation Activities Index*, is an index variable created from the sum of six separate questions. Each question asks whether the respondent participated in a specific constitution-making activity: (1) attended a seminar where a member of the UCC was present; (2) submitted a memorandum to the UCC; (3) attended a meeting where people discussed questions on the constitution; (4) attended a CA candidates' meeting (campaign rally); (5) voted for a CA delegate; and (6) obtained information about debates in the CA.[22] The average citizen participated in one and a half activities; 35% of the sample participated in no activities; and 13% participated in three or more activities.

The alternative measure of participation, *Respondent-Identified Participation*, comes from a different question asked toward the beginning of the survey: 'Between 1988 and 1995, how did you participate in the constitution-making process?' Up to three activities mentioned by the respondent were recorded as open-ended answers and then post-coded. The variable ranges from zero, meaning no reported participation, to three, meaning three participatory acts reported (mean = 0·36, standard deviation = 0·60). Because this alternative measure relied on respondent recall, the reported participation is even lower than the main measure.[23] I expect the bias of the participation activities index to be less pronounced,

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so I report the findings using this measure and note where the results of the two measures diverge.[24]

Control variables and the full model

The model includes a number of control variables thought to influence support for the constitution and to be correlated with participation. There are three demographic variables commonly associated with political attitudes: *Gender* (coded one for men and zero for women), *Urban Residence* and *Age*. The model also includes two measures of socio-economic status. I expected high status individuals to be more supportive of the constitution, since they are comparatively better off under the current rules than are those who are low status. Socio-economic status is measured with a dummy variable for *Primary School Completed*,[25] and a measure of *Wealth* based on a weighted scale of the number of durable consumer goods owned by the respondent's household.

There are also a series of variables to control for exposure to the political process, since some individuals probably heard cues about the legitimacy of the constitution from sources other than the constitution-making process. Included in this category are variables measuring the degree to which respondents *Follow Public Affairs* and their *Exposure to News on the Radio, in Newspapers, and in Meetings*. There is also a measure of *Mobility*, since individuals who are mobile were expected to encounter a wider variety of opinions. Individuals were also exposed to talk about the constitution in associations and in local government, so the model controls for *Associational Affiliation*, *Local Council Position*, and *Closeness to Higher Officials*.

Next, the model incorporates variables that measure support for the current government and satisfaction with government performance. I surmised that those who support the current leadership were also likely to feel positively about the constitution that was created and adopted during the tenure of the regime. Thus, the model includes *Support for the National Resistance Movement* (*NRM*), the name of the leadership since 1986. I also predicted that individuals who feel their circumstances are better now than before might attribute their improved fortunes to the constitution. The *Improved Living Conditions* measure comes from a question that asked respondents to express their level of satisfaction with their current living conditions, as compared with their living conditions five years earlier (which was prior to the implementation of the new constitution).[26]

Finally, the equation contains dummy variables for four of the thirteen randomly sampled districts where the survey was conducted. The

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inclusion of these district variables was motivated by systematic qualitative analysis of the in-depth interviews. In reading through the responses to questions about the constitution, I noticed that negative attitudes about the constitution were highly concentrated in certain locations. Whereas the overwhelming majority of respondents (both participants and non-participants) in most locations gave positive assessments of the constitution, the overwhelming majority of respondents in these four districts were decidedly negative. As I will explain later, these areas include the constituencies of some of the government's fiercest opponents in parliament. I include the four dummy variables (*Mpigi District, Luwero District, Nakasongola District* and *Lira District*), to test the hypothesis that context has a large influence on support for the constitution, as well as to control for the possible confounding effect of district on the relationship between participation and constitutional support.[27]

Results on participation and constitutional support

Table 1 presents the ordered probit estimates for the equations predicting the four individual variables, as well as the OLS estimates for the equation predicting the constitutional support index.[28] The top row of results shows the effect of participation on constitutional support. Overall, the evidence indicates that participation has only a very weak and uneven effect on constitutional support. The ordered probit estimates for participation are positive and statistically significant in the equations predicting only two of the four measures. The analysis indicates that citizens who participated were more likely to agree that (1) their views had been included, and (2) people should abide by the constitution. However, in the equation predicting national aspiration, the ordered probit estimate for participation is negative, though indistinguishable from zero. Likewise, in the equation predicting attachment, the coefficient is positive, but also statistically insignificant. Citizens who participated were *not* more likely to agree that (1) the constitution represents the Ugandan people, or that (2) the current constitution is acceptable or should be replaced.

In the equation predicting the constitutional support index, the OLS estimate for participation is positive but only marginally significant.[29] The substantive influence of participation on constitutional support is quite low. Going from no participation to full participation increases an individual's constitutional support index score by 0·30 units, or 7% of the total index.[30]

There are reasons to think that the two measures not related to participation (national aspiration and attachment) are better measures

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of constitutional legitimacy than are those that are significantly related to participation (individual inclusion and compliance). Individuals may think that their views are included but still fail to view the institution as legitimate, and vice versa. Citizens may also be motivated to comply with an institution that they do not deem legitimate. In a study of citizen attitudes about the South African Constitutional Court, Gibson and Caldeira (2003: 23) found that: 'Acquiescence does not necessarily mean legitimacy … Many are willing to accept a Court decision irrespective of how much legitimacy they ascribe to the institution.' They theorise that compliance can be motivated by habit, coercion and cost-benefit calculations in addition to, or instead of, legitimacy. The framing of the question in terms of what people 'should do' rather than what the respondent 'would do' suggests an answer based on legitimacy, but we cannot be certain.

In conclusion, the relationship between participation and support for the constitution is weak, inconsistent, fragile and often indistinguishable from zero. Therefore, I take the more conservative interpretation of this statistical analysis: *As the level of participation increases, Ugandans are* not *significantly more supportive of their constitution.* The analysis in this section contradicts an important prediction from participatory theory and challenges the claims of those from Uganda and elsewhere who argue that participatory constitution-making directly builds constitutional support.

ALTERNATIVE INFLUENCES ON SUPPORT

If participation is not a good predictor of constitutional support at the individual level, what is? The statistical results provide some answers to this question. First, the variable measuring the extent to which individuals follow public affairs has a consistent and significant positive effect. *Citizens who reported following public affairs were significantly more supportive of the constitution across all the measures of support.* It is unclear how to interpret this finding. It is possible that these individuals are more supportive because they are exposed to government pronouncements about the value of the constitution.[31] Additionally, the variable might be another indicator of support for the system. Given leaders' rhetorical emphasis on public involvement in politics since the NRM came to power, individuals who support the system will feel it is socially desirable to report that they follow public affairs.

Second, the two measures of support for the government are positive in all the equations and statistically significant in three of the four equations

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TABLE 1

Ordered probit and OLS estimates predicting support for the constitution

Variables	**Individual inclusion** ordered probit	**National aspiration** ordered probit	**Compliance** ordered probit	**Attachment** ordered probit	**Constitution support index** ols regression
Participation activities index	**0·13*****	**−0·03**	**0·08***	**0·02**	**0·05**#
	(0·04)	(0·04)	(0·04)	(0·04)	(0·03)
Demographics and socio-economic status					
Male	**−0·04**	**0·00**	**0·04**	**−0·02**	**−0·07**
	(0·11)	(0·11)	(0·10)	(0·10)	(0·08)
Urban residence	**0·01**	**0·21**	**0·21**	**0·27**	**0·18**
	(0·17)	(0·18)	(0·17)	(0·17)	(0·13)
Age	**0·00**	**−0·00**	**0·00**	**0·00**	**0·00**
	(0·00)	(0·00)	(0·00)	(0·00)	(0·00)
Primary school completed	**0·05**	**0·01**	**0·17**	**−0·17**	**0·01**
	(0·12)	(0·12)	(0·12)	(0·12)	(0·09)
Wealth in consumer goods	**−0·06***	**0·03**	**0·04**	**0·04**	**0·02**
	(0·02)	(0·03)	(0·03)	(0·03)	(0·02)
Political exposure					
Follow public affairs	**0·18***	**0·39*****	**0·17****	**0·25*****	**0·25*****
	(0·08)	(0·07)	(0·06)	(0·06)	(0·05)
Exposure to news on radio	**0·03**	**−0·01**	**−0·04**	**−0·00**	**−0·01**
	(0·04)	(0·03)	(0·03)	(0·03)	(0·02)
Exposure to newspapers	**0·01**	**−0·12****	**−0·06**	**−0·07***	**−0·06**#
	(0·04)	(0·04)	(0·04)	(0·04)	(0·03)
Exposure to news meetings	**0·02**	**0·06**	**−0·03**	**0·05**	**0·04**
	(0·06)	(0·06)	(0·05)	(0·05)	(0·04)

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Mobility	**−0·04**	**−0·05**	**−0·00**	**−0·11***	**−0·06***
	(0·04)	(0·04)	(0·04)	(0·04)	(0·03)
Associational affiliations	**0·04****	**−0·01**	**−0·04***	**0·03**	**0·01**
	(0·02)	(0·02)	(0·02)	(0·02)	(0·01)
Local council position	**−0·13****	**0·06**	**0·05**	**0·07**	**−0·02**
	(0·05)	(0·06)	(0·05)	(0·06)	(0·04)
Closeness to higher official	**0·07**	**0·28***	**0·41*****	**0·08**	**0·20****
	(0·11)	(0·12)	(0·11)	(0·12)	(0·08)
Support for current leadership					
Support NRM	**0·36*****	**0·20***	**0·07**	**0·43*****	**0·29*****
	(0·10)	(0·10)	(0·09)	(0·10)	(0·07)
Improved living conditions	**0·02**	**0·08***	**0·07***	**0·10*****	**0·07****
	(0·04)	(0·04)	(0·03)	(0·04)	(0·02)
District of residence					
Mpigi	**−0·68*****	**−0·55*****	**−0·18**	**−0·33***	**−0·38*****
	(0·15)	(0·13)	(0·13)	(0·13)	(0·10)
Luwero	**−0·70*****	**−0·45****	**−0·38***	**−0·34***	**−0·39****
	(0·20)	(0·16)	(0·15)	(0·17)	(0·13)
Nakasongola	**−0·61***	**−0·42***	**−0·12**	**−0·57*****	**−0·31***
	(0·29)	(0·18)	(0·14)	(0·18)	(0·14)
Lira	**−0·34***	**−0·18**	**−0·92*****	**−0·30**[#]	**−0·47*****
	(0·14)	(0·17)	(0·14)	(0·17)	(0·13)
Constant					**1·61****
					(0·23)
N	526	607	669	667	458
R^2					0·25

[#] p < 0·10, * p < 0·05, ** p < 0·01, *** p < 0·001.
Source: author's dataset.

predicting single-question measures. They are also positive and statistically significant in the equation predicting the index variable. *Individuals who support the current leadership, the NRM, and who feel that their living conditions have improved while the regime has been in power, are supportive of the constitution created under that regime.* This is an important finding. It means that initial support for the leadership and feelings of well-being translate into support for the constitution. It can also mean that citizens who oppose the current leaders, or who feel their conditions are deteriorating, are more likely to reject the constitution, regardless of whether they participated in its creation. Ugandans often have a hard time distinguishing between the influence of the current government, the existing movement regime, and the constitution – which is not surprising given that they all came into being under Museveni's reign.

Third, my conjecture from the qualitative analysis – that the level of support for the constitution is associated with where the respondent resides – also receives strong support in the statistical analysis. Citizens who live in the four districts identified from the qualitative analysis are significantly less supportive of the constitution than are individuals who live in the other seven districts. *Location of residence is a strong predictor of constitutional support.*

What is it about district of residence that influences constitutional support? Are there individual-level characteristics that district residents share but that are missing from the model? Is there something about the geographical context itself that changes attitudes, above and beyond the influence of individual traits? In the next section, when I discuss the data from in-depth interviews, I will present evidence that elite opinions are responsible for the district effect. For the moment I limit myself to talking about what is *not* responsible for the district effect.

Ethnicity is the most likely individual-level trait to be responsible for the district effect, since ethnicity is regionally concentrated and politically relevant. There is some indication that the Baganda are less supportive of the constitution and the Banyankole are more supportive, but not significantly or uniformly so.[32] Adding dummy variables for the five ethnic groups significantly represented in my sample does not systematically alter the results for the district dummy variables.[33] Thus the district effect does not seem to be a proxy for the ethnicity of individuals. This does not mean that ethnicity had no effect on regional distributions of support, only that it does not manifest itself at the individual level. As I argue later, elite rhetoric influenced citizen attitudes about the constitution, and ethnicity almost certainly played a role in determining how the elites viewed the constitution and the strategies they employed to mobilise

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supporters. Many of the contentious constitutional issues (federalism, traditional leaders, land ownership and restrictions on political parties) had an ethnic dimension because of Uganda's political history. So while ethnicity shaped the characteristics and appeals of the local political elites, it did not distinguish between individuals within a given location. For example, leaders in Mpigi District tended to favour federalism, the preference of the Buganda Kingdom, but both Baganda (the majority) and non-Baganda living in Mpigi held equally negative attitudes about the constitution.

Religion is another plausible explanation, though it is not as regionally concentrated in Uganda as is ethnicity. Using the same tests with religious dummy variables produced no significant changes. Thus, religion is also not responsible for the district effect. Nor is the distance from regional headquarters or the road conditions leading to the respondent's house. Those variables are insignificant when included and do not alter the effect of district variables. Other possible suspects such as wealth, education and urbanisation are already included in the model as controls.

In sum, the statistical results indicate that participation had only a weak and uneven influence on constitutional support. Citizens' attention to public affairs, satisfaction with their current government and living conditions, and location of residence had more consistent and significant effects on support for the constitution than did participation.

LOCATION OF RESIDENCE AND ELITE INFLUENCES

The quantitative analysis alone does not provide an adequate explanation for why district of residence, and not participation, influenced constitutional support. Therefore, I supplement the quantitative analysis of survey data with qualitative analysis of in-depth interviews. The qualitative analysis indicates that the views of political leaders active in a given area shaped citizen evaluations of both the constitution-making process and the constitution. Citizens lacked skills and information to evaluate the constitution on their own, so they turned to local elites for cues. Additionally, political leaders had an interest in persuading citizens to adopt their views, and a number of leaders felt excluded and alienated. Where leaders supported the constitution, they imparted positive messages to the citizens about the process and constitution; but where they were antagonistic, citizens learned that the process was unfair and the constitution flawed. The 'location of residence' variable is thus a proxy for elite spheres of influence.

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Limited sources of information

Most Ugandans had limited access to information about the constitution-making process and the constitution itself. Few had access to official documents like the constitution, draft constitution, reports of the UCC and educational materials on the constitution. The reach of private media and non-governmental organisations (NGOs) was also limited at that time. Furthermore, interpreting the legitimacy of a constitution is difficult for individuals anywhere in the world, and especially so for Ugandans who had no prior experience of constitutional rule. Participants eager for information, but without multiple sources, relied on experts to inform them about what happened to their contributions to the UCC, their votes for the CA, and their elected representatives. Likewise, non-participants, to the extent that they know anything about the constitution, usually know only what their leaders told them.

The survey data provide many clues about the lack of citizen knowledge of the constitution and the difficulty citizens had in evaluating its contents. Only 19% of survey respondents said that they had seen the constitution, and only 11% had read some part of it. In a question that asks the respondents to agree or disagree with the statement 'The constitution is too complicated for most people to understand', 54% agreed and 14% did not know – leaving 32% who felt that most people could understand the constitution. Only some survey respondents were willing and able to provide responses to the four questions measuring support for the constitution.[34] At a more basic level, 67% could provide an appropriate response to a question that asked: 'In your opinion, what is the purpose of the constitution?'[35] While knowledge of the constitution may be higher in Uganda than in other transitioning countries, the survey data show just how difficult it is for ordinary people to evaluate their constitution.

In the in-depth interviews, respondents frequently talked about how they lacked adequate information on the constitution. For example, a local council chairman from Iganga (2001 int.) expressed strong support for the constitution-making process and the constitution, but admitted that most people in his village had trouble contributing views and evaluating the impact of their participation on the constitution:

> From the current situation it seems to be the right constitution. According to me I think that in most places they [the government officials conducting the constitution-making activities] tried [to collect views] but you never know about other places. At the constitution-making time there was not enough information for people to give views. The government tried to teach us, but if there are many people then only a few can understand. We need representatives to come to each parish and teach us. People want to know what is going on in government.

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In the open-ended interviews many respondents remarked that they lacked the experience and knowledge to know which issues are constitutional issues, and which are outside the constitutional domain.

Most citizens also found it difficult to evaluate the fairness of the constitution-making process. Participants had their own experiences as a reference, but many were uncomfortable generalising from their personal experiences to the country as a whole. For example, in response to my question about whether the CA elections were free and fair, most responded that they were free and fair at their voting location, but qualified their answer by saying that they did not know about conditions at other places except what they were told by leaders.

In addition, many respondents said that they could not track the outcome of their efforts. For example, a 50-year-old man in Iganga district (2001 int.) said: 'I haven't had enough chance to get information on the constitution so I don't know if they [*his* views] are there. The MPs should come back and tell us.' From my archival research I found that the UCC meticulously documented the submissions they received and how they developed the draft constitution. However, most Ugandans never had access to these materials. Only 2 of 81 in-depth interview respondents said that they had read at least some part of the Commission's draft constitution or reports containing statistics and commentary about the memoranda. Respondents often complained that they did not have a chance to read the constitution (either because they could not get a copy or because the only available copy was in English), so they could not judge the final outcome for themselves.

Local leaders, information and opinions

Where did Ugandans get information about the process and the constitution, then, if not from the official documents? Survey respondents who had heard about the constitution indicated that they heard about it from radio (88%),[36] government officials (67%), friends and family (65%) and local council meetings (63%). Civic educators, religious leaders, posters, pamphlets, television and newspapers ranked far lower as sources of information.

During the interviews, respondents reported that their CA delegates and MPs (often the same individual) were the preferred sources of information because they had the greatest knowledge. It is telling that several of the clusters of negative evaluations of the constitution in my data were from regions where the CA delegates were strongly opposed to the regime. For example, the CA delegate for some of my respondents in Mpigi

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District was Paul Ssemogerere, former president of the Democratic Party (DP) and the main opposition candidate in the 1996 presidential election. The CA delegate from Lira Town was Celia Ogwal, former assistant secretary general of the Uganda's Peoples Congress (UPC). The DP and UPC are the two largest opposition parties and maintain strong support in their areas, based on political affiliations formed before the current regime came to power. In interviews, both denounced the constitution-making process, expressed dissatisfaction with the constitution, and accused the current government of being undemocratic because it restricts political parties (Ogwal, Ssemogerere int.). Their constituents held some of the most negative views of the constitution in my sample.

Respondents made specific reference to these and other CA delegates when telling me how they came to their opinions about the constitution. My discussion with a 40-year-old man from Mpigi District (2001 int.) is illustrative:[37]

Interviewer: Why did you choose statement B: 'Our constitution hinders development so we should abandon it completely and design another.'?
Respondent: There is a lot left to be desired for it to be a good constitution. It is a biased constitution. It is not a fair constitution. Although we were told we were going to elect people to make the constitution, there was a game behind it. In the elections, some people were put there by the government to run for the CA. The majority of the people who went through were from the government.
Interviewer: Was your CA delegate put there by the government?
Respondent: It was not here that the government pushed through their candidates, but elsewhere. In this place it was okay for the CA elections. Our CA delegate took our views but he couldn't win because the government side beat him. It wasn't fair. That is what he told us when he came back.

Like this man from Mpigi, many respondents evaluated the fairness of the elections by what their CA delegate told them, rather than their personal experience at the polling station.

The degree to which constituents had contact with their CA delegates and MPs varied tremendously. In fact, the respondents' chief complaint about the process was that their CA delegates failed to come back to inform them of what happened. For example, one man in Mpigi (2001 int.) said: 'That one [CA delegate] never came back to tell us what he did. If you give someone a hoe to go dig in your garden and you never see them again, you can't know if he did the work or not. Probably he just ran away with the hoe.'

When CA delegates were not available, my respondents reported that they learned most about the process and the constitution from their elected local council officials.[38] When asked how he heard about the constitution-making activities, a farmer in Luwero (2001 int.) said: 'The

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local council was the main way of informing people. The councillors minded about the layman. They did a lot of work and encompassed everyone, even the illiterate.' A much smaller number of respondents mentioned active and educated community members, and the leaders of civic organisations active in their communities, as sources of information about the constitution. Traditional and religious authorities were rarely mentioned. Interview respondents noted that they looked first to their elected officials for information because they were perceived to have the most knowledge. High-placed officials were preferred because of their presumed expertise, but they were less accessible than local elected leaders, who typically filled the role of informer and influencer when the CA delegate was absent. Friends, family and community members were most accessible, but often suffered from the same lack of knowledge and interpretive skill. Educated, active and connected community members provided some assistance.

So far I have presented a demand-side explanation for why citizens adopted elite views as their own: citizens who were eager for information looked to political leaders for cues. There is also an important supply-side explanation: leaders actively worked to convey their opinions to the public and to prevent the public from hearing alternative points of view. The public's formal involvement in the creation of the new constitution provided incentives for leaders to influence public opinions and mobilise the public in support of, or opposition to, certain constitutional provisions. After all, public opinion shaped the memoranda submitted to the UCC, the draft constitution, the CA election outcome, and the CA debates. As the wrangles of the elites became more polarised and contentious, so did public opinion. Furthermore, many leaders had tangible reasons to doubt the integrity of the process and the democratic nature of the constitution, which prohibited opposition parties from organising to contest elections. In short, it was in the leaders' interests, in their struggle for power, to make the public think as they did about the process and the constitution.

In sum, most Ugandans who have an opinion about the constitution seem to have relied primarily on local political leaders (or regional political leaders who came to their locations) for information and perspective, supplemented by conversations with friends and family in their local community. Without alternative sources of information and the skills necessary to evaluate the constitution, most citizens had few resources with which to question what they were told. Political leaders acted as information brokers and influentials (Hyden *et al.* 2002; Katz & Lazarsfeld 1955; Rogers 1983; Weimann 1991). In areas where political leaders were

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antagonistic to the current system, the majority of citizens heard negative assessments of the process and the constitution. Participants in those areas expressed deep scepticism about the value of their participation and the resulting constitution. The following statement by a former CA campaign agent from Lira (2001 int.) is representative of that scepticism:

> The Constitutional Commission didn't tell how they got the draft. I don't think they took into account our opinions. The Commission didn't go with the views of the people. There was some pressure from behind [from government officials]. The Constituent Assembly people battled it, but the pressure was still there behind.

In areas where leaders were more favourable toward the constitution, participants were told that the process was fair, and so citizens developed positive attitudes toward the final document. The comments of a school headmaster from Bushenyi District (2001 int.) are illustrative:

> The constitution is based on most of the views we gave. It was the first time for our people to make a constitution for ourselves. We sent there our Constituent Assembly delegates to work on it – not by their own views but by the views of the people. Everyone had a chance to give ideas.

Importantly, both the campaign agent and the headmaster were active participants in the constitution-making process. Their attitudes differ not because of what they did, but because of where they lived and what they heard.

PARTICIPATION AND CONSTITUTIONAL KNOWLEDGE

One last factor must be considered before concluding. The analysis presented above excludes respondents who were unable or unwilling to answer questions about the constitution. Importantly, those who answered had considerably higher rates of participation than did those who did not. In this section I demonstrate that participation was crucial for teaching citizens about the constitution and helping them to form opinions, even if it did not determine whether those opinions would be positive or negative.

A significant portion of the survey respondents were unable or unwilling to answer questions about the constitution. Only 69% answered the question measuring individual inclusion; 80% answered regarding national aspiration; 89% answered regarding compliance; and 89% answered regarding attachment.[39] Altogether, 60% of the respondents provided answers for all four questions and are included in my analysis of the constitutional support index.

Participation is associated with a propensity to offer opinions about the constitution along all four dimensions: individual inclusion, national

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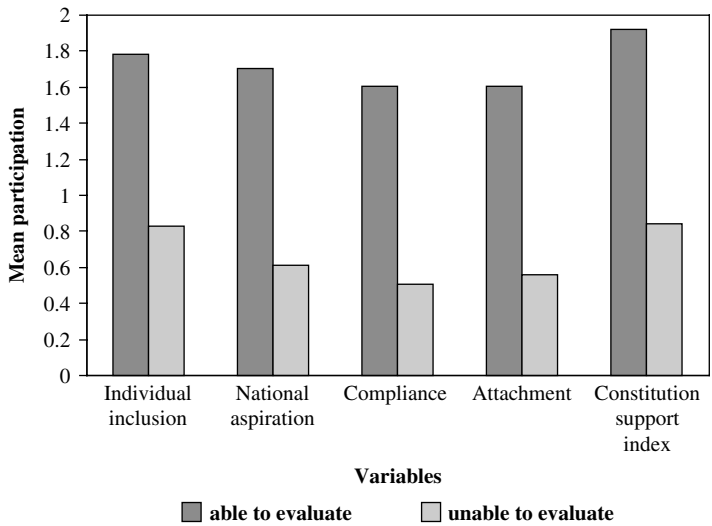


FIGURE 2
Mean participation and propensity for constitutional opinions.

aspiration, compliance and attachment. Figure 2 shows the mean value of participation for those who answered and those who did not, for each of the four individual questions and the index variable. For example, those who answered the question about national aspiration participated in an average of 1·80 activities, while those who failed to answer participated in 0·61 activities.

The positive relationship between participation and holding opinions about the constitution persists not only in the bivariate relationship, but also in a multivariate analysis that controls for possible confounding factors such as demographic characteristics, socio-economic status and political exposure.[40] A probit model predicting whether an individual answered all four constitutional questions shows that participation had a positive and highly statistically significant effect.[41] In sum, *there is strong evidence that, ceteris paribus, participation in constitution-making increases an individual's willingness and ability to offer opinions about the constitution*.[42]

In Uganda, participatory constitution-making provided citizens with a basic knowledge of the constitution's purpose and content, and thus helped Ugandans to develop attitudes about the constitution. Most of those who learned about the constitution emerged with positive opinions. In general, participants supported the constitution, while many non-participants did not support the constitution because they did not know what it was. Therefore, participation in Uganda did build constitutional support

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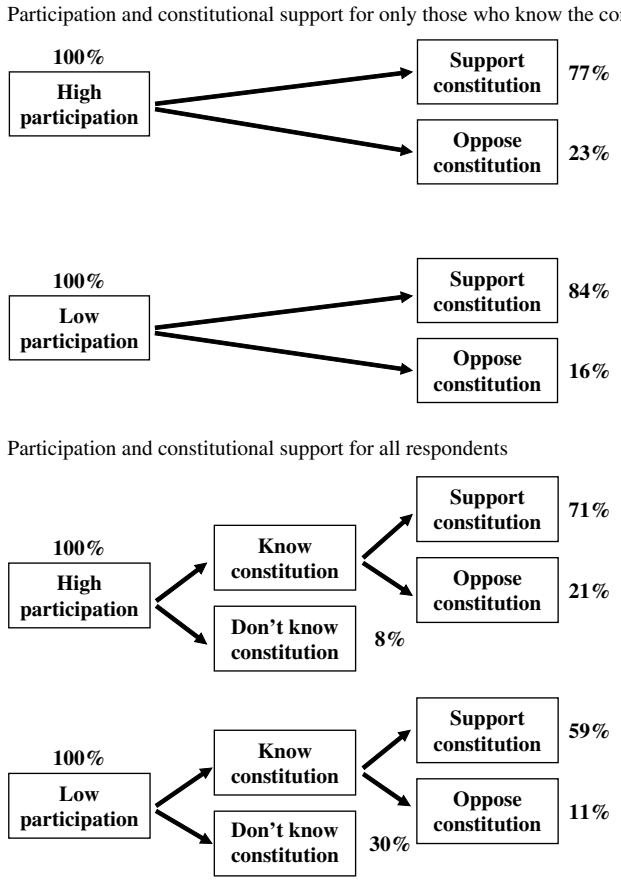


FIGURE 3
Indirect effect of participation on constitutional support.

indirectly by transforming citizens previously unable to evaluate the constitution into citizens with opinions – but not by changing previously held opinions. The indirect effect is revealed in Figure 3.[43] Importantly, participation only bolstered constitutional support because most Ugandan elites were supportive. There is no guarantee that the context will be conducive to supportive attitudes in other cases of participatory constitution-making.[44]

❀ ❀ ❀

Contrary to current optimism about participatory constitution-making, this article argues that public participation in the Ugandan process did not directly increase support for the constitution at the individual

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level of analysis. Quantitative analysis of survey data demonstrates that participants were no more or less supportive of the constitution than were the citizens who did not get involved. This article also offers an explanation for this surprising and (for many) disappointing finding. Participants did not assume that they were listened to, just because they contributed their views in meetings, memoranda and voting booths. Local elites shaped citizen perceptions of the fairness and genuineness of the participatory process. Elites also influenced individuals' perceptions about whether the constitution reflected their views, and whether the constitution was suitable to the Ugandan context. The inclusion of participation may have helped pro-government leaders to convince some citizens that the process was fair and the constitution legitimate, but it did not prevent opposition leaders from convincing their followers otherwise. The level and distribution of popular support for the constitution in Uganda reflects the strength of the pro-government leadership *vis-à-vis* the political opposition, and not participation *per se*. In short, local political leaders played a key mediating role between participation and constitutional support.

While participation did not have a direct effect on constitutional support, it did have an indirect one. Participation helped citizens to form opinions about the constitution by teaching them early on about its structures and function. Due to the high level of support among the Ugandan elites at the time of the constitution-making process, the majority of Ugandans who learned about the constitution heard positive messages and developed supportive attitudes. Importantly, this indirect effect was also highly contingent on the distribution of political elites.

Finally, we are left with the question of whether the type of constitutional support that existed in Uganda was beneficial for long-term democratic constitutionalism. In many ways the 1995 constitution was an improvement over Uganda's previous constitutions. However, the 1995 constitution also contained significant limitations on political freedoms. Perhaps we should be concerned that in most areas, at the suggestion of their leaders, Ugandans seemed to wholeheartedly embrace a constitution that did not fully protect basic civil rights. Furthermore, it may be that leader-mediated support is less effective at providing protection for democratic constitutional provisions than support derived from first-hand knowledge of constitutional arrangements. When many of the leaders who told citizens to support the constitution in 1995 asserted ten years later that the constitution could be improved by fundamental changes, many (though not all) citizens appear to have acquiesced. It remains an empirical question whether those citizens who were involved in the initial constitution-making process

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were – by virtue of their greater constitutional knowledge – more likely to oppose fundamental constitutional changes in 2005.

What does the evidence from Uganda teach us about the consequences of participatory constitution-making more generally? First, this research urges scholars and policy-makers to pay close attention to the context in which participation takes place. Scholars tend to assume that procedures are fair, that participants can judge them as such, and that perceptions of fairness will increase support for the system. However, in most transitioning societies, constitution-making processes will be contentious and imperfect. Furthermore, constitutions are difficult for citizens to evaluate, so they often look to political elites for information and opinions. We must be attentive to what citizens hear about the influence of their participation, the fairness of the process, and the resulting constitutional document in order to predict whether participation will strengthen *or weaken* constitutional legitimacy.

Second, the research warns academics and policy-makers against completely abandoning the traditional approach to constitution-making, with its emphasis on elite negotiations and inclusive institutions.[45] Mass citizen participation during the constitution-writing process cannot substitute for agreement among leaders about the institutional outcomes. It is not possible to bypass opposing elites and build support from the ground up. Participation has the potential to increase public support for the new governing institutions only when opposition elites feel included and supportive (or are too weak to influence citizens). Where the process and outcome leaves elites feeling polarised and antagonistic, participatory constitution-making can exacerbate rather than heal mass divisions and reduce rather than enhance constitutional support.

NOTES

1. Jennifer Widner (2005: 503) reports that between 1975 and 2003, nearly 200 new constitutions appeared in countries at risk of conflict as part of peace processes and the adoption of multiparty political systems; for regional distributions by decade, see *ibid.*: 508.

2. Participatory programmes include: Trinidad and Tobago (1971–73), Nicaragua (1985–87), Uganda (1988–95), South Africa (1994–95), Fiji (1987, 1988–89, and initially in 1995–96), Eritrea (1995–97), Albania (1997–98), and Rwanda (2000–03). Benomar (2004) asserts that the processes in Namibia, Colombia, and Brazil also included significant public participation, as does the recent process in Kenya. See Widner (2005: 515) for data on the distribution of public consultation procedures by region.

3. Indeed, the 1995 Ugandan constitution is among the longest in the world. It is several times the size of European Constitutions and ten times longer than the US constitution (Furley & Katalikawe 1997: 257).

4. For reviews of Ugandan political history, see Kanyeihamba 1975, Kasfir 1976, Kasozi 1999.

5. The Ugandan Constitutional Commission (UCC) rejected a proposal to use scientific surveys to gauge public opinion on constitutional issues. Instead they favoured the more difficult and less representative process of holding seminars and collecting memoranda. Odoki (int.) argued that the

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need for people to engage in public debate on constitutional issues and submit their views in their own words was more important than a representative sample of views (see also UCC 1992: 23–42). The primary goal was active involvement.

6. South Africa's process reached a slightly higher proportion of the population than did Uganda's, but it was much shorter and involved fewer participatory activities than in Uganda.

7. Until recently, there was little criticism of the process from international sources.

8. For more detailed descriptions of the tilted political playing field and the irregularities during the constitution-making process, see Moehler (forthcoming), Tripp 2005, Furley & Katalikawe 1997. It is very difficult to assess the degree to which the process and the resulting constitution represent the will of the general public. For example, the severe and undemocratic restrictions on party activity, the continuing instability in opposition areas, and the manipulation of the campaigns and elections by the incumbent government must have had an impact on the composition of the CA. However, despite these factors, 51% of incumbent NRC members lost their electoral bids to become CA delegates (Tripp 2005: 17).

9. Widner (2005: 515) found that broad-based consultation was least common in Europe and most common in Africa, the Americas and the Pacific Islands. Furthermore, the countries that adopted the most participatory constitution-making processes in the past (such as Albania, Brazil, Columbia, Eritrea, Fiji, Kenya, Namibia, Nicaragua, Rwanda, South Africa, Trinidad and Tobago, and Uganda) had recent histories of authoritarian rule, severe social or economic inequalities, human rights abuses and violence.

10. The randomly sampled sites included six urban and 62 rural sites. Nine districts (Gulu, Kitgum, Kotido, Moroto, Bundibugyo, Hoima, Kabalore, Kasese, Kibaale) were excluded from the sampling frame because of instability. After stratifying by urban/rural localities and region, a probability proportionate to size (PPS) method was used to randomly select districts, sub-counties and parishes. One primary sampling unit (PSU) was randomly selected from each parish (population data did not exist at the PSU level). Households were randomly sampled off compiled lists for each PSU and respondents were randomly sampled from all adult residents of the selected household. The result is that each adult had roughly an equal chance of being selected to participate in the survey, except for individuals who lived in the nine excluded districts who had no chance of being selected.

11. To design the survey instrument I consulted other questionnaires, conducted in-depth interviews and focus groups, and ran a pre-test. The questionnaire was translated into five languages and checked using a translation back-translation method. Five teams of native speakers administered the survey.

12. These lists, housed at the Electoral Commission library, include the attendees at meetings organised by the UCC and signatories to memoranda submitted from local councils, groups and individuals.

13. Participation was voluntary, and participants are likely to differ from non-participants in significant ways. In addition to including controls, I ran a Heckman selection model including an equation that predicted participation. The results are very similar to the single equation model, so I present the simpler model. I do not expect a reciprocal effect because the constitution was not yet created at the time the participation took place; attitudes about the constitution could not affect participation since they had yet to be formed.

14. I use ordered probit for individual inclusion, national aspiration, compliance and attachment, which have four or five values each. I use ordinary-least-squares (OLS) for the constitutional support index, which has 43 values.

15. All figures and analyses in this paper include only those individuals who provided answers to the questions at hand, except for the sixth section which examines all respondents.

16. The mean value is calculated from answers coded as follows: 'all of your views' = 1·00, 'most of your views' = 0·67, 'some of your views' = 0·33, or 'none at all' = 0·00.

17. During the testing of the questionnaire we found that respondents (particularly those with little education) were better able to answer questions presented in two parts than when four options were presented at once. The first question determines direction of sentiment, and the second question probes for intensity. The option of 'it depends' was not given verbally but was coded as such with a written explanation that was later checked. Thus, the variable has five possible values.

18. The mean value is calculated from answers coded as follows: strongly disagree = 0·00, disagree = 0·25, neither agree nor disagree = 0·50, agree = 0·75, strongly agree = 1·00.

19. The question used to measure national aspiration is identical to a question asked on some of the Afrobarometer surveys. There is a high degree of similarity between the Afrobarometer Uganda 2000 survey results and my own conducted in 2001. In my survey, 43% agreed strongly, 37% agreed somewhat, 9% were neutral, 7% disagreed somewhat and 4% disagreed strongly. In the

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Afrobarometer survey, 37% agreed strongly, 54% agreed somewhat, 7% disagreed somewhat and 2% disagreed strongly. Unfortunately, the Afrobarometer survey for Uganda alone did not record the neutral category, which complicates the comparison. See http://www.afrobarometer.org/index.html for more details.

20. Cronbach's alpha = 0·55.

21. From interviews, it seems that those who said only some of their views were included were expressing support.

22. Cronbach's alpha = 0·37.

23. For example, in the open-ended question many respondents did not mention voting for the Constituent Assembly.

24. The correlation between the two participation measures is 0·57. It is important to note that both measures are self-reported participation. Some respondents may have forgotten that they participated. However, in open-ended interviews most respondents noted that these were highly significant activities given the nature of the topic (the constitution) and the timing of the activities (early in the transition). To assess the difference between actual and reported participation, I conducted interviews with subjects selected from lists of participants (memoranda, meeting attendance and seminar attendance). I also matched survey respondents with names on the lists of participants and checked their answers. There were some discrepancies due to memory loss or inaccuracies in the lists of participants, but by and large, reported participation accorded with recorded participation.

25. The dummy variable takes a value of one if primary school was completed and zero otherwise. I also ran the model with a dummy variable for secondary school completed. The effect of secondary school was significant only in the models predicting the measures of individual inclusion and constitutional support index. The inclusion of the secondary-school measure did not influence the results regarding the effect of participation on constitutional support in any of the models, but it is correlated with other control measures in the model.

26. Support for the NRM and assessments of current conditions may be mediating variables between participation and constitutional support. Participation may cause individuals who feel that their living conditions are improving to support the government that sponsored the participatory process. Support for the government might then generate support for the constitution. If so, then the coefficient estimate for participation does not capture the total effect of participation on constitutional support. The indirect effect is captured in the coefficients on support for government. However, without empirical validation that participation led to support for the current regime in government, I prefer to err on the side of caution and include these variables as controls.

27. These four districts were identified as associated with negative attitudes about the constitution prior to my analysing the survey data. The survey data show that one additional district, Apac, has a consistently negative effect on the constitutional support measures, though it is only statistically significant in the equation predicting compliance. If the Apac District variable is included, the effects of participation on attachment and the constitutional support index are only very slightly lower. Since the model is designed to test a theoretical hypothesis held prior to examining the quantitative data, I prefer to include only the four districts that were identified from the qualitative analysis. When district variables are not included, the effect of participation on constitutional support loses some statistical and substantive significance. The resulting equation to be estimated is:

$$\begin{aligned}\text{constitutional support} = {} & \beta_0 + \beta_1 \text{ participation} + \beta_2 \text{ male} + \beta_3 \text{ urban residence} \\ & + \beta_4 \text{ age} + \beta_5 \text{ primary school completed} + \beta_6 \text{ wealth in consumer goods} \\ & + \beta_7 \text{ follow public affairs} + \beta_8 \text{ exposure to news on radio} \\ & + \beta_9 \text{ exposure to newspapers} + \beta_{10} \text{ exposure to news in meetings} \\ & + \beta_{11} \text{ mobility} + \beta_{12} \text{ associational affiliations} + \beta_{13} \text{ local coundil position} \\ & + \beta_{14} \text{ closeness to higher official} + \beta_{15} \text{ support NRM} \\ & + \beta_{16} \text{ improved living conditions} + \beta_{17} \text{ Mpigi district} + \beta_{18} \text{ Luwero district} \\ & + \beta_{19} \text{ Nakasongola district} + \beta_{20} \text{ Lira district} + \mu_i\end{aligned}$$

where constitutional support is measured by the variables individual inclusion, national aspiration, compliance, attachment, and the constitutional support index, in turn.

28. As in Figure 1, the analysis includes only those individuals who answered the questions. Those who responded 'don't know' were excluded (see earlier footnote for percentages). In addition, three observations were excluded from the analysis because they were outliers exerting undue influence on the results. The analysis is meant to capture general trends and not the relationships of a few individuals. All three had very high participation, and they alone scored 0 on the constitutional

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support index. When these observations are included, the effect of participation on compliance is not significant (coefficient = 0·06, s.e. = 0·04, p-value = 0·14). The same is true for the constitutional support index (coefficient = 0·03, s.e. = 0·03, p-value = 0·38).

29. Coefficient = 0·05, s.e. = 0·03, and p-value = 0·08.

30. I examined whether these findings were robust to the different measures of participation and different specifications of the models. In the model specification using the alternative measure, respondent-identified participation, the only significant effect is in the model predicting individual inclusion (coefficient = 0·18, s.e. = 0·07, p-value = 0·01). The effects of participation on the other dependent variables were not significant (national aspiration: coefficient = −0·02, s.e. = 0·08, p-value = 0·82; compliance: coefficient = 0·13, s.e. = 0·09, p-value = 0·16; attachment: coefficient = 0·04, s.e. = 0·10, p-value = 0·71; constitutional support index: coefficient = 0·06, s.e. = 0·06, p-value = 0·32).

31. Gibson *et al.* 1998 found that those who are more attentive to the high courts are more supportive of them. They argue that attentive individuals are exposed to 'a series of legitimizing messages focused on the symbols of justice, judicial objectivity, and impartiality' (345). I expect the same effect for Uganda's constitution.

32. When only the dummy variable for Buganda is included, the variable is negative for all the equations, except for the one predicting compliance. However, the coefficient on Buganda is not statistically significant in any of the equations. When only the dummy variable for the Banyankole is included, the coefficient is positive and significant for the equations predicting individual inclusion and national aspiration, and positive but not significant in the equations predicting attachment and the constitutional support index. The Buganda leadership favoured a political role for traditional leaders and a federal system, neither of which not granted in the constitution. President Museveni and many top government officials are Munyankole. Somewhat surprisingly, Nilotic ethnicity did not have a significant effect.

33. I added the dummy variables separately and all together (excluding one category). When ethnic variables were added together or separately, the district variables remained negative throughout. When added all together, the statistical significance of only one of the district measures changed and only for the equations predicting national aspiration, attachment and the constitutional support index (Nakasongola district was no longer statistically significant). When the ethnic variables were added separately, the significance of the district variables usually stayed the same, but occasionally changed either from non-significant to significant or the other way around (they changed most often in the equation predicting compliance). Also note that the effect of participation on constitutional support was only slightly lower when the models included the ethnic variables individually and as a group. When the Buganda or Banyankole variables were included individually, the effect of participation on constitutional support was slightly higher. To further investigate the effect of ethnicity, I ran the model using responses from members of each ethnic group one at a time, and from members of all ethnic groups excluding one at a time. With the exception of where there were too few respondents in a given category, the results did not change significantly from sub-sample to sub-sample.

34. Only 69% answered the question measuring individual inclusion; 80% answered about national aspiration; 89% answered about compliance; and 89% answered about attachment.

35. An appropriate answer was defined fairly broadly and included references to laws, supreme laws, rules guiding citizens or leaders, means of choosing leaders, governance, democracy, rights and duties, nation-building, peace and security, conflict resolution, helping citizens and justice. It did not include responses about the current government, such as 'Museveni' or 'NRM', if that was the only response given. Nor did it include answers such as 'to collect taxes' that were far off the topic, or admissions of not knowing such as 'we were not taught about that one'.

36. Although most people said that they heard about the constitution from the radio, the survey analysis showed radio listening to have no influence on either level of support for the constitution or the likelihood of offering an opinion about it. Furthermore, in the in-depth interviews, respondents rarely cited the radio when asked how they came to know a specific piece of information about the constitution. While most survey respondents heard the constitution mentioned on the radio, it did not seem to be the most influential medium for imparting information and opinions.

37. This respondent was active in the process. He reported participating in meetings about memoranda, the CA delegates meeting and the CA elections.

38. Sometimes local elites acted as intermediaries between the CA delegate and others, as this woman indicates: 'From each district, one [CA delegate] is elected and then that person goes and brings back what is there and then it is passed through from person to person' (int., Lira District, March 2001).

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39. Similarly, 82% answered the question on national aspiration in the Afrobarometer survey a year earlier.

40. Coefficient = 0·19, s.e. = 0·05, and p-value = 0·00. The control variables include: male, urban residence, age, primary school completed, wealth in consumer goods, follow public affairs, mobility, associational affiliations, local council position, closeness to high officials, and exposure to news on radio, through newspapers and in meetings.

41. In other work I establish that participation increased basic knowledge of what a constitution is and what it contains. I also show that these two factors are mediating variables between participation and the dummy variable measuring whether the respondent answered the questions about the constitution (Moehler forthcoming).

42. A Heckman selection model provides even stronger evidence that once individuals are able to evaluate the constitution, participation has no additional effect on support for the constitution. The Heckman model simultaneously estimates the probit equation predicting propensity for constitutional opinions and the OLS equation predicting constitutional support. The results of the Heckman model indicate that participation has a significant positive effect on those who offer opinions about the constitution (coefficient = 0·09, s.e. = 0·05, p-value = 0·06), but no effect on the constitutional-support index (coefficient = 0·00, s.e. = 0·03, p-value = 0·89). Although this model is useful, the results should be viewed with caution since it is not well identified. I was unable to find sufficiently independent instruments, predicting propensity for constitutional opinions.

43. High participation is above average and low participation is at or below average. Support for the constitution is based on the measure of National Aspirations, where high and low were determined in the same way.

44. One might argue that participation can have other indirect effects whereby participation would lead to higher legitimacy for participants and non-participants alike. The *perception* that participation was possible (as opposed to the act of participating) might increase legitimacy. Additionally, participation might lead to a more suitable constitutional *content*, which would then engender legitimacy. If only perception mattered, then citizens in all areas where participation took place would support the constitution. If only content mattered, then all individuals who knew about the content would be equally supportive. My analysis shows that this did not happen. There were pockets of negative attitudes about the constitution even in areas with high rates of participation and with relatively knowledgeable citizens, such as in Mpigi district. Simply including participation in the constitution-making process was not sufficient to ensure support.

45. This interpretation receives additional support from Widner (2005), who investigates the effect of the constitution drafting process on post-ratification levels of violence at the national level. She finds that the scope of consultation has little or no effect on reducing violence. The representativeness of the reform model has more of an influence than participatoriness on violence in Africa, the Americas and the Pacific Islands.

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