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From design to practice in deliberative constitutionalism: lessons and challenges from the Chilean constitutional process (2021–2022)

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The Chilean Constitutional Convention (2021–2022) provides a rich case study for examining the challenges and limitations faced when implementing deliberative constitutionalism principles in practice. Despite incorporating innovative elements such as gender parity and reserved seats for indigenous peoples, the process revealed significant tensions between deliberative aspirations and their practical materialization. Through theoretical analysis and literature review, we identify three critical dimensions where the gap between design and practice manifested: institutional configuration, deliberative legitimacy, and citizen participation. The findings demonstrate that formal innovations in representation did not translate into effective deliberative conditions, with 93% of citizens reporting being uninformed about participation mechanisms and 68% considering their expectations unfulfilled. The experience highlights how institutional design focused primarily on descriptive representation while failing to establish necessary conditions for substantive democratic deliberation. This study contributes to deliberative constitutionalism theory by identifying specific challenges in translating theoretical principles into practice, particularly regarding the relationship between formal inclusion and effective deliberation. The Chilean case suggests that successful implementation of deliberative constitutionalism requires attention not only to institutional design but also to the substantive conditions that enable genuine public reasoning and sustained citizen engagement in constitutional dialogue.

KEYWORDS

deliberation, constitutionalism, democracy, constitutional process, Chile

1 Introduction

Deliberative constitutionalism has emerged as a theoretical innovation that seeks to reconcile two traditionally conflicting fields: constitutionalism and democracy (Bello Hutt, 2020; Martí and Giuffré, 2024). This perspective suggests that political deliberation is the primary source of democratic legitimacy (Valentini, 2024), moving away from conceptions based solely on efficiency or formal procedures.

Chile's experience with deliberative constitutionalism presents a unique case study. The country's 1980 Political Constitution, promulgated during the military regime, has undergone 52 reforms since the return to democracy. Early attempts at constitutional replacement began during Michelle Bachelet's second administration (2014–2018), leading to the "Constituent Process Open to Citizens" (Figueroa and Jordán, 2021), that engaged

204,402 participants across local, provincial, and regional levels, covering 98% of national territory. These early dialogues demonstrated significant promise, achieving notable consensus rates: 90.6% agreement in values discussions and 92.1% in rights deliberations. Further studies confirmed the broad territorial reach of these initiatives, with participation spanning 343 communes and showing significant representativeness across different regions (Raveau et al., 2022).

The turning point in Chile's constitutional process came with the October 2019 "social uprising," which led to massive protests and culminated in the "Agreement for Social Peace and the New Constitution". The subsequent plebiscite in October 2020 saw 80% of voters approve a constituent process, with the highest participation recorded since the implementation of voluntary voting (Fábrega, 2022). The resulting Constitutional Convention incorporated unprecedented elements: gender parity, 17 reserved seats for indigenous peoples, and a predominantly independent composition, with 70% of its members having no prior party affiliation (Toro Maureira and Noguera, 2024). However, the transition from early participatory mechanisms to an institutionalized constitutional process raises important questions about the preservation of deliberative qualities. While initial citizen-led dialogues demonstrated remarkable quantitative success and methodological innovation (Figuerola and Jordán, 2021; Raveau et al., 2022), the formal constitutional process introduced new institutional dynamics that warrant examination. Both the Convention's first proposal and a second attempt, developed with an expert commission and a constitutional council, were rejected at the polls in 2022 and 2023 respectively.

A critical dimension of the Chilean experience involves the progressive disconnection between the original triggers of the constituent process and its ultimate outcomes. The October 2019 social uprising emerged from specific demands regarding Chile's socioeconomic model, particularly income inequality attributed to privatizations during the Pinochet regime. As documented by Aldunate et al. (2020), the privatization process implemented by the "Chicago Boys" during the Pinochet dictatorship facilitated the creation of business groups and contributed to elite renovation. González et al. (2020) further demonstrate how firms sold to politically connected buyers during these privatizations later became "political corporations" that influenced democratic politics through campaign finance and political connections. Additionally, Cortes Orihuela et al. (2023) show how areas with higher intergenerational earnings persistence were more likely to oppose constitutional change, suggesting that the institutional framework established by the 1980 Constitution became embedded in patterns of socioeconomic reproduction. Yet, implementation challenges, misinformation campaigns, and the framing of constitutional choices fundamentally altered the terms of public debate, helping explain why a process initiated to address structural inequalities ultimately faced rejection by the population that had demanded constitutional change.

The text is structured in three main sections. First, it presents the theoretical foundations of deliberative constitutionalism, examining its institutional, procedural, and participatory dimensions. The second section analyzes the fundamental challenges and tensions that emerge when implementing these

principles, using the Chilean case as a reference. Finally, it discusses the institutional innovations and lessons that contribute to the future development of deliberative constitutionalism.

2 Theoretical foundations of deliberative constitutionalism

Deliberative constitutionalism represents a significant theoretical development that seeks to synthesize two traditionally conflicting fields in political and legal philosophy: constitutionalism and democracy (Bello Hutt, 2020; Martí and Giuffré, 2024). Indeed, this theoretical reconciliation has become imperative, as the underlying tensions between these concepts have led deliberativists to address constitutional matters through disparate analytical frameworks. Consequently, constitutionalists have remained largely disengaged from the substantive deliberative turn that has characterized political philosophy over the past four decades (Bello Hutt, 2020; Giuffré, 2024).

Furthermore, the theoretical foundation of this field is predicated upon the transformation of popular sovereignty as a conceptual framework. Whereas popular sovereignty was conventionally conceptualized as a mode of collective action manifested in the power to constitute, control, and dismantle governments, contemporary theoretical approaches have fundamentally altered this understanding. As a result, these theoretical developments have systematically dissociated the connection between sovereignty and action, thereby reconstructing popular sovereignty through the lens of fundamental rights and distributed deliberative networks (Somek and Wilkinson, 2020; Zurn, 2007; Valentini, 2024).

In this context, democratic legitimacy emerges as a fundamental theoretical construct within this conceptual evolution. Thus, deliberative constitutionalism substantiates that political deliberation constitutes the primary source of democratic legitimacy (Valentini, 2024), transcending traditional conceptions that located legitimacy exclusively within efficiency parameters or formal procedural frameworks (Mariano and Maia, 2020). Additionally, this theoretical perspective is substantively enhanced through the conceptualization of democracy as encompassing dual commitment levels: a foundational "minimum core" of normative and institutional requirements, accompanied by an expanded framework of rights and deliberative commitments (Dixon, 2024; Melero de la Torre, 2024).

Moreover, the analytical framework of deliberative constitutionalism encompasses multiple interconnected theoretical dimensions. Specifically, the institutional dimension examines the systematic integration of deliberation within multi-located structural frameworks that transcend independent constitutional courts to incorporate mechanisms for legislative and executive self-regulation (Zurn, 2007; Valentini, 2024). Subsequently, this institutional framework must facilitate constitutional dialogue among governmental powers and enable constitutional modification through systematically structured civic deliberative forums (Trettel, 2021; Vargas et al., 2025).

Correspondingly, the procedural dimension delineates the theoretical parameters for designing democratic mechanisms of

constitutional change, incorporating six fundamental normative ideals: operationalizability, structural independence, democratic co-authorship, political equality, inclusive sensitivity, and reasoned responsiveness (Zurn, 2016). Hence, these analytical criteria establish a systematic framework for evaluating the normative validity of constitutional change mechanisms.

Within this theoretical context, judicial review legitimacy is reconceptualized as an integral component within a comprehensive deliberative system (Valentini, 2024; Zurn, 2007). Therefore, this systematic theoretical perspective posits that constitutional control should be analyzed as an institution integrated within and shaped by a broader representative framework, rather than as an external democratic constraint (Krishnaswamy, 2012; Giuffré, 2024).

Beyond these considerations, the analytical framework encompasses a substantive transnational dimension. Contemporary globalization processes have fundamentally transformed the nature of public goods from national to transnational constructs, thereby necessitating the systematic development and implementation of transnational public goods treaties within democratic legal frameworks (Petersmann, 2018). Significantly, this theoretical expansion beyond nation-state parameters introduces complex analytical challenges regarding the legitimacy of transboundary institutions and the preservation of democratic principles within supranational contexts (Brignoli, 2024; Moravcsik, 2003). These emerging challenges suggest new avenues for theoretical development in deliberative constitutionalism's approach to transnational governance structures.

3 Challenges and tensions in implementing deliberative constitutionalism

Constitutional transformation processes confront fundamental tensions that extend beyond procedural design to encompass the structural conditions that enable or constrain genuine democratic deliberation. The Chilean experience reveals three interconnected dimensions of these challenges: the tension between popular sovereignty and constitutional limits, the structural disconnection between original social demands and deliberative outcomes, and the persistent influence of historical institutional legacies on contemporary democratic processes.

Popular sovereignty, traditionally conceived as a mode of collective action manifested in the power to constitute and control governments, has been systematically decoupled from action by contemporary currents, thereby becoming reduced to fundamental rights and dispersed networks of deliberation (Somek and Wilkinson, 2020). Moreover, this tension intensifies when legal procedures are not designed to foster democratic and discursive exchange between the State and its citizenry (Giuffré, 2019). Subsequently, understanding the constitution as the property of current citizens generates issues of capricious republic, political community sub-individualization, and generational inequality (Ferrara, 2021).

The legitimacy and efficacy of constituent processes present distinctive challenges. Thus, democracy must reclaim constitutionalism as a foundation of legitimacy, removing efficiency demands from this role to prevent the weakening of democracy itself (Mariano and Maia, 2020). In this context, deliberative constitutionalism seeks to address these issues through a framework that integrates constitutional theory with a systemic approach to deliberative democracy (Valentini, 2024). However, the connection between constitutionalism and deliberation has remained inconsistent: whereas a deliberative conception is defended at the democratic level, a strong conception persists at the constitutional level, thereby limiting the deliberative agenda to exceptional moments and lacking detailed institutional implications (Giuffré, 2023).

The Chilean case reveals how historical institutional arrangements create structural constraints that fundamentally shape deliberative possibilities. The privatization process implemented during the Pinochet dictatorship established lasting patterns of economic and political concentration that influenced the constituent process decades later. Aldunate et al. (2020) demonstrate that privatized firms became central to new business groups, with this process facilitated by economic crises that debilitated traditional elites while empowering new economic actors. These structural transformations had profound political consequences. González et al. (2020) show how firms sold to politically connected buyers during privatizations later evolved into political corporations that maintained influence through campaign finance, political connections, and tax avoidance strategies. This created a configuration where the very actors who benefited from the institutional framework established by the 1980 Constitution had both the incentives and resources to resist constitutional change.

The persistence of these patterns is further demonstrated by Cortes Orihuela et al. (2023), who find that municipalities with higher intergenerational earnings persistence were more likely to oppose constitutional reform. This suggests that the institutional framework had become embedded in patterns of socioeconomic reproduction, creating constituencies with vested interests in maintaining existing arrangements regardless of their deliberative merits.

A fundamental challenge in deliberative constitutionalism emerges when constituent processes lose connection with the social problems that originally motivated constitutional change. The October 2019 Chilean uprising emerged from specific grievances against structural inequalities and elite concentration that empirical research had documented. However, the formal deliberative process failed to maintain focus on these substantive issues. This disconnection manifested through several mechanisms. First, the technical complexity of constitutional drafting created opportunities for strategic reframing that obscured the original demands for structural reform. Second, information asymmetries and communication campaigns shifted public discourse from addressing documented inequalities toward defensive concerns about protecting existing entitlements. Third, the formal deliberative mechanisms, despite their innovative design, proved insufficient to counter these dynamics.

The result was a transformation of the constitutional debate's fundamental terms. Rather than engaging with empirical evidence about structural problems in Chile's socioeconomic model, public discourse increasingly centered on a false binary between supporting government intervention and protecting individual rights. This reframing fundamentally altered how citizens understood the stakes of constitutional choice, contributing to the ultimate rejection of reform despite widespread initial support.

Furthermore, the inclusion of historically marginalized groups represents another crucial challenge that intersects with structural legacies. Constitutional processes in Latin America have sought to address the historical debt toward indigenous communities and other agents traditionally excluded from constitutional debate (Soto Barrientos, 2014). Similarly, in the European context, comparable challenges emerge regarding the protection of minority and vulnerable groups, where interest group politics behind centralization does not necessarily contribute to equity (Sajó, 2006; Petersmann, 2018). However, the Chilean experience demonstrates that formal inclusion does not automatically translate into substantive participation when structural inequalities persist. The structural patterns documented by empirical research suggest that even innovative representational mechanisms may be insufficient to overcome entrenched patterns of exclusion when the underlying socioeconomic structure remains unchanged.

These challenges are magnified within contexts of persistent structural inequality, where a dialogical approach to constitutionalism becomes necessary to enable different branches of government and the general population to participate in conversation about the actual implications of fundamental constitutional values (Gargarella, 2021). Indeed, experience demonstrates that democratic participation and parliamentarism often remain formal, transforming democracy into an opportunity to maximize welfare services rather than fostering genuine participatory politics and accountability (Sajó, 2006). The Chilean case suggests that deliberative constitutionalism faces particular difficulties when structural inequalities create asymmetric capacities for political participation. When some actors possess significantly greater resources to influence public discourse and deliberative processes, formal equality in deliberative procedures may be insufficient to ensure genuine democratic deliberation.

A significant gap exists between the consolidation of institutions and constitutional constraints beyond national borders, and the more timid evolution of obstacles to democracy and political participation (Brignoli, 2024). Accordingly, this situation necessitates complementing ongoing legal constitutionalism with political constitutionalism that emphasizes opportunities for active citizen participation in their own constitution through continuous processes of disagreement, dialogue, and compromise (Hoffmann, 2009). The interaction between national and transnational constraints creates additional layers of complexity for deliberative constitutionalism. Constitutional processes must navigate not only domestic structural legacies but also international economic and legal frameworks that may limit the scope of possible constitutional innovation, regardless of the quality of domestic deliberative processes.

4 Institutional configuration of the Chilean constituent process: a design for democratic deliberation?

The Chilean Constitutional Convention represented an unprecedented democratic experiment in terms of its institutional architecture. The formal structure was established through the "Agreement for Social Peace and the New Constitution" signed in November 2019, which emerged as a response to the social uprising of October 2019 (Pérez-Crespo, 2021).

At its core, the Convention consisted of a 155-member body with two groundbreaking representational innovations. First, it achieved perfect gender parity with 77 women and 78 men, making it the first constituent body in the world to implement such a measure. Second, it incorporated 17 reserved seats for representatives from 10 different indigenous communities, marking a significant step toward inclusive constitution-making (Toro Maureira and Noguera, 2024). This composition was particularly notable as 70% of its members had no prior political party affiliation, representing a clear break from traditional institutional politics (Fábrega, 2022).

The Convention's work was organized through specialized commissions, each focusing on specific constitutional aspects. Among these, two were particularly significant: the Fundamental Rights Commission and the Indigenous Peoples' Rights Commission. These bodies served as primary spaces for thematic deliberation and proposal development. The commissions operated under specific procedural rules and had the responsibility of preparing draft articles for plenary discussion (Raveau et al., 2022).

Regarding deliberative mechanisms, the Convention operated under a distinctive set of decision rules. Most notably, it required a two-thirds supermajority (103 votes) for article approval. This threshold was complemented by the "blank slate" principle, whereby articles that failed to achieve the required majority would not default to existing constitutional provisions. This combination created unique dynamics in the deliberative process, as noted by Fábrega (2022), who found that left-wing groups could achieve the necessary two-thirds when combining votes from various factions including "Lista del Pueblo", indigenous peoples' representatives, "Apruebo Dignidad", and non-neutral independents.

A significant innovation in the deliberative framework was the implementation of the "Convergencia Deliberativa" methodology, specifically designed to facilitate dialogue and consensus-building. As detailed by Figueroa and Jordán (2021), this methodology emphasized two key components: convergence as an act of cooperation in seeking common ground, and deliberation as dialogue from different positions. This approach was operationalized through various participatory mechanisms including Local Self-Convended Meetings (ELA), Provincial and Regional Assemblies, and Individual Consultations.

The Convention's work was overseen by specific supervisory bodies. The Citizens' Observer Council, comprising 15 members with diverse academic and social backgrounds, was tasked with monitoring the process and ensuring adherence to established procedures. Additionally, a Systematization Committee, formed by

representatives from major universities and the United Nations Development Programme, was responsible for processing and analyzing participatory inputs (Figueroa and Jordán, 2021).

The procedural framework established three distinct temporal phases. The first phase, known as the “Encounter” phase, focused on citizen participation and dialogue. The second “Deliberation” phase centered on constitutional text development within the Convention. The final “Sovereignty” phase culminated in the plebiscite (Pérez-Crespo, 2021). This temporal structure was designed to ensure both broad participation and thorough deliberation.

Several constitutional restrictions shaped the Convention’s work. The new text was required to respect Chile’s character as a republic, its democratic regime, final judicial decisions, and ratified international treaties. These constraints were overseen by a Technical Committee of Admissibility, which served as an arbitration body for ensuring compliance with these boundaries (Toro Maureira and Noguera, 2024).

Formal participatory mechanisms were established at multiple levels. At the local level, Self-Convended Local Meetings allowed citizens to organize discussions independently. At the provincial and regional levels, more structured assemblies were conducted under official supervision. These mechanisms built upon previous participatory experiences, particularly the 2016 constituent process which had engaged over 200,000 participants across 98% of national territory (Figueroa and Jordán, 2021).

The Convention also incorporated technical advisory bodies to support its work. These included specialized committees providing expert input on various constitutional matters and a technical secretariat facilitating the operational aspects of the process. This technical support structure was designed to ensure that deliberations were informed by expert knowledge while maintaining their participatory character (Raveau et al., 2022).

These institutional innovations represented a significant departure from traditional constitution-making processes. The combination of gender parity, indigenous representation, and extensive participatory mechanisms created a unique institutional framework for democratic deliberation. However, as subsequent developments would show, formal institutional design alone would prove insufficient for ensuring the process’s success. The complex interaction between these innovative structures and the practical challenges of their implementation would become a crucial factor in the Convention’s ultimate outcome.

5 The gap between deliberation and legitimacy: a deficit in public reason

The process’s trajectory illustrates a complex relationship between institutional innovation and public trust, marked by historical patterns of declining confidence in democratic institutions and growing gaps between formal representation and effective public engagement.

Historical data reveals a persistent deterioration in democratic satisfaction that predated the Convention. According to Figueroa and Jordán (2021), between 2010 and 2013, a significant divergence emerged between democratic support and satisfaction. While

support for democracy increased from 63% to 67%, satisfaction levels fluctuated inconsistently, dropping to as low as 33% before reaching 41%. This pattern established an early warning signal of the legitimacy crisis that would later manifest in the constituent process.

By 2012, institutional trust had reached critically low levels across key democratic institutions: 24% for government, 15% for Congress, and merely 9% for political parties (Figueroa and Jordán, 2021). This erosion of institutional trust created a challenging context for the Convention’s work, as it attempted to rebuild democratic legitimacy within an environment of profound public skepticism.

Recent survey data analyzed by Toro Maureira and Noguera (2024) demonstrates the persistence and intensification of this legitimacy gap. Their findings show that while 73% of citizens express strong normative support for democratic governance, between 77% and 80% consider that democracy functions poorly or very poorly in practice. This stark contrast between normative support and practical satisfaction indicates a fundamental crisis in democratic legitimacy that the Convention would need to address.

The implementation of the constituent process revealed significant gaps between institutional design and public engagement. Most notably, survey data shows that 82% of respondents reported being “not at all” or “somewhat” informed about the process. This widespread lack of understanding extended to key institutional mechanisms, with 93% of citizens uninformed about participation mechanisms and 94% unaware of the Technical Admissibility Committee’s role (Toro Maureira and Noguera, 2024).

Analysis of voting patterns within the Convention reveals how these implementation gaps manifested in practice. Fábrega (2022) found that while the first ideological dimension explained 89.25% of voting behavior, even adding a second dimension only increased predictive accuracy to 91.43%. This suggests that despite institutional innovations in representation, the process struggled to capture the full complexity of public preferences and positions.

Gender differences in satisfaction and engagement emerged as particularly significant. Toro Maureira and Noguera (2024) found statistically significant differences between men and women in both information levels and satisfaction with the process, with women consistently reporting lower levels across both metrics. This gender gap persisted throughout all three waves of their longitudinal study, suggesting a structural rather than temporary phenomenon.

The crisis of legitimacy became increasingly evident through measures of public expectations and emotional responses. According to survey data, 68% of respondents reported that their expectations of the process remained unfulfilled. This disappointment was reflected in emotional responses, with 66% of participants maintaining negative emotions throughout the process (Toro Maureira and Noguera, 2024).

This legitimacy deficit manifested differently from previous participatory experiences. The early citizen dialogues of 2016, which engaged 204,402 participants across local, provincial, and regional levels, had achieved remarkable consensus rates: 90.6% agreement in values discussions and 92.1% in rights deliberations (Figueroa and Jordán, 2021). The stark decline in engagement

and understanding from these early successes to the formal constituent process suggests a critical failure in maintaining deliberative momentum.

The disconnect between formal representation and effective engagement became particularly evident in the indigenous peoples' experience. Despite the historic achievement of reserved seats, the 17 representatives from 10 different indigenous communities faced structural obstacles to effective participation. As documented in Session 67 of the Rights Commission, attempts to incorporate specific provisions for indigenous women's rights failed to gain traction, illustrating the limitations of formal inclusion without substantive support for meaningful participation (Toro Maureira and Noguera, 2024).

The emergence of informal organizational structures further complicated the legitimacy picture. The "feminist collective", comprising approximately 50 of the 77 female convention members, established systematic pre-deliberation coordination through Saturday meetings. While this practice proved effective for advancing certain proposals, it potentially circumvented traditional deliberative processes and raised questions about the relationship between formal and informal power structures (Raveau et al., 2022).

Initial public engagement with the process showed promising signs, with the October 2020 plebiscite achieving the highest participation since the implementation of voluntary voting. However, this early momentum failed to translate into sustained engagement. The evolution of public sentiment through the process, as tracked by longitudinal surveys, shows a progressive deterioration in both emotional connection and practical satisfaction with the Convention's work (Toro Maureira and Noguera, 2024).

These challenges in maintaining legitimacy were exacerbated by the complex interaction between different participatory mechanisms. While the Convention incorporated various forms of citizen participation, including Local Self-Convended Meetings and Provincial Assemblies, the relationship between these mechanisms and formal deliberative processes remained unclear. This lack of clarity contributed to public confusion and potentially undermined the legitimacy of participatory outputs (Pérez-Crespo, 2021).

The accumulated evidence points to a profound deficit in public reason within Chile's democratic system. The chronological analysis reveals a persistent deterioration in the relationship between institutional processes and public engagement, suggesting that formal innovations in design, while necessary, proved insufficient for generating genuine democratic legitimacy. This gap between institutional design and public trust would ultimately contribute to the Convention's inability to produce a constitution capable of achieving broad social consensus.

The Chilean experience thus demonstrates that bridging the gap between deliberation and legitimacy requires attention not only to representative structures but also to the substantive conditions that enable meaningful public participation in democratic reasoning. The persistence of negative emotions, unfulfilled expectations, and gender disparities in engagement suggests that future constituent processes must find more effective ways to connect formal institutional innovations with genuine public deliberation and engagement.

6 Lessons from the process: challenges of deliberative constitutionalism in practice

The analysis of this unprecedented democratic experiment reveals fundamental lessons about the relationship between formal representation and effective participation, the implementation of deliberative mechanisms, and the complex dynamics of institutional legitimacy.

Regarding representation and participation, the Convention demonstrated that innovative descriptive representation does not automatically translate into substantive participation. Despite achieving historic milestones with gender parity (77 women, 78 men) and reserved seats for indigenous peoples (17 representatives from 10 communities), the process revealed significant gaps between formal inclusion and effective engagement. As documented by Fábrega (2022), while these representational innovations were groundbreaking, they did not necessarily facilitate deeper democratic deliberation among diverse groups.

The experience of indigenous representatives particularly illustrates this challenge. According to Toro Maureira and Noguera (2024), despite having reserved seats, indigenous representatives faced substantial structural barriers to effective participation. This was evidenced in Session 67 of the Rights Commission, where attempts to incorporate specific provisions for indigenous women's rights failed to gain traction, demonstrating that formal representation alone cannot overcome historical patterns of exclusion.

A significant lesson emerged from the self-organization of convention members, particularly the "feminist collective" that comprised approximately 50 of the 77 female members. This group's experience, as analyzed by Raveau et al. (2022), demonstrates both the potential and limitations of informal organizational structures within formal deliberative bodies. While the collective successfully coordinated to advance certain proposals through regular Saturday meetings, this practice also raised questions about the relationship between formal deliberative processes and informal power dynamics.

Regarding deliberative mechanisms, the implementation of the "Convergencia Deliberativa" methodology offers important insights. As detailed by Figueroa and Jordán (2021), this methodology was specifically designed to facilitate dialogue and consensus-building through a dual emphasis on convergence (seeking common ground) and deliberation (dialogue from different positions). While the methodology showed promise in early stages, achieving notable consensus rates in values discussions (90.6%) and rights deliberations (92.1%), maintaining this deliberative quality proved challenging as the process progressed.

The implementation of mass participatory mechanisms revealed significant challenges. Survey data analyzed by Toro Maureira and Noguera (2024) shows that 82% of respondents reported being poorly informed about the process, with even higher percentages (93%) unaware of participation mechanisms. This suggests that creating formal channels for participation does not guarantee effective public engagement, particularly when such mechanisms are not accompanied by robust information and education strategies.

A crucial tension emerged between political coordination and open deliberation. [Fábrega's \(2022\)](#) analysis of voting patterns reveals that while the first ideological dimension explained 89.25% of voting behavior, even adding a second dimension only increased predictive accuracy to 91.43%. This suggests that despite the Convention's deliberative aspirations, political alignment remained a dominant factor in decision-making processes.

Regarding institutional design and legitimacy, the Convention's experience demonstrates a persistent gap between institutional innovation and public trust. Historical data presented by [Figuerola and Jordán \(2021\)](#) shows that by 2012, institutional trust had reached critically low levels: 24% for government, 15% for Congress, and 9% for political parties. The Convention's innovative design did not succeed in reversing this trend, as evidenced by the 68% of survey respondents reporting unmet expectations ([Toro Maureira and Noguera, 2024](#)).

Maintaining sustained participation emerged as a significant challenge. While the October 2020 plebiscite achieved the highest participation since the implementation of voluntary voting, this momentum did not translate into sustained engagement throughout the process. The evolution of public sentiment, tracked through longitudinal surveys, shows a progressive deterioration in both emotional connection and practical satisfaction with the Convention's work ([Toro Maureira and Noguera, 2024](#)).

The importance of effective feedback mechanisms became evident through the process. The Convention incorporated various oversight bodies, including the Citizens' Observer Council and the Systematization Committee, but these mechanisms did not prevent a growing disconnect between the Convention and the public. As noted by [Pérez-Crespo \(2021\)](#), while these bodies fulfilled their formal roles, they did not succeed in maintaining effective two-way communication between the constituent process and the broader citizenry.

Gender differences in engagement and satisfaction highlight another crucial lesson. [Toro Maureira and Noguera \(2024\)](#) found statistically significant differences between men and women in both information levels and satisfaction with the process, with women consistently reporting lower levels across both metrics. This gender gap persisted throughout all three waves of their longitudinal study, suggesting that even with formal gender parity, achieving substantive equality in participation remains challenging.

The contrast between early participatory experiences and the formal constituent process offers additional insights. The 2016 citizen dialogues, which engaged over 200,000 participants across 98% of national territory, achieved remarkable consensus rates ([Figuerola and Jordán, 2021](#)). The inability to maintain similar levels of engagement and consensus in the formal Convention suggests that institutionalizing deliberative practices requires careful attention to maintaining the conditions that enable effective public participation. This challenge was compounded by the fact that areas with higher intergenerational earnings persistence showed greater resistance to constitutional change ([Cortes Orihuela et al., 2023](#)), indicating that deliberative processes must contend not only with procedural challenges but also with structural inequalities that shape both participation capacity and reform preferences.

These lessons have significant implications for future constituent processes. First, they demonstrate that formal

innovations in representation, while necessary, must be accompanied by substantive measures to enable effective participation by historically excluded groups. Second, they suggest that deliberative mechanisms require careful design not only of formal procedures but also of the conditions that enable genuine public reasoning. Finally, they indicate that maintaining legitimacy requires sustained attention to the relationship between institutional processes and public trust.

The Chilean experience thus suggests that successful implementation of deliberative constitutionalism requires attention to three key dimensions: the conditions that enable substantive participation beyond formal representation, the mechanisms that facilitate genuine deliberation rather than mere political negotiation, and the institutional designs that can build and maintain public trust throughout the process. These insights provide crucial guidance for future attempts to implement deliberative democracy principles in constituent processes.

7 Discussion: reimagining deliberative constitutionalism from the Chilean experience

The Chilean Constitutional Convention experience provides crucial insights for reconceptualizing deliberative constitutionalism theory. As [Guiffé \(2023\)](#) notes, deliberative constitutionalism represents one of the most significant developments in constitutional theory and practice in recent decades. The Chilean case, however, reveals fundamental tensions that require a theoretical reformulation of how deliberative principles manifest in actual constituent processes.

A first theoretical implication emerges from the relationship between formal representation and substantive participation. While deliberative constitutionalism traditionally emphasizes the importance of inclusive representation, the Chilean experience demonstrates that innovative descriptive representation does not automatically translate into effective deliberation. As [Brignoli \(2024\)](#) argues, recent theoretical developments have pushed beyond traditional nation-state boundaries to imagine new "normative guides" for constitutionalism. The Chilean case suggests that these normative frameworks must better account for the gap between formal inclusion and substantive participation.

The experience with indigenous representation particularly challenges existing theoretical frameworks. As documented by [Soto Barrientos \(2014\)](#), constituent assemblies emerged alongside modern democracy as deliberative spaces. However, the Chilean Convention revealed that even with reserved seats and formal recognition, historically marginalized groups may face structural barriers to effective participation. This suggests that deliberative constitutionalism theory must develop more robust conceptual tools for understanding and addressing power asymmetries within deliberative spaces.

A second theoretical contribution relates to the relationship between deliberation and legitimacy. [Daly \(2015\)](#) conceptualizes constitutional referendums as ultimate expressions of popular sovereignty but acknowledges republican scholars' apprehension

about direct democracy. The Chilean case illustrates this tension: while 73% of citizens expressed normative support for democratic governance, between 77% and 80% considered democracy functions poorly in practice. This suggests that deliberative constitutionalism must better theorize the relationship between normative democratic ideals and practical legitimacy.

The evolution of public engagement throughout the process raises important questions about theorizations of deliberative momentum. While Eisenstadt et al. (2017) note that between 1974 and 2014, democracy increased in 77 countries following new constitutions, the Chilean experience shows how early participatory enthusiasm can dissipate. The decline from 90.6% agreement in early dialogues to widespread disengagement suggests that deliberative constitutionalism theory must better account for temporal dynamics in constituent processes.

The emergence of informal organizational structures, like the “feminist collective”, challenges traditional theoretical assumptions about deliberative spaces. As Hendriks (2009) notes, deliberative governance forms are rising worldwide, but empirical research is just beginning to examine their effectiveness. The Chilean case suggests that informal networks may both enhance and complicate formal deliberative processes, requiring theoretical frameworks that can account for these complex interactions.

A third theoretical implication concerns the relationship between technical expertise and public participation. As Breen (2018) describes regarding Nepal’s experience, constituent assemblies often struggle to balance participatory and deliberative processes. The Chilean Convention’s difficulty in maintaining public engagement while addressing complex constitutional matters suggests that deliberative constitutionalism theory must better conceptualize how technical and public knowledge can productively interact.

The persistent gender gap in engagement and satisfaction raises important theoretical questions about the relationship between formal parity and substantive equality. Traditional deliberative theory, as noted by Plešca (2011), often contrasts with liberal patterns of democracy. The Chilean experience suggests that achieving descriptive representation does not automatically lead to substantive equality in deliberative processes, requiring theoretical refinement of how gender dynamics operate in constituent processes.

Perhaps most significantly, the Chilean case challenges fundamental assumptions about the relationship between institutional design and democratic legitimacy. As Stom (2024) notes, democratic theorists increasingly embrace constructivist approaches to representation. However, the Chilean Convention’s inability to maintain public trust despite innovative institutional design suggests that deliberative constitutionalism theory must better account for the complex relationship between institutional forms and democratic legitimacy.

The experience with the “Convergencia Deliberativa” methodology provides insights for theoretical understandings of deliberative mechanisms. While Ramírez (2023) emphasizes how constituent processes can incorporate both institutional and non-institutional elements, the Chilean case suggests that maintaining deliberative quality requires more than methodological innovation. This implies that deliberative constitutionalism theory must better conceptualize the conditions that enable sustained quality deliberation.

These theoretical implications suggest three key areas for developing deliberative constitutionalism theory. First, theoretical frameworks must better account for the gap between formal inclusion and substantive participation, particularly regarding historically marginalized groups. Second, theories must develop more sophisticated understandings of how deliberative legitimacy is constructed and maintained over time. Finally, theoretical approaches must better conceptualize how technical expertise and public participation can be productively integrated in constituent processes.

The Chilean experience also suggests the need for more dynamic theoretical models that can account for temporal evolution in deliberative processes. As Poznańska (2023) notes regarding EU governance, deliberative democracy theory must adapt to complex multi-level realities. The Chilean case demonstrates that theoretical frameworks must better account for how deliberative processes evolve over time and how different forms of participation interact.

Furthermore, the case suggests the need for theoretical approaches that can better conceptualize the relationship between formal and informal power structures in deliberative spaces. As McDonald (2020) notes regarding constituent communication, traditional channels often promote one-way rather than deliberative interaction. Theoretical frameworks must better account for how formal and informal networks interact in shaping deliberative outcomes.

The lessons drawn from the Chilean Constitutional Convention experience point to the need for significant theoretical refinement in how we understand and implement deliberative constitutionalism. Future developments must address the gaps between formal representation and substantive participation, better conceptualize the construction and maintenance of deliberative legitimacy, and develop more sophisticated understandings of how different forms of knowledge and participation interact in constituent processes. These theoretical advances are crucial for guiding future attempts to implement deliberative principles in constitutional transformation processes.

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