

Public Participation and Support for the Constitution in Uganda

By

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PUBLIC PARTICIPATION AND SUPPORT FOR THE CONSTITUTION IN UGANDA

The consultation of Ugandans on the new constitution has been unprecedented. This participation has made people more politically mature and given them a sense of dignity that their views really matter in the democratic organization of society. Once they recognize that their views have formed the basis for the new constitution, they will be in a position to respect and defend it. People now generally know what a constitution is, its usual contents and, its objectives and principles. They have come to understand that democratic constitutions ought to emerge from the people. This belief is the strongest safeguard of a national constitution, which has evolved from the people themselves. (Uganda Constitutional Commission 1992, 13)

In 1988, Uganda embarked on an innovative constitution-making process that lasted eight years. The novelty of the process centered on the extensive involvement of the general public in the creation of the new constitution. Eritrea, South Africa, Fiji, and Albania followed with analogous participatory constitution-making projects. Currently, reformers in other developing democracies are championing the participatory model of constitutional reform as a constructive step towards building democratic political culture. Although there is considerable interest in this model among policy makers, there is little empirical research investigating the effectiveness of such a process.

Developing widespread public support for the new constitution was the primary goal of those who designed the Ugandan program, and it is a central objective of those advocating for the participatory model in other contexts. One of the main challenges facing newly democratizing states is to create a sizable constituency of citizens that will support and defend the new system once it is adopted. In the absence of public support for the constitution, leaders are likely to tamper with or ignore the constitutional limits on their power. Currently, participation is among the most often prescribed policy tools for enhancing constitution legitimacy. However, we lack

empirical evidence that participation does enhance legitimacy, especially at the individual level of analysis.

This paper tests the claim that public participation in constitution-making enhances support for the new constitution. Based on my survey of 820 citizens in Uganda, I find that the average level of support for the constitution is high, especially when compared to support in the seven other African countries for which there is comparable data. However, a multivariate analysis of the survey data shows that citizens who were involved in the Ugandan constitution-making process were no more supportive of the constitution than were those who didn't get involved. Thus we are faced with a puzzle: if participants are no more supportive of the constitution than non-participants, then what accounts for the unusually high levels of constitutional legitimacy in Uganda?

Drawing on qualitative analysis of in-depth interviews I argue that the leaders in a given area, and not participation alone, influenced whether citizens came to view the constitution as legitimate or illegitimate. I show that the constitution-making process and the constitution itself are difficult for ordinary Ugandans to evaluate, and this has important implications for citizen attitudes. Both participant and non-participant citizens were highly influenced by elites due to: 1) the scarcity of alternative sources of information, 2) the difficulty individuals faced in interpreting available information, and 3) the leaders' deliberate efforts to affect public opinion on constitutional issues. In areas where leaders were supportive of the government, citizens learned that the constitution-making process was fair and that the resulting constitution reflects the views of the citizenry. In areas where the political opposition was stronger, citizens learned that citizen opinions were disregarded and the constitution is biased against them. The weakness of the political opposition at the time of the constitution-making process accounts for the high level of constitutional support in Uganda. In short, most citizens heard positive assessments of the process and the constitution from their leaders.

The research teaches that participation does not happen in a vacuum, nor do citizens mechanically access information and transform it into opinions. If scholars and policy makers want to predict the effect of participation on citizen attitudes, they must focus on the content of

the messages to which participants will be exposed, as well as to the means that citizens will use to interpret those messages.

This paper proceeds as follows. The first section introduces the theoretical literature on constitution-making, democratization, and the developmental theory of participation. The second section describes the Ugandan constitution-making process and the quantitative and qualitative data that form the basis for the analysis in the paper. I then demonstrate that on average constitutional support is much higher in Uganda than in seven other African countries. The third section presents statistical analyses of survey data to test the hypothesis that an individual's level of participation is positively associated with their support for the constitution. I find little or no support for this hypothesis at the individual level of analysis.¹ The fourth section examines alternative influences on citizen support for the constitution in Uganda. The fifth section draws on qualitative analysis of in-depth interviews to argue that the messages communicated by leaders in a given location shaped how citizens viewed the constitution-making process and the constitution itself. The final section concludes by considering again how participation may or may not have influenced support for the constitution, and by summarizing the main lessons from this research.

I. CONSTITUTIONALISM AND PARTICIPATORY THEORY

CONSTITUTION-MAKING AND DEMOCRATIZATION

The recent wave of political and economic liberalization prompted a global explosion of constitution-making activity. From 1990 to 2000, 17 African states, 14 Latin American states, and nearly all the post-communist states in Eastern Europe and the former Soviet Union drastically altered their constitutions or wrote new ones (Van Cott 2000). The renewed attention

¹ By the individual level of analysis I mean that the relevant unit of analysis is each individual respondent. I am comparing individuals with different levels of participation in the constitution-making process. In this paper I also examine the level of support for the constitution at the aggregate level of analysis. In this case I am referring to the aggregation of all respondents in Uganda. At the aggregated level I compare between countries rather than between individuals.

to constitutionalism is concerned *not only with the content* of constitutions, but also *with the development of a democratic political culture* within society (Banting and Simeon 1985; Okoth-Ogendo 1991; Oloka-Onyango and Ihonvbere 1999; Shivji 1991). In addition, academics, activists, and policy makers concerned with fostering constitutionalism are now focusing *less on the content* of constitutions and *more on the process* of constitution-making. (Furley and Katalikawe 1997; Goldwin and Kaufman 1988; Hansen and Twaddle 1995; Howard 1993; Klug 1996; Kuria 1996; Majome 1999; Mathernova 1993; McWhinney 1981; Selassie 1998). They assert that the nature of the constitution-making process has important implications for citizen values and behaviors as well as for the provisions and power arrangements embodied in the final document.

By most accounts, the primary goal of the recent constitution-making activities has been to build widespread public support for new constitutions being created (Hyden and Venter 2001; Furley and Katalikawe 1997; Howard 1993; Klug 1996; Kuria 1996; Majome 1999; Mathernova 1993; McWhinney 1981; Selassie 1998; interviews with Waliggo 1999; Nsibambi 2001; and Odoki 2001). Scholars assert that the lack of attachment to constitutions is a major obstacle to democratic consolidation (Barya 1993; Ghai 1996; Hyden and Venter 2001; Okoth-Ogendo 1991; Oloka-Onyango and Ihonvbere 1999; Shivji 1991). Without a constituency that is willing to support and defend the constitution, a leader can tamper with or ignore constitutional limits on his power with impunity (Weingast 1997). Also, a constitution can't play the crucial role of mediating between different interests in society if it is not viewed as a mutually acceptable and binding social contract (Calvert 1995). In long-standing democracies, childhood socialization helps ensure that the population views the constitution as legitimate and worthy of adherence and protection. New democracies rarely have such reservoirs of constitutional support. As a result, the recent academic and policy attention to constitutional development has largely been focused on how to build constitutional support among adults in new democracies.

The Ugandan constitution-making process reflects these intellectual trends. In written works, speeches, and interviews, the key architects of the process argue that a major impediment to democratic consolidation is the minimal public knowledge of government rules and weak attachment to constitutional principles within the general population (Odoki 1999; Waliggo 1995). The

participatory model of constitution-making emerged as an innovative attempt to create support for the constitution and to foster democratic consolidation. Justice Benjamin Odoki, the chairman of the Ugandan Constitutional Commission (UCC), argued that public involvement is the key to ensuring constitutional legitimacy:

The manner in which a constitution is finally adopted by the people is very important in demonstrating the legitimacy, popularity and acceptability of the constitution. A constitution which is imposed on the people by force cannot form the basis of a stable peaceful and democratic governance of the people. To command loyalty, obedience, respect, and confidence, the people must identify themselves with it through involvement and a sense of attachment. A good and viable constitution should be generally understood and accepted by the people... The involvement of the people in constitution-making is therefore important in conferring legitimacy and acceptability to the constitution. (Odoki 1999, 16)

THE DEVELOPMENTAL THEORY OF PARTICIPATORY AND LEGITIMACY

It is not surprising that Ugandan constitution-makers looked to public participation as a means for building a support for the constitution. Classical scholars of democracy, such as Rousseau (1968), de Tocqueville (1945) and Mill (1948), and more recent participatory theorists, such as Barber (1984) and Pateman (1970), argue that the primary function of participation is to develop the democratic characteristics of the participator, including support for the political system. According to these and other scholars, participation raises an individual's interest in and 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.²

Importantly the developmental theory of participation holds that engaging in political activity directly affects the attitudes of the participants, irrespective any effect on policy. In other words, it is the act of participation itself that matters most, and the participants alone will experience the full development of constitutional attitudes and behaviors. In this sense, participants should be more supportive of the system than non-participants.

² There are many theoretical accounts of the effect of participation on a range of different political attitudes and behaviors. For examples, see Almond (1963), Clarke (1989), Finkel (1987), Finkel (2000), Hirschman (1970), Huntington (1991), Mansbridge (1995), Mill (1948), Nie (1996), Radcliff (2000), Rosenstone (1993), Verba (1978), and Verba (1995). For reviews of literature on participation, see Salisbury (1975), Thompson (1970), and Nelson (1987).

The architects of the Ugandan process clearly had the developmental theory of participation in mind when designing their program. The UCC rejected a proposal to collect public views through a survey based on scientific sampling. Instead they chose a more difficult and intensive process of holding seminars and collecting memoranda. Justice Odoki, the chairman of the UCC, acknowledged that the chosen method produced a less ‘representative’ description of what *all* Ugandans wanted since only the ideas of those who chose to participate were collected. He argued that the need for people to engage in collective and public debate on constitutional issues and to submit their views in their own words was more important than obtaining a scientific sample of interests (Odoki 2001; see also Uganda Constitutional Commission 1992, 345). The primary goal was to encourage active involvement so as to develop citizens who would support the constitution. Producing a representative constitutional document was secondary.

In sum, the developmental theory of participation and the architects of the Ugandan program assert that participation develops support for the constitution by changing the attitudes of active citizens. This paper seeks to test this claim by evaluating whether participants in the Ugandan constitution-making process have a deeper commitment to the constitution than non-participants.

II. SUPPORT FOR THE CONSTITUTION IN UGANDA

In total, the Ugandan constitution-making process involved a range of participatory activities and it provides a unique opportunity to study the often elusive effects of participation. This section describes the Ugandan process and summarizes how Ugandans feel about their 1995 constitution. First I introduce the case and the data used for this paper. Next I explain the various dimensions of constitutional support and how I measure each. Lastly I describe the level of support for the constitution in Uganda and I compare Uganda with other African countries.

Notably, I show that aggregate support for the constitution in Uganda is higher than in all seven countries for which there is comparable data. The figures presented in this section seem to bolster the claims of participatory theorists and Ugandan policy makers. However, the evidence

is only suggestive and the more exact test of the developmental theory of participation is presented in the following section.

UGANDAN CONSTITUTION-MAKING AND THE EMPIRICAL DATA

Three years after coming to power, the National Resistance Movement (NRM) government headed by President Yoweri Museveni established a 21-member Ugandan Constitutional Commission (UCC). From 1988 to 1992, the UCC: 1) held 86 district seminars; 2) attended educational forums in all 813 sub-counties; 3) returned to each sub-county to collect oral testimony and written memoranda; 4) analyzed 25,547 memoranda 5) officiated over a student essay contest; 6) organized regular media discussions; and 7) prepared the draft constitution. The second stage of the process began with the campaigns for the Constituent Assembly (CA). After the elections and 16 months of intense debate, a final constitution was promulgated on September 22, 1995.

From January to April 2001, I conducted a survey of 820 citizens from 11 of 45 districts, randomly sampled according to a multi-stage, stratified by region, sampling design. In the survey, I included questions to operationalize the key concepts (participation and support for the constitution) and the respondents' demographic characteristics, socio-economic status, ethnic and religious background, attitudes, behavior, and residential location. In order to help develop and revise the survey questionnaire, I conducted in-depth interviews and focus groups, and ran a survey pre-test. To ensure that the survey was administered in the languages of the sampled regions, I hired and trained five teams of interviewers. The questionnaire was translated into the five languages and checked using the technique of translation back-translation. I accompanied the interview teams in the field and conducted open-ended interviews with citizens and local leaders living in the areas sampled for the survey. Respondents for the in-depth interviews included: 1) citizens randomly sampled within a given location (but not in proportion to the population in that area); 2) local leaders who were likely to know about constitution-making activities in the area; and 3) individuals sampled off lists of participants.³ Unlike the survey

³ These lists, housed at the electoral commission library archives, include the attendees at meetings organized by the UCC and signatories to memoranda submitted from local councils, groups, and individuals.

sample, the interview sample is not representative of the general population. However, the in-depth interview transcripts contain richer descriptions of the respondents' attitudes and the influences on those attitudes. 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 this section and the next relies primarily on the survey data, while the second half of the paper draws more heavily on qualitative analysis of the in-depth interviews.

MEASURING SUPPORT FOR THE CONSTITUTION

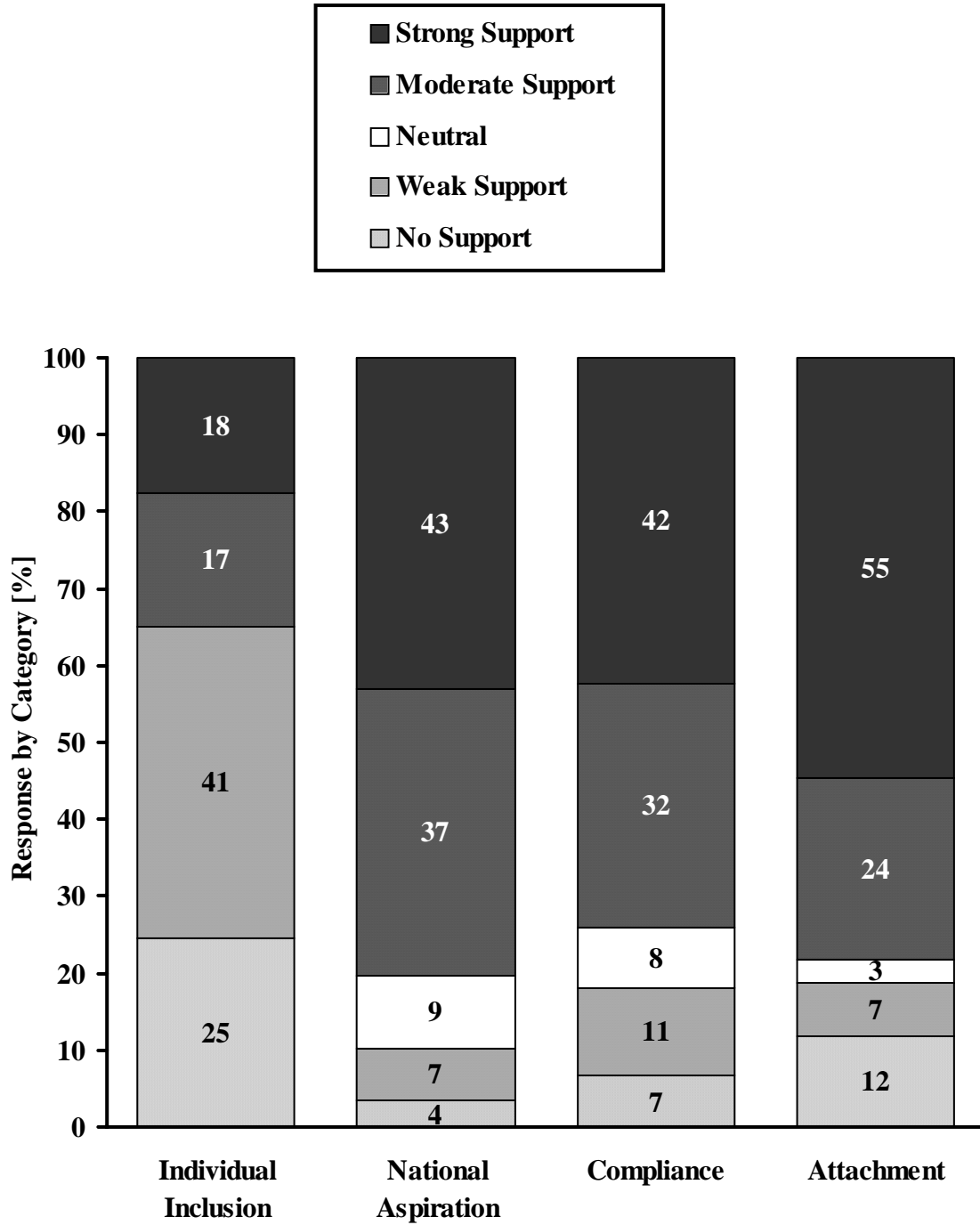
Support for the constitution is multidimensional, so I employ four different questions to measure whether or not the respondent felt the constitution: 1) includes their views; 2) represents the national political community as a whole; 3) is worthy of compliance; and 4) should be preserved. The four questions 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 average 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.⁴

The first measure of support for the constitution I term *individual inclusion* because it represents a respondent's perception of whether his/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 thus has four possible values ranging from zero ('none at all') to one ('all of your views'). The mean value is 0.42, which means that the average person said that at least some of their ideas were included in the final document.⁵ 35% reported that 'all' or 'most' of their views were included, while 65% reported that only 'some' or 'none' of their views were included.

⁴ Only 69% answered the question measuring individual inclusion; 80% answered about national aspiration; 89% answered about compliance; and 89% answered about attachment. Altogether, 60% of the respondents provided answers for all four questions and are included in figure and analysis of the constitutional support index. Notably those who provided answers about the constitution had considerably higher rates of participation than did those who failed to answer the questions. In other work I argue that participation provided citizens with basic information to form opinions about the constitution and the confidence to share those opinions (Moehler 2003).

⁵ The mean value is calculated from answers coded as follows: strongly agree = 1, agree = .75, neither agree nor disagree = .5, disagree = .25, strongly disagree = 0. The figures reported here and the analysis later is based on only those individuals who answered the questions.

Figure 1 Four Measures of Support for the Constitution in Uganda



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 the respondent answered they were asked if they agreed (or disagreed) ‘strongly’ or ‘just somewhat.’⁶ This variable also ranges from zero (‘strongly disagree’) to one (‘strongly agree’). The mean for national aspiration is 0.77 indicating that on average respondents agreed that the constitution represents the Ugandan people. 80% of those who provided a response said that they ‘strongly agreed’ or ‘agreed’ with the statement and only 11% ‘disagreed’ or ‘strongly disagreed’. This question is identical to one asked on some of the Afrobarometer surveys, thus enabling valuable cross-national comparison.⁷

Compliance is the third measure of constitutional support. It was designed to measure whether citizens view the constitution as worthy of their observance. Again, the interviewer asked respondents to agree or disagree with a statement: “People should abide by what was written in the constitution whether they agree with what was written or not.” A question about intensity of views followed, as in the previous measure. The compliance variable was coded the same way as the national aspiration measure. The mean is 0.73 indicating that on average Ugandans believe people should comply with the constitution. 74% reported that they ‘strongly agreed’ or ‘agreed’ with the statement, while 18% ‘disagreed’ or ‘strongly disagreed.’

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 then 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’

⁶ During the testing of the questionnaire, we found that respondents (particularly those with lower education) were better able to answer two part questions than questions when all four options were presented at once. The first question determines direction of sentiment, and the second question probes for intensity of feeling. The option of ‘it depends’ was not given verbally to the respondent but was coded as such with a written explanation if the respondent gave that answer. The written comments were later checked to verify coding as ‘it depends.’ Thus, the variable has five possible values.

⁷ The Afrobarometer survey has been conducted in 15 African countries. The project is coordinated by the Institute for Democracy in South Africa (IDASA), the Centre for Democratic Development (CDD-Ghana), and Michigan State University. See <http://www.afrobarometer.org/index.html> for more details.

with their chosen statement. Like the other three measures, attachment ranges from zero to one, with ‘strongly agree with statement B’ coded as zero, and ‘strongly agree with statement A’ coded as one. The variable has five possible values, and a mean of 0.74 indicating general support for statement A, or attachment to the current constitution. 78% ‘strongly agreed’ or ‘agreed’ with statement A, compared with only 19% who ‘strongly agreed’ or ‘agreed’ with the alternative statement B.

Lastly, I add up these four measures of support for the constitution to create an index variable named the *constitutional support index*.⁸ The variable ranges from zero to four with higher values indicating more support for the constitution. According to the index, 48% supported the constitution (meaning that their score totaled at least what they would have gotten had they answered supportively on all four questions), and 12% of the respondents did not support the constitution (meaning that their score totaled at most what they would have gotten had they answered negatively on all four questions). The remaining 40% were in between.⁹ The index variable captures all the different aspects of constitutional support or legitimacy.

COMPARATIVE ASSESSMENT OF CONSTITUTIONAL SUPPORT

In general, Ugandans expressed strong support for their constitution. For the questions measuring national aspiration, compliance, and attachment the percentages that reported support or strong support for the constitution are quite high: 80% agreed with the statement about national aspirations; 74% with the statement signifying compliance; and 78% with the statement indicating attachment.¹⁰ These aggregate levels of support for the constitution seem high, but how do they compare to other countries? The question used to measure national aspiration is identical to a question asked on some of the Afrobarometer surveys. Thus I can compare the

⁸ Cronbach's alpha = 0.55

⁹ The mean value of the constitutional support index is 2.74 and the standard deviation is 0.82.

¹⁰ The level of support measured by the individual inclusion variable is much lower than for other three measures. Only 35% reported that ‘all’ or ‘most’ of their views were included in the current constitution of Uganda, while 65% reported that only ‘some’ or ‘none’ of their views were included. Perhaps there is a difference because with this question the bar is set too high for expressing support for the constitution. It could be that individuals who said that ‘some’ of their views were included were also expressing support for the constitution. If this is the case, then 75% expressed support or strong support for the constitution (by saying that at least some of their views were included) while only 25% said that none of their views were included.

findings from my own survey in 2001 with those of the Ugandan Afrobarometer survey in 2000,¹¹ as well as with Afrobarometer survey results from Botswana 1999, Lesotho 2000, Malawi 1999, Namibia 1999, South Africa 2000, Zambia 1999, and Zimbabwe 1999.

Figure 2 compares the aggregate results from my Uganda survey with the aggregate results from Afrobarometer surveys done in the other African countries.¹² The countries are displayed in order of support for the constitution. This figure shows that support for the constitution in Uganda is higher than in all seven other countries. As mentioned earlier, 80% support the constitution (agree or strongly agree with the statement ‘Our constitution expresses the values and aspirations of the Ugandan people’) while 11% are hostile to the constitution in Uganda. The mean value on a scale of zero to one is .77.¹³ The next highest support for the constitution is in Namibia (mean = .72). Following close behind are Lesotho (mean = .69), Botswana (mean = .66), and South Africa (mean = .65). At the bottom of the range are Malawi (mean = .62), Zambia (mean = .59), and Zimbabwe (mean = .35).¹⁴

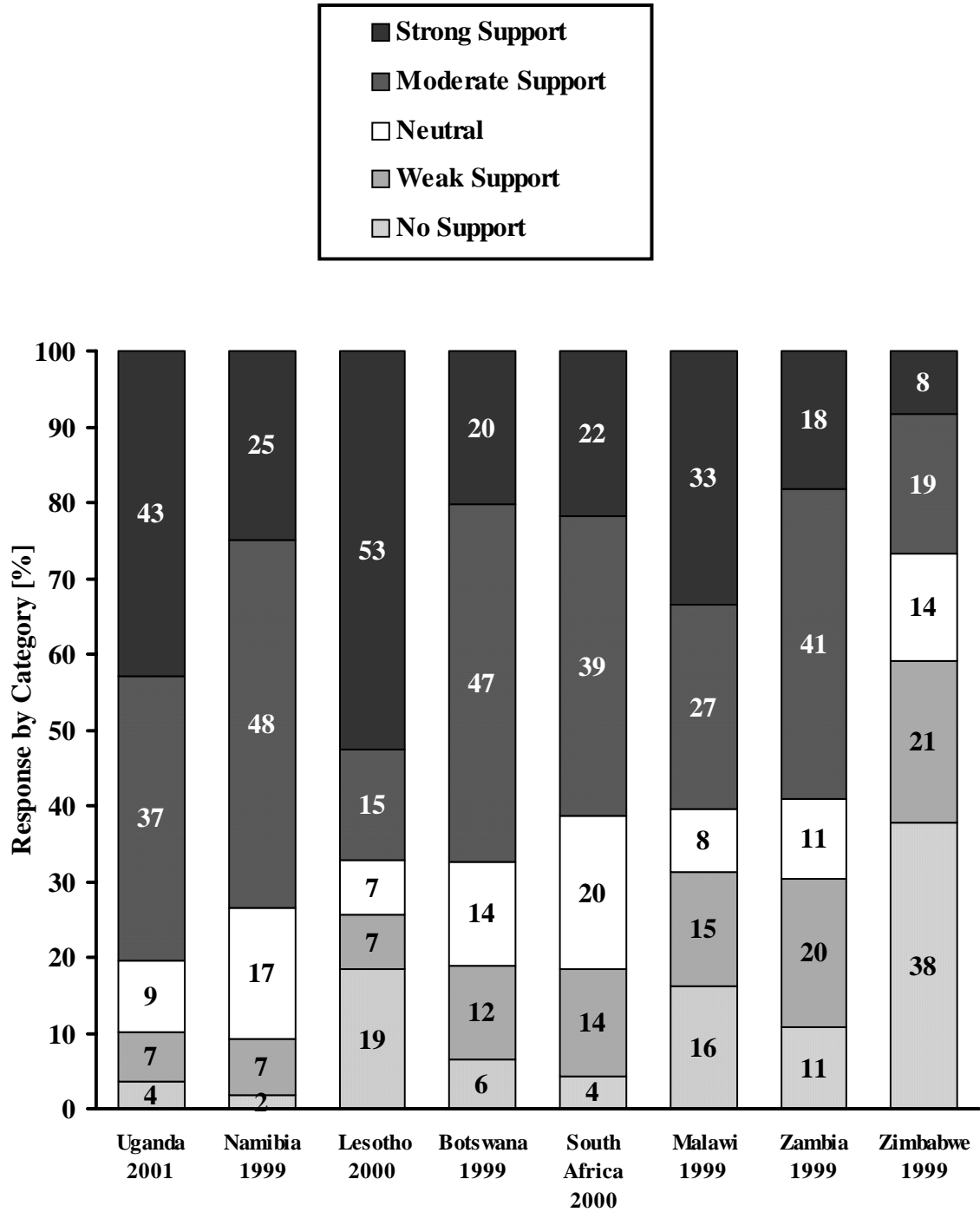
¹¹ The Afrobarometer Uganda 2000 survey provides strong validation for my own survey results due to the high degree of similarity between the two. In my survey, 43% agreed strongly, 37% agreed somewhat, 9% were neutral, 7% disagreed somewhat and 4% disagreed strongly. In the Afrobarometer survey, 37% 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 somewhat. It is difficult to know what percentage of the neutral category in my survey would have been coded as ‘agree’ and which as ‘disagree’ if ‘it depends’ was not permitted. If we take one extreme—all neutral answers were coded as ‘agree’—then the percentage that ‘agree’ or ‘strongly agree’ in my survey (89%) is close to that of the Afrobarometer survey (91%). However, if we take the other extreme—all neutral answers coded as ‘disagree’—then the support in my survey (80%) is lower than that of the Afrobarometer survey. The actual distribution is probably somewhere in between.

¹² For ease of comparison, Figure 2 replicates the column for national aspiration in Uganda from Figure 1. I am using my own survey results as the base of comparison rather than the Afrobarometer Uganda survey because the inclusion of the neutral category in my survey facilitates comparison to the other Afrobarometer surveys that also include the neutral category. Support for the constitution is higher in the Ugandan Afrobarometer survey than in mine, so the figure displays the more conservative comparison.

¹³ Based on the Afrobarometer data from Uganda, 91% support the constitution and 9% are hostile. The comparable mean is .79.

¹⁴ Finding comparable data outside of Africa is difficult. However a 2001 survey in Russia conducted by the Public Opinion Foundation found that 28% of respondents liked the Russian constitution and 38% disliked it. The remainder did not offer opinions about the constitution. 8% thought the constitution should be left alone, but 67% advocated for revisions. 47% reported that the constitution is a formal document which has no bearing on the actual life of the country (Yablokova 2001).

Figure 2 Comparing Support for Constitutions Across Africa



It is especially noteworthy that the levels of support for the constitution in Uganda exceed those of Botswana and Namibia, two countries with higher per capita economic wealth and much longer experience with stable democracy. Support for the constitution in Uganda also exceeds levels of support in South Africa, Zimbabwe and LeSotho all of which have higher levels of per capita wealth.¹⁵ Interestingly, the levels of support for the constitution in South Africa are also relatively high for a new democracy. South Africa also employed an extensive participatory constitution-making process (though it did not last as long nor involve as large a percentage of the population as in Uganda). The finding that South Africans also indicate high levels of support for their constitution suggests that participatory constitution-making may increase constitutional support.¹⁶

In sum, Uganda's average level of constitutional support is higher than the level in other African countries despite its relatively recent transition to democracy and its low levels of civil and political rights, economic wealth, and literacy rate. This cross-national evidence suggests that the extensive public participation in the Ugandan constitution-making process may be responsible for building support for the constitution. The next section examines this claim more closely by testing the effect of participation on support for the constitution at the individual level of analysis.

¹⁵ These rankings are based on the World Bank Development Indicators (World Bank 2002) measure of GDP per capita in PPP current international dollars. The figures for 2000 are as follows: South Africa (9,401), Botswana (7,184), Namibia (6,431), Zimbabwe (2,636), Lesotho (2,031), Uganda (1,208), Zambia (780), and Malawi (615). I also looked for other possible confounding factors that would explain the rankings of support for the constitution. Uganda ranks towards the bottom of the list of countries in Freedom House (2002) measures of political and civil rights, GDP per capita growth, and literacy rate—all measured in the year of the survey (World Bank 2002). Uganda's level of support for the constitution is thus even higher than the numbers indicate, *ceteris paribus*.

¹⁶ It is understandable that levels of constitutional support in Botswana and Namibia would exceed those in South Africa, given their comparatively stable and democratic political histories. However it remains a mystery as to why the level of support for the constitution is so high in Lesotho, a country with a tumultuous constitutional history and present. Lesotho also had the highest percentage of individuals who couldn't answer the questions about the constitution (28%) and the connection may be meaningful.

III. TEST OF INDIVIDUAL-LEVEL EFFECTS OF PARTICIPATION

As discussed earlier, participatory theory predicts that by participating, individuals become more supportive of policy outputs and more attached to the fundamental principles of the political system. As such, we should expect that individuals who were involved in Uganda's constitution-making process to be more supportive of the constitution than those who weren't involved. In this section I test the hypothesis that *the higher an individual's level of participation the more supportive s/he is of the constitution, ceteris paribus*.

I employ the survey data I collected in Uganda to test this individual level hypothesis of change. 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. Since this type of panel study was not possible given the extensive time over which the participatory constitution-making process took place and the resources available,¹⁷ I must rely on cross-sectional data—information gathered only after the participation has taken place. Thus, I have chosen to compare citizens that reported having participated with those who did not—or more accurately, to compare citizens that reported differing levels of participation. As is common in such natural experiments, it is necessary to control for factors that might obscure the relationship between participation and attitudes.¹⁸ Therefore, I include a series of exogenous control variables.¹⁹ I estimate the statistical models using an ordered probit or ordinary least squares (OLS) procedure where appropriate.²⁰

¹⁷ The lack of identification papers and methods for tracking the location of individuals in developing countries makes panel studies extremely difficult to carry out. When the hypothesized treatment takes years or even decades to produce effects (as with participation) the tracking requirements of a panel study become more difficult.

¹⁸ For an in-depth treatment of natural experiments and statistical analysis, see Achen 1986.

¹⁹ The hypothesized relationship between participation and attitudes is often reciprocal. In my research on the effect of participation on democratic attitudes, efficacy, social trust, institutional trust and knowledge, I explicitly model the hypothesized reciprocal relationships using a two-stage least squares procedure (Moehler 2003). In contrast, the hypothesized relationship between participation in constitution-making and support for the current constitution is not reciprocal. The participation in question happened prior to the existence of the 1995 constitution, and thus individuals could not have already held attitudes about the constitution when they decided to participate. As such I employ a single equation model to estimate the effect of participation on support for the constitution.

²⁰ I use ordered probit for: individual inclusion, national aspiration, compliance, and attachment. These variables have 4 or 5 values. I use ordinary-least-squares (OLS) for the constitutional support index, which has 43 values.

MEASURING PARTICIPATION: ‘PARTICIPATION ACTIVITIES INDEX’ AND ‘RESPONDENT-IDENTIFIED PARTICIPATION’

The key independent variable of interest is the respondent’s self-report of his or her participation in constitution-making activities prior to the promulgation of the constitution. I use two different measures of participation to check that the findings are robust to question bias. The primary measure of participation, the ‘*participation activities index*’, is an index variable created from the sum of six separate survey questions. Each question asks whether or not the respondent participated in a specific constitution-making activity: 1) attended a seminar where a member of the UCC was present; 2) submitted a memoranda to the UCC—as an individual, or as part of a group; 3) attended a meeting where people discussed questions about the constitution; 4) attended a CA delegates’ meeting (a campaign rally); 5) voted to elect a delegate to the CA; and 6) obtained information about the debates in the CA.²¹ The reported level of participation was moderate. The average citizen participated in one and a half activities. 35 percent of the sample participated in zero activities (answered no to all six questions), while only 13 percent participated in three or more activities.

The alternative measure of participation, ‘*respondent-identified participation*’, comes from a different question that was asked towards 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.²² The variable consists of the sum of the total number of activities reported, and it ranges from zero (meaning no reported participation) to three (meaning three participatory acts reported). Because this alternative measure of participation relied on respondent recall, the reported participation is even lower than the main measure. Only six percent of the sample recalled participating in two or more activities, and 70 percent reported not participating at all.

²¹ Cronbach's alpha = .73

²² If a respondent gave just one or two answers, the interviewer prompted “any other ways?”

I use the two different measures of participation to verify that the framing of the question does not unduly bias the results.²³ The '*participation activities index*' asks the respondent about specific participatory activities, so the burdens of recall and interpretation are less difficult for the respondent. It also produces a more nuanced scale, recording six rather than three activities. Finally, the modes of participation are standardized across respondents. However, this measure only records participation in activities that the researcher found important rather than those the respondent could identify, and the yes/no response makes inaccurate reporting more likely.

The '*respondent-identified participation*' variable counters the bias of the main measure by recording the participatory activities that the respondent found most memorable and relevant. It was asked early in the interview before the questions mentioning specific participatory activities, so the respondents had to think of the activities they engaged in extemporaneously. The measure is subject to less bias by interviewer suggestion (respondents had to identify activities themselves rather than just answer yes or no). Nonetheless, respondents who have greater memory recall, those who can better distinguish between and recognize different participatory actions, and those who are more forthcoming with information may have higher measures than those without these attributes, even if their actual participation was the same. For example, the values for young, educated, male respondents are likely to be inflated.

Both measures of participation are subject to measurement error, so by alternating between two, I can do a better job of assessing the potential bias.²⁴ I expect the biases of the '*participation activities index*' to be less pronounced, so I will initially report the findings using this measure. I will also report where the results of the two measures differ notably from one another.

²³ The correlation between, 'participation activities index' and 'respondent-identified participation', is .57.

²⁴ It is important to note that both measures are self-reported participation rather than 'actual' participation. The activities happened some time ago and it is likely that the respondents forgot that they participated (though it is less likely with '*participation activities index*' than with '*respondent-identified participation*'). To assess the difference between actual and reported participation, I conducted open-ended interviews with subjects selected from lists of participants (memoranda, meeting attendance sheets, seminar attendance sheets), and those identified by others to have participated. I also matched survey respondents with names on the lists of participants. In addition to some memory loss, I found that there were many inconsistencies and inaccuracies in the lists of participants. For example: some memoranda reported all the names of the meeting attendees recorded by the secretary; some had individuals sign themselves (often excluding the illiterate); some only recorded the local council officials rather than average citizens in attendance; some recorded the names of officials even if they did not attend the meeting; and some passed on the names to higher level councils. As a result of these irregularities in the lists of participants, I decided not to use them as sampling frames or to 'correct' for self-reports of participation.

CONTROL VARIABLES

As mentioned earlier, the model includes a number of control variables thought to affect support for the constitution and to be correlated with participation. There are three demographic variables commonly associated with political attitudes: gender, urban/rural residence, and age. The model also includes two measures of socio-economic status (SES). I initially expected those citizens with higher SES to be more supportive of the constitution since they are comparatively better off under the current rules than those with lower SES. SES is measured with a dummy variable for primary school education completed,²⁵ and a continuous variable of wealth based on a weighted scale of the number of durable consumer goods owned by the respondent's household.

There are a series of variables in the model that control for political exposure. I initially thought that more politically exposed individuals might pick up 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 followed 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. I also expected that individuals would be 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 are variables that measure support for the current government leadership and satisfaction with government performance, both of which I expected to be positively related to constitutional support. I surmised that those who support the current leadership were also more likely to feel positively about the constitution that was created and adopted during the tenure of the regime.

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 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 highly correlated with other control measures in the model.

Thus, the model includes support for the National Resistance Movement (NRM), the name of the leadership since 1986. I also predicted that individuals who are satisfied with current conditions might attribute their improved fortunes to the constitution. The 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

Lastly, the equation contains dummy variables for four of the eleven districts where the survey was conducted. The inclusion of these district variables was motivated by my 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 in most locations gave positive assessments of the constitution, the overwhelming majority of respondents in these four districts were decidedly negative. I include the four district dummy variables 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

²⁶ It might be that support for the NRM and assessments of current conditions are mediating variables between participation and constitutional support. Participation may cause individuals to support the government that sponsored the participatory process and feel that their living conditions are improving. 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 I want to stress that these four districts were identified to be associated with lower attitudes about the constitution prior to analyzing the survey data themselves. The survey data show one additional district, Apac, that 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.

The resulting equation to be estimated is:

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

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

RESULTS ON PARTICIPATION AND CONSTITUTIONAL SUPPORT

Table 1 presents the ordered probit estimates for the equations predicting individual inclusion, national aspiration, compliance, and attachment, 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, there is only weak and uneven support for the initial hypothesis that the higher an individual's level of participation the more supportive s/he is of the constitution. 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) that 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.

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

Table 1 Ordered Probit and OLS Estimates Predicting Support for the Constitution

Variables	Individual Inclusion	National Aspiration	Compliance	Attachment	Constitution Support Index
	ordered probit	ordered probit	ordered probit	ordered probit	OLS regress.
Participation index	0.13 ** (0.04)	-0.03 (0.04)	0.08 ** (0.04)	0.02 (0.04)	0.05 * (0.03)
<i>Demographics and socio-economic status</i>					
Male	-0.04 (0.11)	0.00 (0.11)	0.04 (0.10)	-0.02 (0.10)	-0.07 (0.08)
Urban residence	0.01 (0.17)	0.21 (0.18)	0.21 (0.17)	0.27 (0.17)	0.18 (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 (0.12)	0.01 (0.12)	0.17 (0.12)	-0.17 (0.12)	0.01 (0.09)
Wealth in consumer goods	-0.06 ** (0.02)	0.03 (0.03)	0.04 (0.03)	0.04 (0.03)	0.02 (0.02)
<i>Political exposure</i>					
Follow public affairs	0.18 ** (0.08)	0.39 ** (0.07)	0.17 ** (0.06)	0.25 ** (0.06)	0.25 ** (0.05)
Exposure to news on radio	0.03 (0.04)	-0.01 (0.03)	-0.04 (0.03)	-0.00 (0.03)	-0.01 (0.02)
Exposure to newspapers	0.01 (0.04)	-0.12 ** (0.04)	-0.06 (0.04)	-0.07 ** (0.04)	-0.06 * (0.03)
Exposure to news meetings	0.02 (0.06)	0.06 (0.06)	-0.03 (0.05)	0.05 (0.05)	0.04 (0.04)
Mobility	-0.04 (0.04)	-0.05 (0.04)	-0.00 (0.04)	-0.11 ** (0.04)	-0.06 ** (0.03)
Associational affiliations	0.04 ** (0.02)	-0.01 (0.02)	-0.04 ** (0.02)	0.03 (0.02)	0.01 (0.01)
Local council position	-0.13 ** (0.05)	0.06 (0.06)	0.05 (0.05)	0.07 (0.06)	-0.02 (0.04)
Closeness to higher official	0.07 (0.11)	0.28 ** (0.12)	0.41 ** (0.11)	0.08 (0.12)	0.20 ** (0.08)
<i>Support for current leadership</i>					
Support NRM	0.36 ** (0.10)	0.20 ** (0.10)	0.07 (0.09)	0.43 ** (0.10)	0.29 ** (0.07)
Improved living conditions	0.02 (0.04)	0.08 ** (0.04)	0.07 ** (0.03)	0.10 ** (0.04)	0.07 ** (0.02)
<i>District of residence</i>					
Mpigi	-0.68 ** (0.15)	-0.55 ** (0.13)	-0.18 (0.13)	-0.33 ** (0.13)	-0.38 ** (0.10)
Luwero	-0.70 ** (0.20)	-0.45 ** (0.16)	-0.38 ** (0.15)	-0.34 ** (0.17)	-0.39 ** (0.13)
Nakasongola	-0.61 ** (0.29)	-0.42 ** (0.18)	-0.12 (0.14)	-0.57 ** (0.18)	-0.31 ** (0.14)
Lira	-0.34 ** (0.14)	-0.18 (0.17)	-0.92 ** (0.14)	-0.30 * (0.17)	-0.47 ** (0.13)
Constant					1.61 ** (0.23)
N	526	607	669	667	458
R ²					0.25

* p<0.10 ** p<0.05

Source: Devra Coren Moehler, "Ugandan Constitution-Making"

In the equation predicting the constitutional support index the OLS estimate for participation is positive but only statistically significant with a 90% confidence interval. (coefficient=.05, s.e=.03, p-value=.08). The substantive influence of participation on constitutional support is 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. In sum, there is only weak and uneven evidence from this statistical analysis that participation altered constitutional support at the individual level of analysis.²⁹

There are reasons to think that the two measures that are not influenced by participation (national aspiration and attachment) are better measures of constitutional legitimacy than those that are significantly affected by participation (individual inclusion and compliance). Individuals may think that their views are included but still not view the institution as legitimate and visa versa. Citizens may also be motivated to comply with an institution that they don't deem legitimate. In a study of citizen attitudes about the South African Constitutional Court, James Gibson and Gregory Caldeira 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" (2003, 23). Gibson and Caldeira theorize 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 can't be certain.

²⁹ 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=.18, s.e=.07, p-value=.01). The effects of participation on the other dependent variables were not significant (national aspiration: coefficient= -.02, s.e=.08, p-value=.82; compliance: coefficient=.13, s.e=.09, p-value=.16; attachment: coefficient=.04, s.e=.10, p-value=.71; constitutional support index: coefficient=.06, s.e=.06, p-value=.32). I also ran the model including individually variables that had been significantly related to participation in my other work, but for which I had no strong expectation that they would affect support for the constitution (Moehler 2003). These variables include interest in politics, access to basic needs, ethnicity, and secondary school completed. Including of these variables did not significantly or consistently affect the relationship between participation and the individual measures of constitutional support. I also included measures for constitutional knowledge, institutional trust, and democratic attitudes. While institutional trust and democratic attitudes are positively and significantly related to constitutional support, including these variables does not significantly disrupt the relationship between participation and the four individual measures of constitutional support.

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 the developmental theory of participation and it challenges the claims of those from Uganda and elsewhere who argue that participatory constitution-making builds constitutional support.

IV. ALTERNATIVE INFLUENCES ON CONSTITUTIONAL 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 that measures 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 individuals who follow public affairs are more supportive because they are likely to be exposed to government pronouncements about the value of the constitution.³⁰ Additionally, the variable might be another indicator of support for the system. Individuals who support the system will feel it socially desirable to report following public affairs given the rhetorical emphasis of the leaders on public involvement in politics since the NRM came to power.

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

³⁰ Gibson, Caleira and Baird (1998) found that those who are more attentive to the high courts are more supportive of them. They argue that individuals who are attentive are exposed to “a series of legitimizing messages focused on the symbols of justice, judicial objectivity, and impartiality” (, 345). I expect the same to be true for the constitution in Uganda.

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 leaders in power or who feel that their conditions are deteriorating will reject the constitution regardless of whether they participated in its creation or not.

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. *In short, 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 characteristic that district residents share but 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 will limit myself to talking about what is not responsible for the district effect.

Ethnicity is the most plausible individual level trait that could be responsible for the district effect, since ethnicity is regionally concentrated in Uganda. There is some indication that the Baganda are less supportive of the constitution and the Banyankole are more supportive, but not uniformly so.³¹ Also, adding dummy variables for the five main ethnic groups to the sample

³¹ 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.

does not systematically alter the results for the district dummy variables.³² Thus the district effect does not seem to be due to the effect of ethnicity.

Religion is another plausible explanation, though it is not as regionally concentrated in Uganda as 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 up to the respondent's house. These variables are insignificant when included and don't alter the effect of district variables. Other possible suspects such as wealth, education, and urbanization are already included in the model as controls.

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

V. LOCATION OF RESIDENCE AND ELITE INFLUENCES

The analysis presented so far raises a puzzle: Why is support for the constitution so high in Uganda if being involved in the process didn't make individuals any more supportive of the constitution? To help solve this puzzle, I supplement the quantitative analysis of survey data

³² I added the dummy variables separately and altogether (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 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 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 didn't change significantly from sub-sample to sub-sample.

with qualitative analysis of in-depth interviews. Earlier I noted that location of residence has a significant impact on constitutional support. Yet we still do not have an adequate explanation of why location is important. This section examines in more detail the effect of context on support for the constitution.

Based on qualitative analysis of in-depth interviews, I argue that the views of the leaders who were active in a given area shaped citizen evaluations of both the constitution-making process and the constitution.³³ Citizens lacked the necessary skills and information to evaluate the constitution on their own, so they turned to local elites for cues. In addition, elites had an interest in persuading citizens to share their views. Where elites were supportive of the constitution, they imparted positive messages to the citizens about their participation in the process, the fairness of the procedures used, and the legitimacy of the outcome. Where elites were antagonistic, citizens learned that the constitution-making process was unfair, the constitution was flawed, and the new system was biased against them.³⁴

LIMITED SOURCES OF INFORMATION AND INTERPRETATION

Most Ugandans have 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 organizations (NGOs) was also limited at that time. Furthermore, interpreting the legitimacy of the constitution is difficult for individuals everywhere in the world, and especially so for Ugandan citizens who didn't have prior experience with constitutional rule. Participants eager for information, but without multiple sources, relied on 'experts' to inform

³³ Steven Finkel (2000) makes a similar argument with respect the why civic education led to lower trust in the Dominican Republic, but higher trust in South Africa. He argues that in the Dominican Republic, the NGO groups conducting the civic education programs were antagonistic to the government. This was not the case in South Africa. In short, participants in civic education programs were highly influenced by the attitudes of those organizing the activities.

³⁴ My argument that a third factor affects both judgments about the legitimacy of the constitution and the fairness of the process is different from, but not incompatible with, a concern voiced by Gibson, Caldeira, and Baird (1998). They posit that the relationship between procedural assessments and legitimacy hypothesized by Tyler (1989) may be reversed. Instead of assessments of procedural fairness affecting and individual's judgment about the institution's legitimacy, an individual's judgment about an institution's legitimacy might influence his or her perception of the fairness of the process.

them 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 about the constitution and the difficulty citizens had in evaluating it. 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% didn’t know—leaving only 32% who felt that most people could understand the constitution. Indeed only some of those asked about the constitution were willing and able to provide responses. Only 69% answered the question measuring individual inclusion. 80% answered the question measuring national aspiration.³⁵ 89% gave an answer for the question measuring compliance. Lastly, 89% answered the last question measuring attachment.³⁶ At a more basic level, only 67% could provide an appropriate response to a question that asked: “In your opinion, what is the purpose of the constitution.”³⁷

Citizens’ inability to evaluate the process and the constitution on their own, and their reliance on ‘local experts’ is a recurring theme in the in-depth interview transcripts. For example, a local council chairman from Iganga expressed strong support for the constitution-making process and the constitution though he admitted that most people in his village had trouble contributing views and evaluating the impact of their participation on the constitution:

³⁵ Similarly, 82% answered the question on national aspiration in the Afrobarometer survey conducted in Uganda a year before my survey. The proportion who answered the question in the Afrobarometer surveys from other countries is also low, ranging from 72% in Lesotho to 96% in South Africa.

³⁶ In other work I established that participation did affect whether or not a citizen was likely to answer the questions about the constitution (Moehler, 2003). Those who participated in the constitution-making process were far more willing and able to evaluate the constitution, even when controlling for possible confounding factors. The in-depth interview transcripts also show that participation helped citizens to learn about the constitution and to form opinions about it. Thus, participation did help teach people about the constitution even if it didn’t automatically cause them to support it.

³⁷ 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. It also did not 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”.

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. (Interview in Iganga District, February 2001)

In the open-ended interviews many respondents like the one above remarked that they lacked the experience and knowledge to know which issues are constitutional issues and which issues 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 reported that they felt uncomfortable generalizing from their personal experiences to the state as a whole. For example, in response to my question about whether or not the CA elections were free and fair, most responded that they were free and fair at their voting location, but they did not know about 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 53 year old woman said: “I haven’t had enough chance to get information on the constitution so I don’t know if they [her views] are there. The MP’s should come back and tell us.” From my archival research I found that the UCC did a good job of documenting the submissions they received and how they developed the draft constitution. However, most Ugandans never had access to these materials. Only two out of 81 in-depth interview respondents said they read at least some part of the Commission’s draft constitution or reports containing statistics and commentary about the memoranda. The respondents often complained that they did not have a chance to read the constitution (either because they couldn’t get a copy or because it was in English) so they could not judge the final outcome for themselves.

Where did Ugandans get information about the process and the constitution then, if not from these official documents? In the interviews, respondents reported that their CA delegates and MPs (who were often the same individual) were their most preferred source of information because they had the greatest knowledge. Not surprisingly, several of the clusters of negative evaluations of the constitution in my data had CA delegates who were strongly opposed to the

regime. For example, the CA delegate for some of my respondents in Mpigi district was Paul Ssemogerere, the former president of the Democratic Party (DP) and the main opposition candidate in the 1996 Presidential elections. The CA delegate from Lira Town was Celia Ogwal, the former assistant secretary general of the Uganda's Peoples Congress (UPC). DP and UPC are the two largest opposition parties and maintain strong support in their areas, often 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 (interviews with Ogwal 2001; and Ssemogerere 2001). Not surprisingly, 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 is illustrative:³⁸

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. (Interview in Mpigi District, January 2001)

This man's perception of the fairness of the elections was based on what he was told by his CA delegate, and not his personal experience.

The degree to which CA delegates and MPs had contact with their constituents varied tremendously. In fact, the respondents' chief complaint about the process was that their CA

³⁸ This respondent was active in the process. He reported participating in meetings about memoranda, the CA delegates meeting, and the CA elections.

delegates failed to come back to inform them what happened. As one gentleman in Iganga put it: “Whatever we gave him [CA delegate] he didn’t give feedback. I think my views are there but I never heard back. It’s like if you give someone something to take someplace and they don’t return you can’t know if the thing is there or not” (Interview in Iganga District, February 2001).

When CA delegates were not available, the open-ended interview transcripts show that people learned about the process and the constitution from local council and government officials, active and educated community members, and the leaders of organizations active in their communities. When I asked how he heard about the constitution-making activities, a farmer in Luwero said: “The local council was the main way of informing people. The councilors minded about the layman. They did a lot of work and encompassed everyone, even the illiterate.”

In the survey, respondents reported learning the most about the constitution from the radio, government officials, friends and family, and local meetings. Civic educators, religious leaders, posters, pamphlets, the television, and newspapers were poorer sources of information about the constitution. Although many Ugandans reported listening to the radio in the survey, in the in-depth interviews, mention of the radio when talking about the constitution, was much less than I expected. According to the survey analysis, radio listening had no influence on either level of support for the constitution or the likelihood of offering an opinion about the constitution. Local leaders typically filled the role of informer and influencer when the CA delegate was absent.³⁹

In sum, most Ugandans who formed opinions about the constitution seem to have relied primarily on local experts (or regional experts who came to their locations) for information and opinions about the process and about the outcome. Without alternative sources of information and the skills necessary to evaluate the constitution, they had few resources with which to question what they were told. In areas where leaders were antagonistic to the current system, the majority of citizens held negative opinions. In areas where leaders were more favorable, participants learned that the process was fair and adherence to the constitution is advantageous.

³⁹ Or 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” (Interview Lira District, March 2001).

DIVIDED ELITES AND THEIR INFLUENCE ON PUBLIC OPINION

So far I have argued that the reason citizen opinion mirrored elite opinion is that individuals lacked alternative means for evaluating constitutional legitimacy. As a result, they relied heavily on leaders for guidance. This is a demand side explanation: citizens, who were eager for information, absorbed what was available and looked to leaders for cues. There is also an important supply side explanation for why citizens adopted elite views as their own: political leaders actively worked to convey their opinions to the public and to prevent the public from hearing alternative views. The formal involvement of the public in the making of the new constitution created incentives for leaders to convey their opinions to their constituents and followers, to convince citizens to share their views, and to mobilize the public in support of or in opposition to certain constitutional provisions. After all, public opinion shaped the memoranda submitted to the UCC, the draft constitution, the composition of the CA and the CA debates. As the wrangles of the elites became more polarized and contentious, so did public opinion. In short, it was in the interest of the leaders, in their struggle for power, to make the public think as they did about the process and about the constitution.

Ugandan leaders had a keen interest in ensuring that their favored rules were embodied in the constitution because constitutional rules shape future power balances. During the course of the constitution-making process, the views of Ugandan leaders became more polarized and antagonistic. Joe Oloka-Onyango laments:

Over time, the constitutional issues became so wrapped up with the political that it was impossible to distinguish between the two. This explains how the CA eventually became a highly-politicized forum, in which the main issue became how best the various forces involved in the struggle for power could position themselves for the ultimate prize of political power. (Oloka-Onyango 2000, 49)

During the CA elections and the debates, the NRM leadership became more actively involved in the process in order to ensure that the provisions included in the constitution would help them maintain their hold on power. As the opposition groups realized that they were in danger of being shut out of power in the long term, they fought back by actively criticizing the constitution-making process, and later (when they failed to secure protections) the constitution

itself. They hoped that by undermining support for the constitution they would provoke an opportunity to enact their desired changes. The opposition leaders accused the government of self-serving, undemocratic, and illegal behavior. They complained that: 1) the general environment was tilted; 2) that the UCC was biased; 3) that the CA campaigns and elections were unfair; and 4) that the government unduly influenced the CA (Furley and Katalikawe 1997, 254; Makara and Tukahebwa 1996; Mujaju 1999; Okeny 1995; Oloka-Onyango 1995, 2000; Tukahebwa 1996; and interviews with Besigye 2001; Ogwal 2001; and Ssemogerere 2001).

Opposition politicians and opinion leaders actively expressed their critiques of the process in the media, at seminars and conferences, during campaigns for office, at local meetings, and in informal discussions with citizens. During the process itself, they expressed their negative views in formal protest actions on a number of occasions: 1) the UPC boycotted the UCC seminars and did not send memoranda; 2) the UPC also boycotted the CA and refused to send their allotted two delegates;⁴⁰ 3) The UPC filed a petition against the CA election rules; 4) 64 delegates walked out of the CA proceedings in protest over the political system debate; and 5) a smaller number of CA delegates boycotted the promulgation of the 1995 constitution.

My data show these complaints and formal protest actions by opposition leaders were not internalized by the majority of citizens. Citizens in most areas repeated the government leaders' rhetoric that the process was free and fair and the constitution represented all of the people's interests. For example, a school headmaster in Bushenyi district stated that:

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. (Interview in Bushenyi District, April 2001)

However, in some areas where the political opposition was stronger, citizens were deeply influenced by these accusations against the government, the process, and the constitution. These criticisms are reflected in both the open-ended interview transcripts, and the survey questions

⁴⁰ Some prominent UPC members, such as Celia Ogwal, defied the orders of Obote and other top UPC leadership and contested in electoral areas for some of the 214 directly elected seats. This caused a rift in the party (Ogwal 2001).

about constitutional legitimacy. In contrast with the school headmaster from Bushenyi, a former CA campaign agent from Lira argued that:

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. (Interview in Lira District, March 2001)

Thus, citizen attitudes about the constitution-making process and the constitution became polarized like those of the leaders from whom they got their information. The majority of leaders and citizens viewed the process and outcome favorably, but a minority of leaders and pockets of citizens in their areas came away with negative attitudes about both.

In sum, it should not be a surprise that political leaders were the most influential sources available to citizens with regard to the constitution. Both government and opposition leaders worked hard to ensure that the public thought as they did about both the constitution-making process and the resulting constitution. Nor should it be a surprise that the public was highly polarized in its views of the process and the constitution considering that the leaders were also polarized. In most areas of Uganda, the pro-government leaders were successful in persuading citizens that they conducted the process in a fair manner and that the constitution accurately reflected the views of the public. However, in some areas where the opposition was stronger, the dissatisfied leaders were successful in convincing citizens that government had secured its favored provisions by unfair means, thus making the constitution illegitimate.

VI. CONCLUSION

Finally we return to the puzzle that emerged from the survey data analysis presented in the first half of this paper. I showed that aggregate support for the constitution is quite high in Uganda, especially when compared with support in the seven other African countries with analogous data. Yet, I also demonstrated that at the individual level of analysis, participation is not related to constitutional support. Why is there a higher aggregate level of constitutional support in

Uganda, when individuals who were involved don't appear to be much more supportive of the constitution than those who didn't participate? Is it the case that participation had absolutely no influence on the high level of support for the constitution in Uganda?

One possible solution to the puzzle is that it is *not the act* of participation (as suggested by the developmental theory of participation), but rather *the perception* that the constitution-making process included public participation that increases the legitimacy of the constitution. Perhaps it was enough for citizens to believe that they had the opportunity to participate and that others did participate in the constitution-making process. The act of participating, itself, may be superfluous to an individual's judgment of constitutional legitimacy.

Another related solution is that participation does *not directly affect the individual participator*, but rather it *affects the final document* in a way that makes it more suitable to the circumstances in Uganda. In this case, the constitution would be viewed as appropriate in the eyes of all Ugandan citizens, regardless of whether they participated in its creation or not.

To be fair, these alternative mechanisms by which participation might strengthen constitutional legitimacy would not seem alien to the key architects of the Ugandan process. Their rhetoric on the process is consistent with the developmental theory of participation as well as with these alternative mechanisms of change.⁴¹ Additionally, these alternative mechanisms are mentioned in the theoretical literature on the benefits of participation.⁴²

Nonetheless, the Ugandan policy makers and the theorists of participation missed an important component that is highlighted by this research. If only perception mattered then citizens in all areas where participation took place would support the constitution. If only the content of the constitution mattered, then all individuals who knew about the content of the constitution would

⁴¹ It is important to remember that the methodology the Ugandan constitution-makers chose clearly indicates that they thought that the act of participating was important, in addition to other possible mechanisms. See page seven for the full description of this point.

⁴² The developmental theory of participation holds that it is the act of participation that directly affects the individual, and the evidence does not support these contentions. However, these alternative mechanisms are also mentioned in the theoretical literature on the consequences of participation. Unfortunately, theorists are often not clear about the individual level mechanisms by which participation might influence attitudes.

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. Simply including participation in the constitution-making process was not sufficient to ensure support.

The answer to the puzzle lies in the strength of the pro-government leadership *vis a vis* the political opposition, and not participation per se. Leaders provided information and opinions that helped citizens interpret the effects of their participation and the suitability of the constitution. Local elites shaped citizen perceptions of whether or not the participation was carried out in a fair and genuine manner. They also influenced whether or not citizens came to believe that the constitution is based on citizen views and suitable to the Ugandan context. The inclusion of participation may have helped pro-government leaders to convince citizens that the process was fair and the constitution legitimate, but it did not prevent opposition leaders from convincing their followers otherwise. The high level of popular support for the constitution in Uganda is due to the high level of support among the Ugandan elites. In a context where the political opposition is stronger, participatory constitution-making could lead to a decrease rather than an increase in constitutional support.

What does this evidence from Uganda tell us about the consequences of participatory constitution-making more generally? Participation does not happen in a vacuum. Nor do citizens form their views of the constitution in a vacuum. Constitutions are difficult for citizens to evaluate and so they rely on elites for information and opinions. It is important to pay attention to what local elites communicate to citizens about the impact 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.

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