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Deliberative Democracy, Legitimacy, and Institutionalisation
The Irish Citizens' Assemblies

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Deliberative Democracy, Legitimacy, and Institutionalisation

The Irish Citizens' Assemblies

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Notice: This volume of the IEPHI Working Paper Series combines two papers, "The Curious Institutionalisation of Deliberative Democracy. The Irish Citizens' Assemblies and the Future of Democratic Innovation" and "'We have humility'. Perceived legitimacy and representative claims in the Irish Citizens' Assembly" written in 2018 and presented respectively at the European Consortium for Political Reseach (ECPR) General conference in Hamburg, in August 2018, and at the American Political Science Association (APSA) Annual conference in Boston, in September 2018. A future publication in a review is planned.

Part 1: The Curious Institutionalisation of Deliberative Democracy. The Irish Citizens' Assemblies and the Future of Democratic Innovation

Abstract

Cases of deliberative democracy are ever-growing, however they remain largely ad hoc and ephemeral. Is institutionalisation a necessary condition for democratic innovations to meet great expectations? As the latest chapter in deliberative innovation, Ireland saw three successive assemblies produce major political outcomes through three successful referendums. Will Ireland lead the way in terms of new democratic institutions? First, I start by presenting the context within which the Irish case arose. It is crucial to perceive the Irish citizens' assemblies as the latest chapter of a long trend involving deliberative mini-publics and as a product of transfers. Second, I analyse the institutionalisation process of deliberative democracy in Ireland by studying the successive assemblies, their ruptures and continuities, and their articulation. This case study will allow us to identify the relevant dimensions for institutionalisation. Finally, in light of the Irish insights, I establish some comparative typologies of the various institutionalisations displayed by deliberative democratic innovations worldwide and the challenges they raise.

Keywords : democratic innovation, institutionalisation, deliberative democracy, mini-public, participatory democracy

Résumé

Les expérimentations pratiques de démocratie délibérative se multiplient dans le monde, mais elles demeurent largement ad hoc et éphémères. L'institutionalisation est-elle une condition nécessaire pour que les innovations démocratiques répondent aux attentes à leur égard ? En tant que pointe avancée de l'innovation délibérative,

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l'Irlande a vu trois assemblées successives produire des changements politiques majeurs, notamment à travers trois référendums victorieux. L'Irlande sera-t-elle un modèle en termes de nouvelles institutions démocratiques ? Premièrement, je commence par présenter le contexte au sein duquel le cas irlandais émerge. Il est crucial de considérer les assemblées citoyennes irlandaises comme le dernier chapitre d'une longue tendance impliquant des mini-publics délibératifs et comme le produit de transferts. Deuxièmement, j'analyse le processus d'institutionalisation de la démocratie délibérative en Irlande en étudiant les trois assemblées successives, leurs ruptures et continuités ainsi que leur articulation. Ce étude de cas nous permettra d'identifier les dimensions pertinentes concernant l'institutionnalisation. Enfin, à la lumière de ces découvertes, j'établis des typologies comparatives des différentes institutionnalisations révélées par les innovations délibératives contemporaines au niveau mondial, ainsi que les enjeux qu'elles soulèvent.

Mots-clefs : innovation démocratique, institutionalisation, démocratie délibérative, mini-public, participation

Part 2: "We have humility." Perceived legitimacy and representative claims in the Irish Citizens' Assembly

Abstract

In the study of deliberative democracy, both theorists and empiricists often consider legitimacy as procedural. However, why and how do randomly selected mini-public's participants think they have the right -or not- to deliberate and to represent? What are their subjective cognitive representations and justifications regarding their own legitimacy? What are the visions of democracy and politics underlining those cognitive representations? To answer these questions, I develop a comprehensive sociology of the perceived legitimacy of the members of the Irish Citizens' Assembly. I study their discourse, produced during qualitative interviews, through the concept of humility-legitimacy. After looking at this empirical evidence, I propose a theory of a "new spirit of sortition" and its consequences for democracy.

Keywords : citizen assembly, deliberative democracy, legitimacy, mini-public, representation

Résumé

Dans les études portant sur la démocratie délibérative, théoriciens et empiristes considèrent l'essentiel du temps la légitimité comme procédurale. Cependant, pourquoi et comment les participants à un mini-public tiré au sort pensent-ils qu'ils ont ou non le droit de délibérer et de représenter ? Quelles sont les conceptions de la démocratie et du politique qui sous-tendent ces représentations cognitives ? Afin de répondre à ces question, j'ai effectué une sociologie compréhensive des légitimités perçues par les membres de l'Assemblée Citoyenne irlandaise. J'ai étudié leurs discours, produit lors d'entretiens qualitatifs, à travers le concept de « légitimité-humilité ». Après avoir analysé les preuves empiriques, j'élabore une théorie du « nouvel esprit du tirage au sort » et de ses conséquences pour la démocratie.

Mots-clefs : assemblée citoyenne, démocratie délibérative, légitimité, mini-public, représentation

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Part 1
The Curious Institutionalisation of Deliberative Democracy. The Irish Citizens' Assemblies and the Future of Democratic Innovation

Introduction

Are democratic innovations about to meet great expectations by becoming institutions? As the "crisis of representative democracy" seems to deepen (Tormey 2015), democratic innovations might become institutions which are perceived "as a 'permanent' solution to a 'permanent' problem" (Berger and Luckmann 1991: 87). Even though they face critics and limitations, participatory experimentations have reach an unprecedented scale. Participatory budgeting is flourishing from the Global South to Western countries and even China (Sintomer *et al.* 2013), e-democracy is also gaining growing support from both official actors and activists (Mabi 2017), and deliberative mini-publics are following the same trend (Courant and Sintomer 2019; Sintomer 2019). However, randomly selected mini-publics appear to be less institutionalised than their counterparts. After decades of development and implementations, is it still possible to name those devices "innovations", as they were repeated numerous times over several years? On the other hand, most of them seem to not be "proper institutions" yet, remaining in an in-between state. Examples of "proper institutions" can be found in Parliament or Supreme Court, which benefit from clearly defined and long-standing rules, procedures, venues, staff, areas of competence, power, etc. Whereas participatory budgets benefit a fixed staff and are repeated year after year, deliberative mini-publics remain ad hoc and ephemeral, in most cases. But this is changing. A series of sortition-based democratic innovations are slowly being institutionalised in different countries, but in various ways and without a clear single source of inspiration, as Porto Alegre was for participatory budgeting. Nevertheless, moving from ad hoc and ephemeral experimentations to long-term official structures presents promises, challenges, and risks. Instead of taking "the institution" as a static object, the point is to study "institutionalisation" as an ongoing process – shaken by conflicts, never linear, and that nobody fully controls (Lagroye and Offerlé 2010).

The process aiming to turn temporary democratic innovations into sustainable long-term institutions is crucial. As Claus Offe points out: "At the stage of expression of political will, the institutional framework of the process – political parties, elections, voting procedures – are all precisely defined and formally prescribed and monitored. In contrast, (…) much of the actual formation of opinions and political preferences is (…) an institutionally largely uncharted space" (2015: 295). Institutionalisation is therefore a necessary condition for reducing the arbitrary of politicians' manoeuvres to implement participatory devices only when it suits them, but also for making deliberative values a "normal" part of citizens' ordinary political life, as elections are.

One of the latest and most important cases of deliberative innovation is Ireland, where three assemblies were successively created, contributing to major political changes. In 2011, the We the Citizens pilot assembly was a non-governmental democratic innovation aimed at gathering ideas for Ireland's future in a bottom-up dynamic (Farrell *et al.* 2013). In 2012, the Convention on the Constitution was the first state-level deliberative innovation mixing politicians and ordinary citizens. The work of the convention to propose reforms to various articles of the Irish Constitution

was ultimately successful on the issue of same-sex marriage, legalised by a referendum in May 2015 (Suiter *et al.* 2016a). The latest chapter in Irish democratic innovations, the Citizens' Assembly (2016-2018), was composed of 99 citizens and made recommendations on five topics of a (potentially) constitutional nature: abortion, ageing, climate change, referendums and parliament. It is worth looking at the Irish process, as Ireland is the only country where three citizen assemblies were successively held and where recommendations from such assemblies were approved through referendum—even thrice.

This contribution will try to answer some of the questions arising from the study of the Irish Citizens' Assemblies in their broader political context, drawing from a long-term qualitative field research composed of ethnographic direct observations (2015–2018) and semi-directive interviews with citizen members, facilitators, politicians, civil servants, experts, and activists. The analysis will be empirical, comparative, and based on insights from the connected history and sociology of institutions (Dulong 2012; Lagroye and Offerlé 2010). A relative originality of my research is my position, as contrary to a fair number of scientists, I am not studying devices which I actively advocated for or organized, which allows for a more "external" point of view.

A series of questions arises. How were those democratic innovations created? How do they function? What are the ruptures and continuities between those three Irish democratic innovations? What is the contrasted dynamic of this institutionalisation process, from informal margins to official centre?

More broadly, it is necessary to put Ireland into perspective and compare it with other cases to grasp the various paths to institutionalisation and the clusters of questions this phenomenon raises. Is there an "institutional turn" for deliberative democracy and mini-publics, from ad hoc experimentation to regular devices and if so what challenges does it face? What processes, actors, and contexts turn democratic innovations into new democratic institutions? What kind of effects does the institutionalisation of democratic innovations create? Does a greater institutionalisation leans towards a radicalisation of democracy or, on the contrary, towards an increased governmentality aimed at taming citizens' critics?

First, I start by presenting the context within which the Irish case arises. It is crucial to perceive the Irish citizens' assemblies (ICAs) as the latest chapter of a long trend involving deliberative mini-publics and as a product of transfers. Second, I analyse the institutionalisation process of deliberative democracy in Ireland by studying the successive assemblies, their ruptures and continuities, and their articulation. This case study will allow us to identify the relevant dimensions for institutionalisation. Finally, in light of the Irish insights, I establish some comparative typologies of the various institutionalisations displayed by deliberative democratic innovations worldwide and the challenges they raise.

Six generations of mini-publics devices and a "constitutional turn" for deliberative democracy?

Due to the importance of the political changes initiated through its democratic innovations, Ireland should be considered a trailblazer but also as the follow-up to a wider political trend aimed at making democracy more deliberative and inclusive

through randomly selected panels of citizens. I distinguish six generations of mini-publics devices, which I will compare in the final part of this essay[2].

First, the *High Council of the Military Function* (HCMF, Conseil Supérieur de la Fonction Militaire) established by the French Parliament in 1969, still active today, gathers 85 randomly selected representatives and deals with all matters related to soldiers' working conditions (Courant 2019b). Second, the *Citizens Juries* and *Planning Cells*, created in the 1970s by Ned Crosby and Peter Dienel, involve ordinary citizens in public policy decisions, spread throughout many countries but without strong institutionalisation (Vergne 2010). Third, the *Consensus Conferences* on techno-scientific issues were launched in the 1980s by the Danish Board of Technology and spread in various EU countries as well as in Switzerland, where the TA-SWISS was officially established by Parliament to produce impartial evaluations of contested new technologies (Joss and Bellucci 2002). Fourth, the *Deliberative Poling* was invented by James Fishkin in the 1900s and has been experimented on worldwide since (Fishkin 2009)[3]. Fifth, the *Citizens' Initiative Review* was set up in Oregon in 2010 to have a panel produce impartial information on upcoming referendums (Knobloch *et al.* 2015); since then, the device has spread to Arizona, Colorado, Washington, Massachusetts, and California. Finally, the new wave of this family of democratic innovations are the *Citizens' Assemblies*, launched in Canada in 2004 (Warren and Pearse 2008) and then replicated with various changes in the Netherlands (Fournier *et al.* 2011), Australia (Carson *et al.* 2013), Iceland, Belgium, Ireland (Reuchamps and Suiter 2016), and the United Kingdom (Hughes 2018; Renwick 2017).

Of those generations of mini-public based democratic innovations, the last one is now on the front stage and potentially reveals a "constitutional turn for deliberative democracy" (Reuchamps and Suiter 2016). The first citizens' assembly was established in 2004 in the Canadian province of British Columbia. The government gave to a mini-public of 158 randomly selected citizens and two natives the mission to propose a new electoral system for the province that would be submitted to a referendum. Two years later, a similar process was put in place in the Netherlands and Ontario. However, all of the proposals failed to be implemented. The super-majority threshold of 60% for the referendum was missed by a small margin (58%) in British Columbia and by a substantial one in Ontario (37%), while the Dutch proposal was rejected by the government without being put to a vote (Fournier *et al.* 2011).

Nevertheless, in Iceland, the deliberative constituent process obtained a popular victory in the voting urns in 2012. In the aftermath of the 2008 financial crisis, massive protests led to the resignation of the government and the election of a left-wing and ecologist coalition. A process to revise the constitution was implemented in several phases. First, in November 2009, under the impulse of a civil society movement, a National Assembly composed of 900 randomly selected citizens along with 300 representatives of civil-society associations deliberated on the future of the country and the issues to be tackled by a constitutional reform. The government replicated the process under the name National Forum, in which 950 randomly selected citizens deliberated for a day to identify important topics. Elections were then organized, but parties were forbidden to take part in them. Of the 322 candidates, 25 were elected with a 30% turnout to form the Constitutional Assembly (or Council), whose work is widely followed online, giving birth to a "crowdsourced-

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[2] Various deliberative devices have been assigned different missions: inclusion, consultation, information, evaluation, decision, legislation, constitution, and long-term (Courant 2019a).
[3] Smith (2000) considers those citizen forums (citizens jury, consensus conferences and deliberative polls) as "democratic institutions", however this paper argues that they have not been fully institutionalized yet.

Constitution". The text was submitted to a referendum in 2012 and was supported by a majority of Icelanders. However, the next elections brought right-wing parties back to power, which refused to approve the "citizens' constitution" in Parliament and blocked its implementation (Bergmann 2016; Landemore 2015).

In 2009, an NGO, the New Democracy Foundation, organized the Australian Citizens' Parliament, in which 150 randomly selected participants deliberated for four days before presenting its proposal to Parliament, but without much effect or implementation (Carson *et al.* 2013). Finally, in 2011–2012, Belgium witnessed a randomly selected assembly: the G1000, which remained completely citizen-led and extra-institutional. Hence, its political effects remained marginal in terms of concrete reform, even though its media coverage and quality made it a relative success (Jacquet *et al.* 2016).

Studying planning cells and citizen juries, Antoine Vergne (2010: 90) distinguishes three modes of diffusion for democratic innovations: *transposition*, in which the original model is directly imported without any changes; *transfer*, an academic collaboration that results in concrete implementation through which the original model is modified; and *influence*, when local actors learn the concept from a third party and only take inspiration from it for their own projects. The cases of the Netherlands and Ontario are somewhat similar to a transposition of the British Columbia model. The Irish process, however, draws from all those previous citizens' assemblies in various ways, oscillating between transfer and influence.

Deliberative democracy in Ireland: From the margins to the front stage

We the Citizens' pilot assembly (2010–2011): An original impulse from civil society

In the follow up to the democratic innovations described above, the Republic of Ireland was the setting for major political experimentations. As the country was facing the 2008 financial crisis, a group of researchers, intellectuals and activists debated the necessity of a constitutional reform. They founded the We the Citizens movement and launched a randomly selected informal assembly in 2011 – a so-called "pilot" – to show to the political class and, more broadly, to the country that the direct implication of "ordinary citizens" could be beneficial to change the constitution. This *transfer* was due to a worldwide academic network between political scientists. One of the key actors of this process, David Farrell, was invited by the Canadian and Dutch citizens' assemblies as an expert in electoral systems, and he was impressed by those deliberative innovations.

This civil-society movement was contacted by the Atlantic Philanthropies, an American foundation aiming to sponsor various initiatives empowering citizens[4]. Benefiting from this financial support, We the Citizens held participatory forums based on the world café model in Ireland's major cities. Farrell explains: "We were booking conference rooms in hotels and announcing the events in the press and local radio saying: 'if you want to discuss the future of the country, you are welcome, we will offer you tea and snacks'"[5]. The goal was, as with the G1000 and the first two

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[4] Philanthropic foundations are crucial to the development of many democratic innovations (see: Talpin 2016a).
[5] Interview with David Farrell, Dublin, May 2015.

steps of the Icelandic process, to spring up ideas in a bottom-up dynamic and to listen to what "ordinary people" wished for the future of Ireland.

Those seven participatory meetings in various cities allowed We the Citizens to spot recurring topics and to launch its Pilot Citizens' Assembly in May–June 2011. The polling company Ispos MRBI constituted a representative sample comprising 100 individuals, who were reunited for one weekend in Dublin to deliberate on three issues: the role of deputies (connection with the constituency, electoral system, size of Parliament); the identity of politicians (women, age, mandate limit, external experts); and the arbitration between tax increases or budget cuts in a time of economic crisis (Farrell *et al.* 2013; Suiter *et al.* 2016b).

The pilot assembly gave We the Citizens the opportunity to draft a report pleading for a constitutional citizens' assembly to reform the Irish political system. This report, which empirically narrates the deliberative process, was used in lobbying various politicians, civil servants, and representatives of civil society. The 2012 general elections opened a "window of opportunity" (Kingdon 1995) for gaining the attention of political parties, which all included a citizen-led constitutional reform in their campaign promises. Two of them, Fine Gael (centre-right) and Labour (centre left), accessed power through a coalition and did set up the next deliberative assembly (Suiter *et al.* 2016a).

We can distinguish a pattern here. A democratic innovation gaining institutional support is often the product of organized *democratic activists* with high capital that push the proposal, which is sometimes later accepted by a newly elected government. This was the case in the Netherlands, where the action of the D66 party was crucial (Fournier *et al.* 2011); in Australia with the New Democracy Foundation (Carson *et al.* 2013); in Iceland with the input of the Anthills (Bergmann 2016); and in Oregon, which benefitted from the involvement of Ned Crosby and Healthy Democracy Oregon (Knobloch *et al.* 2015). To a lesser extent, in British Columbia, activists such as Nick Loenen also pushed for a randomly selected assembly (Lang 2010, 117). This illustrates a global tendency of *sortition activism*, in which militants defend sortition (i.e. random selection) in their discourses and sometimes implement it in their practices, as is the case in France, Belgium, the United Kingdom, Australia, and Mexico (Courant 2018, 2019c).

The Convention on the Constitution (2012–2015): A hybrid device

The "electoral earthquake" putting an end to the long-dominant party Fianna Fáil (centre-right) and the winning Fine Gael/Labour coalition (Gallagher and Marsh 2011) allowed for a negotiation around a constitutional convention between various academics, activists, and politicians. Indeed, the two wining parties disagreed on the composition of this assembly, Labour wanted an equal mix of politicians, citizens, and experts, while We the Citizens advocated for 100% randomly selected citizens. Eventually, a compromise was reached: the Convention on the Constitution (CotC) was composed of 66 randomly selected citizens and 33 politicians from various political parties. The experts would be involved in the process but by giving lectures to inform the assembly with factual data, without directly deliberating.

This assembly gathered for the first time in Dublin Castle in January 2013 and had the task of proposing revisions for eight articles of the constitution. Its recommendations were to be transmitted to the government and Parliament, which would decide if some could be submitted to a referendum. A crucial point is that in Ireland, any constitutional change must be approved by referendum. Hence, this institutionally constraining framework largely explains the "deliberative enthusiasm"

displayed by the political class, which is an adaptation to legal imperatives and should not be too quickly viewed as a "deep participatory conviction". As it is impossible to modify the constitution without the direct approval of the people, it is therefore rational to consult a representative sample of the people before any referendum.

The general deliberative model upon which the CotC was based was somewhat similar to the Canadian innovations in some ways to the Icelandic and Belgian experimentations, and more broadly to the general process of deliberative innovation. Under the supervision of a senior civil servant assisted by state staff, the participants gathered one weekend per month, during which they auditioned experts and then deliberated in small groups, which were pseudo-randomly shuffled each weekend. Those meetings, held in Malahide Grand Hotel (north of Dublin), benefited from paid facilitators and note takers. Contrary to the fears of many commentators, surveys reveal that the 66 citizens did not perceive the debates as being dominated by the 33 politicians (Suiter *et al.* 2016a). After each small group deliberation, the CotC asked questions to the experts. Each topic was concluded by a vote on the recommendations the assembly wished to transmit to the government.

The CotC's work was concluded in March 2014. While the government and Parliament directly integrated some of its recommendations into legislation, some others were not even debated. In this way, the elected officials conducted "selective listening", as observed in many participatory institutions (Nez and Talpin 2010: 214). Only two of its recommendations were put to a referendum: the legalization of same-sex marriage and the reduction of the minimum presidential age. By its importance, the first issue completely "invisibilized" the second. On 22 May 2015, the "marriage equality" referendum gathered an astonishing majority of votes (61%) in the follow-up to an intense campaign, during which most parties supported "yes" side. However, on the same day, the reduction of the age of the president was refused due to a lack of public attention and media exposure, causing most Irish citizens to discover the existence of a second question at the polling station[6]. These results prove the limitations facing the CotC, especially the lack of awareness of its existence among the general population, which is a common feature shared by many democratic innovations, therefore restraining their impact (Crosby and Nethercut 2005; Fournier *et al.* 2011; Goodin and Dryzek 2006). After a long period of time during which none of the Convention's propositions was submitted to popular vote, the interdiction of blasphemy is finally removed from the Constitution with an almost 65% support in the 26th October 2018 referendum.

The Irish Citizens' Assembly (2016–2018): The issue of abortion shaping deliberative design

In February 2016, new elections were held, breaking the Labour/Fine Gael coalition and leaving the latter in the position of a minority government. One of the commitments of Taoiseach (Prime Minister) Enda Kenny, leader of Fine Gael, was to summon a new constitutional assembly in the follow-up to the perceived "success" of the first one. However, even though the main issue remained societal and not economic, abortion is a highly divisive issue –much more so than "marriage equality", which was broadly supported. As a deeply Catholic country, Ireland made the banning of abortion from a legal to a constitutional disposition – the 8th Amendment or Article 40.3.3 – in a 1983 referendum, with the island thus becoming "the only country to inscribe the right to life of the 'unborn child' in its Constitution" (Nault 2015).

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[6] Observations notes, Dublin, May 2015.

In the fall of 2016, a second deliberative assembly was set up with significant changes compared to the previous one, which makes this "institutionalisation" contrasted and complex. Composed exclusively of 99 randomly selected citizens and chaired by a Supreme Court judge, this democratic innovation – simply called the Citizens' Assembly (ICA) – was given the task of crafting recommendations on five issues: first and foremost abortion, then the ageing population, climate change, referendums, and fixed-term parliaments. No reason was officially given for a major change: the non-participation of politicians in this new assembly. The true reason was in no way an "organizational learning" or a reaction to potential problems in the CotC, largely complimented by both citizen and politician members, but was rather linked to the very nature of the issue, as abortion is perceived as being politically dangerous. Hence, most "professional of the politics" refused to take a public stance on abortion out of fear of losing votes or their seats due to the deep cleavage among the electorate on this question. A parliamentarian explained: "When we do canvasing, it happens that some persons ask about our opinion on abortion, and they make it clear that this issue only will determine their vote"[7]. The construction of this deliberative device is therefore deeply embedded in the "politics of blame avoidance" (Hood 2010; Weaver 1986).

Other differences between the CotC and the ICA are revealing. The number of topics was lowered from 10 to five, while the importance of the issue increased, which could allow for more efficient deliberation. However, the constitutional dimension was not necessarily obvious for the issues of the ageing population or climate change. To use Hans-Liudger Dienel's distinction (2010: 108), the ICA's five topics were a mix of "*open*" and "*closed problems*", the former "presenting no clear cut solution" but requiring "new ideas", while the latter being "a conflictual issue imposing the search for compromise between several known solutions, but incompatible and antagonistic". The time given to each topic differed, with an initial planning of four weekends for abortion and then one per remaining topic. Due to demands from the assembly itself, Parliament granted three additional weekends for dealing respectively with abortion, the ageing population, and climate change, revealing that the ICA had a bit of agency. However, the ICA's agency was less than that of its predecessor, the CotC, which had the opportunity to choose two of its 10 topics. This crucial point will be discussed further in the following part.

The civil servant staff was fully changed from one assembly to another, which presented a serious risk of "loss of organizational knowledge", but the former team did communicate with the new team to explain their know-how[8]. The location was kept identical, but the polling company in charge of recruiting the representative sample changed in favour of Red C, as the diversity of the CotC was deemed unsatisfactory. Some facilitators involved in the previous assembly returned but this time within a professional structure – Roomax, specially set up for this event – gaining expertise through the process[9]. In Ireland as in other countries, the institutionalisation process of democratic innovation was followed by the "professionalization of participation" (Lee 2015; Nonjon 2005). As with its predecessor, the inaugural meeting was held in Dublin Castle in the presence of the Taoiseach and many journalists, but party leaders and other politicians were absent this time[10]. The following meetings, in Malahide, followed a very similar procedure to those of the CotC, with one meeting every month or so, expert lectures, roundtable deliberations in small groups assisted by professional facilitators and note takers,

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[7] Interview with an Irish MP, Dublin, April 2018.
[8] Interview with the Secretariat of the Citizens' Assembly, Malahide, July 2017; Interview with the Secretariat of the CotC, Dublin, April 2018.
[9] Interviews with facilitators, Malahide and Dublin, 2017.
[10] Observation notes, Dublin, October 2016.

plenary Q&A sessions and discussions, and at the conclusion of a topic, a formal secret vote.

Fervent Catholics and pro-life activists opposed the citizens' assembly before its deliberations had even begun, through social networks and protests in front of Dublin Castle and then in Malahide, but in limited numbers (less than 30 in Dublin and between one and six in Malahide)[11]. More surprisingly, the pro-choice far-left was quite vocal against the assembly as well, arguing that the government is "kicking the can down the road" instead of having the courage to tackle the issue directly. They argued for a debate in Parliament and a referendum, without the delay and spending involved with a deliberative device. These claims were also aimed at justifying the existence and utility of small pro-choice parties and to criticize a centre-right government they opposed in general. However, feminist pro-choice activists from the Repeal the 8th coalition gradually lost their scepticism, as comments and questions emitted during the livestreamed plenary sessions by the randomly selected citizens of the assembly showed their insights and accuracy[12].

The citizens' assembly deliberated for five weekends on abortion, from November 2016 until April 2017. The citizens auditioned many experts, representatives of advocacy groups, and individuals giving testimonies. Its internet website also gathered over 12,000 submissions from both associations and individuals. In April 2017, ICA members had a secret ballot vote, which resulted in wide support in favour of legalizing abortion (64%). Their recommendations were gathered in a report submitted to Parliament and closely studied by a parliamentary joint committee. The latter's deliberations reached a similar result, so the repeal of the 8th amendment was put to a referendum. In the follow-up to an intense campaign between pro-life and pro-choice, the Irish people voted in favour of the right to abortion in proportion somewhat similar to that of the ICA, with 66.4% "yes" and a historical turnout of almost 65%.

In the Irish case, as in many others, "the use of deliberative processes can render formerly blocked situations finally governable" (Lascoumes and Le Galès 2012: 53). The ICA was largely described as a major success; however, the Irish "contrasted institutionalisation" of democratic innovations raises problems and challenges.

The lack of institutionalisation and its problems

The limitations of a "participatory success story"

Ireland is the first country where propositions crafted by randomly selected citizen assemblies were approved by the maxi-public through referendums – and thrice. Indeed, even though the British Columbia citizen assembly's proposition for electoral reform managed to reach over 58% of the vote, the 60% threshold for the referendum to be successful was missed. The similar process in Ontario was even more clearly negative, with only 37% voting "yes" (Fournier *et al.* 2011). As for the new Icelandic Constitution, even though two randomly selected assemblies participated in the process, the text was drafted by an elected assembly – admittedly composed of non-professionals but famous and elected nonetheless. Moreover, this constitution was never approved by Parliament and has yet to be implemented (Bergmann 2016). In this comparative regard, the deliberative Irish process was an

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[11] Observation notes, Dublin and Malahide, 2016–2017.
[12] Observations notes and interviews, Dublin and Malahide, 2016–2017.

impressive "success" but suffered from its own limitations and problems, directly related to its lack of institutionalisation.

First, as in many other instances, the elected officials had a decisive influence over the fate of the democratic innovation, which left room for arbitrary decisions and strategic self-interested orientations. Politicians had the power to decide whether to set up a deliberative device or not, when, for how long, on which topics, under which supervision, and more crucially, what would happen to the recommendations. A striking feature of the Irish process was the absence of economic issues amongst the topics chosen by the political class. The reflection on citizen-led reforms started as the country faced an economic crisis and questioned its economic model. Moreover, one of the three issues emerging from We the Citizens bottom-up participatory agenda setting was precisely the trade-off between tax increases or spending cuts. However, among the eight topics given to the CotC by politicians, none was related to the economy (e.g. voting age, removal of blasphemy as an offence, the right to vote from abroad), but because the assembly was granted the right to choose two additional issues through public consultations, the topic of "economic, social and cultural rights" was eventually selected (Suiter *et al.* 2016a). For the ICA, the questions of the ageing population and climate change could be seen as linked to the economy; however, a structural reflection on the Irish economic model was not firmly put at the centre of focus. So far, of the 10 topics leading to 40 recommendations by the CotC, only three were submitted to referendum, and some were not even debated in Parliament. Nevertheless, in the follow-up to the 8th Amendment referendum, the government seemed committed to holding more referendums on propositions coming from the two official deliberative assemblies. An institutionalisation could render the articulation between deliberation and referendum *systematic*, without giving the political class the opportunity to decide whether they want to give a voice to the electorate. This was the case in Canada, where governments were committed to submitting the assemblies' proposals to voters before knowing what they would be.

Second, on the "input level", while the CotC had the opportunity to choose two of the 10 topics under deliberation through public consultations, the ICA had seen its agency reduced and was strictly constrained to the five issues given by Parliament. This change suppressed an opportunity for deliberation between the maxi- and mini-publics. The consultations in Canada and the Netherlands (Fournier *et al.* 2011), the online participation in Iceland (Bergmann 2016), and the bottom-up agenda setting in Australia (Carson *et al.* 2013) and Belgium (Jacquet *et al.* 2016) were important elements of democratization. The Irish case displayed a tendency towards reducing public input. We the Citizens' pilot assembly had seen its agenda set by seven participatory public meetings. The CotC decided to consult the public to decide which two topics would be those it had the right to choose. However, in the ICA, the only public input was through written submissions, without the possibility of direct interaction or deliberation; besides the audition of few selected interest groups' representatives. A democratic institutionalisation could render the agenda-setting procedure more systematic, transparent, and open to public input.

Third, an empirical ethnographic observation of the interactions within the Citizens' Assembly reveals some constraints: "call to order" and lack of agency. The climate of extreme tension surrounding abortion rendered the proceedings of the ICA in some ways more coercive than those of its predecessor. The ICA's chair, the Hon. Ms. Justice Mary Laffoy, in conformity with her *habitus* of Supreme Court judge,led the debates with an assertive approach, leaving little space for contestation to arise among participants, which can be a problem from an "agonistic perspective of democracy" (Mouffe 2000). Her use of time tended to favour expert lectures, which often ran over their allocated time, over the small groups and plenary session deliberation time. The governing style of a chair is affected by the actor's professional *habitus*. This was the case in Canada, where Jack Blaney in British Columbia adopted

a "liberal approach", letting "members talk as much as they wished even if this meant going over time" (Fournier et al. 2011, 105), while in Ontario, George Thompson, a "former deputy minister and family court judge" (Fournier et al. 2011, 29), had not "granted participants with the same level of trust as Baney", according to Lang (2010, 127). Similarly, CotC's chair Tom Arnold, coming from international charity associations, conducted the deliberations in a way that increased the participants' agency, while Laffoy followed a stricter practice of her "role". The chair's room to manoeuvre could be lowered to the participants' benefit if a long-term deliberative institution were to be institutionalized, due to clearer rules and a standardization of the "role" (Dulong 2012; Lagroye and Offerlé 2010).

Fourth, the impact of the mini-publics' deliberation on the maxi-public's vote is complex. While the electorate did follow the ICA's recommendations to legalize same-sex marriage and abortion, it rejected the one to reduce the age of the president. Therefore, the hypothesis of systematic support towards propositions crafted by citizen assemblies is invalidated once again. Empirical studies reveal that if a citizen knows about the existence of a citizen assembly, he or she will be more likely to support its recommendations (Fournier *et al.* 2011: 132; Warren and Pearse 2008). The problem is therefore the lack of public visibility of democratic innovations. A majority of the Irish citizenry was unware of the existence of the CotC at the time of the referendum, but the "informed part" was influenced in favour of following the CotC's recommendations (Pilet 2016). However, the Citizens' Assembly benefited from stronger media coverage, especially due to the controversial nature of its first topic. The question remains: if the ICA was known by a fair share of the electorate, how exactly did it influence the referendum's outcome? This has yet to be proven, but "exit polling data suggested many voters in Ireland had made up their minds on abortion before the official campaign began"[13]. However, if the majority of Irish voters were in favour of a depenalisation of abortion, it was under conditions (rape, health issue…) before the assembly's deliberations, which lead to its proposition: abortion without condition. This proposition was approved by referendum revealing that the opinion of the maxi-public evolved in the direction of the mini-public. Nevertheless, all credit cannot be attributed to the sole citizens' assembly, social movements, protests, local debates and campaigns also played a role. It seems likely that greater institutionalisation and regularity of deliberative processes would increase the population's awareness and achieve greater uptakes (Goodin and Dryzek 2006). Nonetheless, using the media in deliberative democracy remains a challenge (Parkinson 2005).

There are two ways of looking at those "limitations". On the one hand, one might argue that the lack of institutionalisation allows for greater flexibility and adaptation to various situations. In this perspective, elite decision makers need to change the shape and procedures of a democratic innovation as they see fit; therefore, appointing a judge as chair and restraining the assembly's agency might have been necessary conditions for the crucial but divisive abortion issue to be tackled efficiently. On the other hand, the lack of institutionalisation is potentially what prevents certain democratic innovations from meeting great expectations. A form of institutionalisation could insert deliberative procedures into the "ordinary political life" and allow for deeper political improvements. But which forms of institutionalisation are currently in motion?

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[13] Press Association, "Data shows many voters had decided before campaign began, academics say", *Daily Mail Online*, 26 May 2018.

The various institutionalisations of deliberative innovations: Some comparative typologies

The analysis of the Irish case in a comparative perspective allows us to spot institutionalisation's relevant dimensions and to craft some typologies[14]. Two elements are especially important when discussing institutionalisation: *repetition*, or "length", that is, how long an institution "lives" either in the same country or in several; and *systematicity*, "regularity", or even "stability", that is, how much the institution stays the same and operates within clear, fixed rules and procedures within a systematic area of competence and power. In order to become an institution, a democratic innovation must therefore exist for a long period of time and keep a similar shape; in a way, it must become *predictable*. Our "case population" to put in perspective with the Irish cases consists of the deliberative innovations seen in the first part of this paper, namely: the High Council of the Military Function (HCMF), citizens' juries, planning cells, consensus conferences, deliberative polls, citizens' initiative reviews, and citizen assemblies[15].

The dimensions of institutionalisation: Repetition and systematicity

The first relevant dimension of institutionalisation for democratic experimentation is *repetition*. In this regards, all deliberative innovations have been repeated more than once, but with the notable exception of the High Council of the Military Function (HCMF) and a specific form of deliberative polling in Mongolia, none has reached *systematicity*. In a way, the various deliberative innovations each constitute a different type of institutionalisation.

1. *Procedural stability and international diffusion: citizens juries (CJ), planning cells (PC) and deliberative polls (DP).* There are differences between these devices (Hendriks 2005; Smith 2000), but they fit into the same category in terms of institutionalisation. Both CJ and DP are patented processes, which provides a fixed, deliberative procedure that is repeated accurately in various countries. Both are supported by identifiable organizations, namely the Jefferson Center and the Center for Deliberative Democracy. However, even if multiple CJ, PC and DP have been carried out with official state' support, until recently, no country had included those devices in a formal sustainable institution with regular deliberation (Crosby and Nethercut 2005; Fishkin 2009; Vergne 2010). Mongolia is a notable exception which is described below.

2. *Institutional recognition and structure without systematic outputs: consensus conferences (CC).* In the late 1980s, a specific field – technology assessment – saw the development of state-sanctioned institutions, which were supposed to provide parliaments with fair information on new techno-scientific risks. Participatory procedures were put in place within this framework, especially the CC initiated by the Danish Board of Technology and replicated in many other countries (Bourg and Boy 2005; Joss and Bellucci 2002). However, the convocation of a CC was not systematic, the practice decreased over the years, and few articulations with referendums or clear policy outcomes were noticed, as the parliaments were never "bound to consider the citizens' recommendations" (Hendriks 2005: 91).

3. *Connection with referendums without systematic ranges or funding: citizens' initiative reviews (CIR).* Closer to a "proper institution" connecting micro-deliberation with "macro political uptakes" (Goodin and Dryzek 2006), the CIR gather a panel of

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randomly selected citizens for five days to produce a balanced voter pamphlet to inform voters on upcoming referendums (Gastil and Richards 2013; Knobloch *et al.* 2015). Nevertheless, due to limited funding, the process does not cover all initiatives but only some and is partly run by private non-state actors. Moreover, despite spreading throughout various states, the process will not be replicated statewide in Oregon in 2018, for the first time since 2010.

4. *Limited mandate and uneven outcomes: citizen assemblies (CA).* The broad category of CA covers contrasted realities. They do share similar deliberative procedures, which are also common to the other innovations debated here, but their degree of institutionalisation varies. Hence, I distinguish three types of citizen assemblies.

a) Single-issue state-supported assemblies: The first three CA of British Columbia, the Netherlands, and Ontario bear the strongest similarities. They all benefitted from an official state mandate to deliberate on a single issue: electoral reform. However, the process was a single shot for each of these three states, without domestic replication (Fournier *et al.* 2011; Warren and Pearse 2008).

b) Civil-society-led single-event assemblies: The Belgian G1000 was a purely civil-society-led single event with no state support (Jacquet *et al.* 2016). The Australian Citizens' Parliament was organized by a NGO but had the opportunity to present its proposals to the official Parliament (Carson *et al.* 2013). Iceland and Ireland witnessed a transition from their first civil-society-initiated assembly to a subsequent state-supported device (Reuchamps and Suiter 2016).

c) Repeated multi-issue state-supported assemblies: Ireland was the first country where two state-supported citizen assemblies were held, which makes it a crucial case. However, as we have seen, its institutionalisation is deeply contrasted, due to the many modifications between the two official deliberative devices.

5. *Full institution: High Council of the Military Function (HCMF) and Constitutional Deliberative Polling in Mongolia (CDPM)*. The only deliberative innovations to reach the status of "full institution" in terms of both repetition and systematicity are the HCMF and the CDPM. The former, established in 1969, possesses all the relevant attributes granted to an institution: an official mandate from Parliament, systematic deliberation twice a year, a fixed area of competence, determined output, permanent staff and venues, etc. (Courant 2019b). The latter is quite young but very promising. Mongolia recently passed the "Law on Deliberative Polling which requires a national Deliberative Poll before the Parliament can consider constitutional amendments" (Fishkin 2018). This gives this democratic innovation a dimension of systematicity, but its repetition remains to be empirically verified in practice; therefore, I did not include it in the following table.

Following this typology, a transversal comparison is possible, based on various dimensions of institutionalisation.

Table 1: The dimensions of deliberative institutionalisation, a transversal comparison

	1. CJ, PC and DP	2. Consensus conferences	3. CIRs	4.a) Single-issue state-supported assemblies	4.b) Civil-society assemblies	4.c) ICAs	5. HCMF
Cases population	Various countries	Denmark, Switzerland, and other countries	Oregon, Arizona, Colorado, Washington, Massachusetts	British Columbia, Ontario, the Netherlands	Australia, Belgium, Iceland, Ireland (WtC)	Ireland: CotC and ICA	France
Date of creation	1970s-1980s	1987	2010	2004	2010s	2013	1969
Agenda-setting	Aleatory	Semi-automatic: some techno-scientific issues	Semi-automatic: some referendum initiatives	Government	Bottom-up participatory procedures	Government and Parliament	Automatic: all military function–related issues
Maxi-public input	Hearings	Hearings	Hearings	Public consultation phase	Public consultation phase	Consultation (CotC only), hearings, and written submissions	Pre- and post-deliberation participatory public consultation
Official state mandate	Aleatory	Yes	Yes	Yes	No	Yes	Yes
Civil-servant staff	No	Yes	Yes	Yes	No	Yes	Yes
Length	From a few days to 3 weekends	3 weekends	5 days	1 year	From 1 to 4 days	1 year and a half	Unlimited
Domestic repetition	Yes	Yes	Yes	No	No	Yes	Yes
Issue systematicity	No	No, but a defined area (techno-science)	No, but a defined area (initiative review)	Yes, a single issue (electoral reform)	No	No, but defined areas (constitution)	Yes, (all military function–related issues)
Articulation with debate in Parliament	No	For some issues	No	No	No, except for Australia	For the majority of issues	For some issues
Articulation with referendum	No	No	Yes	Yes for Canadians, No for Dutch	No	For a minority of issues	No
Recommendations' strength	Aleatory	Weak	Strong	Limited or Weak	Weak	Strong for some, weak for others	Strong for some, weak for others

Ordinary or exceptional? Time as a factor of differentiation

An alternative typology based on the vision of time appears fruitful. Are democratic innovations thought to deal with exceptional issues or ordinary problems? This perception of the deliberative mission given to democratic devices strongly determines its institutionalisation. I distinguish four types.

A) Exceptional: In this perspective, the role of democratic innovations is to deal with an exceptional issue or rare situation, outside of the ordinary day-to-day politics. Such tasks include, for instance, electoral reform, as in Canada and the Netherlands; structural propositions, as with the Australian Citizens' Parliament; constitution making in a crisis context, as in Iceland; and bottom-up consultation during a long period without government, as in Belgium. In this regard, democratic innovations are "temporary institutions" and are therefore not full institutions, as they will not serve any purpose once their single task is fulfilled. However, "temporary institutions" can be understood in two ways. On the one hand, they can be understood as ad hoc, one-shot devices, each time specially designed with a unique problem. On the other hand, they can be institutions that are codified and can be activated if an exceptional situation appears, such as for a state of exception or martial law (Manin 2015).

B) Occasional: This vision is a pragmatic one which views democratic innovations as a handy way to deal with some "relevant" but not necessarily exceptional issues. This has been the functioning mode for citizen juries, planning cells, deliberative polls, and some citizen conferences (Bourg and Boy 2005; Joss and Durant 1995). The problem here is that the relevance of the issues and of the moment remains at the arbitrary discretion of elected officials, who will only set up a deliberative device if they "are convinced the outcome will correspond to their preferences" or grant them a very limited advisory "power" (Fournier *et al.* 2011: 146).

C) Evenemential (event-based) or regular: In this perspective, a pre-defined event such as a constitutional reform is systematically associated with a pre-determined deliberative institution. This is the logic behind the National Issues Convention, a deliberative polling allowing citizens to deliberate on candidates and manifestos ahead of an election vote (Merkle 1996) as well as the "deliberation day" proposition (Ackerman and Fishkin 2004). Even though those proposals failed to be institutionalized, the idea is to systematically connect elections with a deliberative procedure, repeated with the same organizational features each election year. The CIR offers a similar perspective, oriented towards referendum, or "votation", and not election. The CIR's attempt to become a permanent institution is promising but faces challenges; however, its premise is quite straightforward and oriented towards a systematic implementation: every referendum should be preceded by a deliberative panel producing fair information for voters on that referendum. Comparable patterns, oriented towards constitutional reforms, are currently at play in Ireland and Mongolia. As the Irish legal framework makes it compulsory for any constitutional change to be approved by referendum, there is a strong incentive to adopt a systematically matching, deliberative institution. So far, the differences between the CotC and the ICA render the shape of potential institutions uncertain, yet there is reason to believe that one might be set up in the following years. More broadly, constitutional reforms are an area in which citizen inclusion is crucial, as a constitution is the declaration of a society's core principles and the foundation of the whole political structure, which puts politicians in a situation of conflict of interest; the same goes for designing the electoral system (Courant 2019a; Fournier *et al.* 2011; Reuchamps and Suiter 2016; Thompson 2008). However, it should be noted that same-sex marriage and abortion are not constitutional issues per se; they are in Ireland, but they are part of ordinary laws in most other countries.

D) Permanent: The final type of perspective towards democratic innovation is to see them as permanent institutions, such as many participatory budgets conducted

repeatedly over many years. In a contrasted way, this type includes some participatory technology assessment institutions such as the Danish Board of Technology. However, the fact that citizen conferences were not systematic makes it a weak institution. On the other hand, the HCMF is a permanent, systematic, deliberative institution in every way (Courant 2019b), which echoes in some ways the recurrent call for a randomly selected chamber of parliament (Barnett and Carty 2008; Callenbach and Phillips 2008; Gastil and Wright 2019; Sutherland 2008). In this perspective, all legislation comes under the scrutiny of a permanent citizen assembly which participates in making laws, in collaboration with an elected chamber. A parallel proposal suggests that the citizen chamber should specifically focus on long-term issues affecting future generations, such as climate change (Bourg 2011).

Conclusion: Ireland as a future institutional model or as a local exception?

Looking at deliberative devices, participatory budgeting, and local urban concertation, Bacqué and Sintomer conclude that the "multiplication of experiences in many different contexts, behind mere local construction, tend to reveal that a participatory standard is being enforced in public action" (2010: 136). The whole question is as follows: will the Irish deliberative process become an institutional model that is replicated in many other countries, or will it remain a local exception? A crucial explanatory element in the Irish case is the legal obligation to hold referendum for any constitutional change. This mandatory framework constrained political actors and was a favourable condition for the development of a deliberative institution.

This context and the repetition of the mini-publics-driven constitutional reforms did lead to a form of "institutionalisation in the minds", as most of the interviewed actors (e.g. citizens, civil servants, facilitators, activists, politicians, etc.) stated their belief that a similar citizen assembly in Ireland would be repeated in the future. Clear evidence of this institutionalisation of citizen assemblies in the minds of the social actors was the call for a "new citizens' assembly" by three pro-life Irish MPs. Even though they were opposed to the ICA's recommendation, they did not criticize the innovation itself but asked for another one to explore "the means whereby positive alternatives to abortion can be explored so as to fully respect and defend the rights of unborn children and their mothers and partners"[16]. Moreover, there is a *contagion effect*, as many voices are calling for a citizens' assembly to be implemented in Northern Ireland[17] and an opinion poll commissioned by an Irish senator reveals that "there was a resounding response to the question of whether an all-island citizens assembly should be established to 'plan for unity and the future of Ireland'. A huge 64.34% said "Yes"[18]. The ICAs are also a source of inspiration for democratic innovators, academics, and activists, notably for the creation of a civil-society-led

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[16] Elaine Edwards, "New citizens' assembly sought by three members of Eighth Committee", *The Irish Times*, 20 December 2017.
[17] Press Association, "Growing calls for Citizens' Assembly to address issues including abortion", *The Independent.ie*, 9 January 2018.
[18] Kate Hickey, "Irish people want a United Ireland, see a referendum in the next 10 years", *Irish Central*, 5 November 2018.

citizen assembly on Brexit in the UK (Renwick 2017); and possibly for a future State-supported device on the question, as some politicians hope[19].

An uncertainty remains: will the institutionalisation of the "deliberative imperative" be a synonym for democratization or for governmentality (Blondiaux 2008; Blondiaux and Sintomer 2002)? On the one hand, the greater the institutionalisation, the lesser the politicians' influence and arbitrariness. Moreover, to follow Talcott Parsons, institutions are "activities govern by stable and reciprocate anticipations" (Lécuyer 1994: 111). This stability, predictability, and continuity are necessary conditions for the development of a new form of citizenship or "civic culture", one based on participation and deliberation rather than merely on elections. On the other hand, institutionalisation could also potentially "de-democratize" democratic innovations. In studying participatory budgeting, Anja Röcke points out the risk that this participatory institution "will be drained of its political content to be reduced to a mere 'tool' for public authorities to use as they see fit". She wonders: "is participatory budgeting destined to become a simple participatory mode of public spending without fundamentally overturning the existing power relationships nor the institutional hierarchy?" (Röcke 2010: 58–60).

A *governmentality institutionalisation* is indeed to fear, as more voices are criticizing the people's political competence, stating that after the Brexit vote and Trump's election, the *demos* is no longer to be trusted nor to rule, if it ever was. This anti-democratic temptation might prevail and lead to an institutionalisation of powerless, enlightened, consultative mini-publics playing the role of the "Prince's advisor" and "consultation alibi", allowing for the suppression of direct democracy or participatory mechanisms. The only "audible" voice of the people would have to be filtered through deliberative, controlled, formal institutions, and all other claims would be deemed irrational[20]. The institutionalisation of a single tailored model could then signify the death of democratic imagination and political experimentation. On the contrary, a *democratic institutionalisation* would empower citizens in novel ways to make the citizenry as a whole evolve through political participation. This perspective rests on the "Pygmalion effect", the idea that if citizens are considered competent by institutions, they will indeed become more competent (Rosenthal and Jacobson 1968), as is empirically the case in deliberative innovations.

The two main indicators of this evolution would be the widening of the maxi-public input and output. If Ireland, due to its legal framework, reveals a positive articulation between the mini-publics' recommendations and mass referendums, then the suppression of the "public consultation phase" in the ICA – however present in all three citizen assemblies on electoral reform as well as in the pilot assembly and the CotC – is troubling. Will this trend continue or be reversed?

In the end, if the institutionalisation of democratic innovations remains uncertain, it is due to the very nature of an institution itself. According to Rawls (1999), an institution is not the means with which to achieve a common goal but to reach different ends for different actors. Elites might agree to the creation of deliberative institutions to get a better informed and more competent demos, while radical democrats might support those same institutions to empower the people. However, the inclusion of novel permanent or regular democratic institutions could potentially deeply democratize current political systems and even change the "spirit of democracy".

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[19] N.a, "UK could follow Ireland's lead on abortion vote, says Brown", *The Irish World*, 14 November 2018
[20] I here draw on Foucault's concept of governmentality (2004).

Part 2
"We have humility." Perceived legitimacy and representative claims in the Irish Citizens' Assembly

Introduction

Is there a "constitutional turn" for deliberative democracy nowadays? Through their study of cases of mini-publics in Iceland, Belgium, and Ireland, Reuchamps and Suiter (2016) provided empirical evidence to answer in the affirmative. More recently, the latest chapter in democratic experimentation, namely the Irish Citizens' Assembly (ICA) from 2016-2018, allows us to investigate even further. This mini-public had the task of making recommendations on five topics of (potential) constitutional nature: abortion, aging, climate change, referendums, and parliament. In May 2018, an event of historical scale happened: The Irish citizens voted in favor of legalizing the right to abortion in a national referendum, following the proposition of this constitutional deliberative mini-public (Courant 2019a). First, it is necessary to locate the ICA within the particularly dynamic context of Ireland because this mini-public was the third of its kind, after the We the Citizens pilot assembly (2011) (Farrell, O'Malley, and Suiter 2013) and the Constitutional Convention (2012-2014) (Suiter *et al.* 2016a).

Second, Ireland is a trail-blazer in terms of constitutional mini-publics but also as the follow-up to, the next stage of, a wider political trend aiming to make democracy more deliberative and inclusive, notably through randomly selected panels of citizens. This trend started in the 1970s with citizen juries and continued with the citizens' conference on techno-scientific issues in the 1980s and the deliberative polls in the 1990s. The new wave of this family of democratic innovations are citizens' assemblies, launched in Canada in 2004 (Sintomer 2019). A key element of this political trend for democratizing democracy, sortition, is making its return to politics after a long absence through three channels: political theories, concrete innovations and activists' claims (Courant 2019b). Despite their richness and variety, I will focus on the discourses and practices linking sortition with constitution. This link is twofold: On the one hand, sorted assemblies are recommended or used for revision or creation of constitutions; on the other hand, claims and practices aim at institutionalizing sortition by including a provision on it in states' constitutions. Instances of the latter include Mongolia, where the "Law on Deliberative Polling requires a national Deliberative Poll before the Parliament can consider constitutional amendments" (Fishkin 2018), and the Citizens' Initiative Review in Oregon. Cases of the former regroup claims of many activist groups, especially in France (Courant 2018), as well as real innovations in Iceland and Ireland.

In their comparative analysis of the Icelandic, Irish, and Belgian cases, Suiter and Reuchamps "propose a framework for assessing the legitimacy of constitutional reform in a deliberative setting that distinguishes between three kinds of legitimacy: input, throughput and output legitimacy" (2016: 6). Input legitimacy deals with representation ("the question of who deliberates"), agenda setting, and the "level of information of the people who deliberate." Throughput legitimacy is linked to the quality of the deliberation and "how deliberation is translated into decision." Finally, output legitimacy refers to "the core of the relationship between the mini-public and

the maxi-public […], that is, how society at large takes up the issues raised by the mini-public" (Ibid., 6-9). Their framework and analysis is fruitful but overlooks another dimension of legitimacy: the *perceived legitimacy* of the deliberative citizens themselves.

Procedural legitimacy or perceived legitimacy?

Beyond procedural legitimacy

Many studies on deliberative democracy focus on procedures, which is no surprise because the adoption of a proceduralist approach was the founding act of this field. Pioneer theorists in deliberative democracy, such as Manin (1987), Cohen (1989), and Habermas (1992), stressed the importance of procedural legitimacy. However, this approach tends to leave out the *cognitive representations* of the legitimacy of the actual actors involved in the concrete deliberation. The same is true for "political representation." Most analyses of democratic innovations have studied the factual demographic representativeness and diversity of an assembly and often developed theoretical reflections (Fournier *et al.* 2011; Reuchamps and Suiter 2016; Warren and Pearse 2008), but those analyses rarely questioned the participants on whether and how they *felt representative* or not. Those researchers mostly used quantitative surveys to explain the perceived discourse quality and its evolution, as well as preferences of the participants (Farrell et al. 2017).

However, in order to grasp the subtle ways actors view and make sense of the deliberative process and their own legitimacy, it seems necessary to conduct in-depth qualitative semi-directive interviews (Blanchet and Gotman 2015; Kaufmann 2011). Therefore, this paper follows a comprehensive sociology approach, founded by Max Weber (1995), but also a pragmatic sociology of justification as theorized by Boltanski (Boltanski and Chiapello 1999; Boltanski and Thévenot 1991). In doing so with qualitative methods and in-depth microanalysis, I attempt to go beyond quantitative percentages to look at the "justification grammars" and "cities" of participants, giving attention to the richness of their views, without reducing them to numbered indicators (Boltanski and Thévenot 1991). Another relative originality of my research is my position. Contrary to a fair share of scientists, I am not studying devices I actively advocated for or organized, which allows for a more "external" point of view. However, because I have followed the whole process from start to finish, I avoid the "disconnected position" that other researchers adopt as they write on cases they have not empirically studied themselves[21].

Instead of considering legitimacy and representation as facts or academic normative theories, I will try to think them as varying perceptions and justifications felt and spoken by the various actors involved in the process, taking a constructivist approach inspired by Saward and his "representative claims" framework. Saward (2010: 144) argued that an important aspect of legitimacy "is the perception of legitimacy, not legitimacy according to a standard that is posited as independent of the context in which the question arises." The point here is not to criticize the explicative and proceduralist approaches, because I firmly believe they are essential and use some myself (Courant 2019b, 2019c), but to fill a gap in the existing literature on

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[21] Both the "involved" and "disconnected" positions have of course their advantages and disadvantages. The point here is not to pretend that the "external but connected" position would somehow be "better" but to notice that it is not the most widespread.

democratic innovations[22]. Moreover, it is clear, as we will see in this paper, that procedures do affect the actors' perceived legitimacy, and vice versa, which requires us to analyze the articulation between the two. The point is to use empirical sociological analysis of perceived legitimacy to develop a comprehensive theory of deliberative democracy, tackling both its cognitive and procedural dimensions.

This gap in the literature was noted by Geissel and Gherghina (2016: 78): "we know little about (…) 'perceived legitimacy', the attitudes of citizens toward their political systems, institutions, constitutions and representatives. (…) Expectations about impact on citizens are high but actual data is difficult to find." However, the definition given by Geissel and Gherghina of "perceived legitimacy," described as a criterion of output legitimacy, appears quite broad: "impact on citizens' attitudes (or approval) toward political objects such as the political system and its institution" (Ibid. 2016: 83). In order to make it operational, it is necessary to redefine this concept. "Legitimacy" is often associated with the concept of "authority", due to the influence of Weber, and a wide array of competing definitions can be found (Eraly 2015; Laborier 2014; Peter 2017; Sintomer and Gauthier 2014; Weber 2014a), but in some contributions, the concept is not even precisely defined, as if its meaning were obvious. Distinguishing it from "authority", I define *legitimacy* as the feeling or belief that x (which can be a person, an institution, a system, etc.) is rightly (which is not reduce to "legally") entitled to do something (e.g., speak for a group, collect taxes, etc.). In other words, "legitimacy is crucial because it underwrites consent, the willingness of the *demos* to accept decisions without the use of force" (Courant 2019b).

Legitimacy claims

Adopting a combination of inductive and deductive approaches, my research questions are: Why and how do the randomly selected participants think they do or do not have the right to deliberate and to represent? What are their subjective cognitive representations and justifications regarding their own legitimacy? What are the visions of democracy and politics underlining those cognitive representations?

This contribution will try to answer those questions with a study of the Irish Citizens' Assembly (ICA) in a comparative perspective, drawing from a long-term qualitative field study composed of ethnographic direct observations throughout the whole process and semi-directive interviews with citizen members, facilitators, politicians, and civil servants[23]. In this contribution, I will focus on members, but I intend to compare their discourses with those of the other actors later on. I am not trying to be exhaustive or to use as many interviews as possible but on the contrary, to do "political science with a microscope," as recommended by Sawicki (2000). I chose the most significant extracts, but they tend to reflect views shared by many other interviewees, which, due to the need for a concise paper, are impossible to quote entirely here. This research is deductive in the sense that I was attentive to whether the several principles and claims of legitimacy I previously discovered in anterior studies came up in the Irish case; it is inductive in the sense that I kept an open

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[22] Comprehensive approaches based on qualitative methods do, of course, exist in the field of deliberative democracy (see, for instance, Talpin 2011, on competence), but they are a minority and do not necessarily focus on perceived legitimacy.

[23] Contrary to Ratner (2008), all my interviews were conducted during the ongoing deliberative process and before the May 2018 referendum to avoid bias of forgetfulness and ex post changes in the discourses. I interviewed 23 citizens individually face-to-face, each for between one and two hours. Twenty-one interviews were carried out with other types of actors involved in the process.

mind to other claims and new principles emerging from the discourses of the Irish actors.

In previous studies, I distinguished three democratic principles of sortition: equality, impartiality, and representativeness. Those principles combine to create specific types of legitimacy: similarity, which is legitimate because it is representative; horizontality, which is legitimate because it is impartial; and humility, which is legitimate because it is equal (Courant 2019b). At the time, I left out the criterion of "efficiency," analyzed by epistemic theorists such as Landemore (2013), because this principle was not strictly democratic but could also be associated with aristocracy or monarchy. In the present study, however, the point is to determine the principles and justifications put forward by the "citizen representatives," to use the words of Warren (2008), and therefore to incorporate all claims, even non-democratic ones. The principles identified in previous studies are also used in the Irish citizen members' discourses, as is the epistemic claim. Those democratic principles were discovered during inductive empirical studies focusing on pro-sortition activism (Courant 2018) and on randomly selected deliberative institutions in the French Army (Courant 2019d). Those principles were then theorized and put into perspective with the literature on democracy and sortition (Courant 2019b).

Regarding sortition, the literature points to the tension between a legitimacy based on "ordinariness" and one based on "epistemic superiority" (Landemore 2013; Warren and Pearse 2008). A wide range of authors have emphasized the importance of the procedure's "impartiality" (Dowlen 2008; Stone 2011). Some researchers who studied mini-publics stressed the "representativeness" of the assembly as a central element of its legitimacy (Fishkin and Luskin 2005; Sintomer 2019). Finally, some authors gave primary importance to the equality produced by random selection (Castoriadis 1996; Rancière 2005). However, a result of this equality in the procedure of sortition is the normative affirmation of a specific principle: *humility* (Courant 2017, 2019b). This feature has been almost completely overlooked, even by researchers such as Sutherland (2017), who analyzed various principles at the same time, apart from a brief mention by Goodwin (2005). I will therefore focus on humility in this paper. The following is a summary of the four principles, or "resources", used by participants as justification for their representative claims[24]:

- Impartiality claims: "An unbiased and fair process."

- Epistemic claims: "We were educated through the meetings."

- Similarity and representativeness claims: "We are a fair cross section of society."

- Equality, ordinariness, and humility claims: "We have humility. We are ordinary people."

Questions do emerge from this reflection: Does the procedural affirmation of humility, through sortition, lead to the development of this psychological trait in the minds of the actors?Why do sortition activists and elected officials alike to support deliberative democracy through randomly selected assemblies? How can one make sense of this consensus that brings together two normally opposed groups? Is the *new spirit of sortition* (Courant 2017, 2019c), and more broadly, "the new spirit of democracy" (Blondiaux 2008), founded on the principle of *humility-legitimacy*?

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[24] This paper focuses on humility, due to the size limit;however I will develop the parts on impartiality claims, epistemic claims, and similarity claims in another article.

Humility as a representative claim, some empirical evidence

"We are equals"

During the study of deliberative institutions in the French Army, an interesting result came up: The main principle justifying the use of the random selection in this case was the desire to obtain *humble representatives*. Indeed, the randomly selected assembly has the task of expressing the claims of soldiers to the Minister of Defense in a deliberative way because social conflict repertoires such as strikes or protests are legally forbidden. Therefore, representatives must have humility toward the hierarchy but also toward the colleague they represent in order to be respected by the latter and not seen as betraying the represented (Courant 2019d). In my theoretical development, I consider this principle as a defining trait of sortition: "The randomly selected representatives do not consider themselves better or worse than other candidates or the majority of people that did not even try to be selected (by election, nomination or test), because there is no credit to being designated by chance. One is not selected because one would be superior to the group, but because one is an equal part of this group" (Courant 2019b). However, aside from theoretical considerations, is this principle and this psychological cognitive trait actually present in the discourses of actors in the "real world"?

This *humility-legitimacy* based on *equality* came up clearly during my empirical study of the military. I asked if the High Council of the Military Function (Conseil Supérieur de la Fonction Militaire, CSFM) sorted officials had titles. The secretariat answered: "No, no title! We don't want them to become arrogant!" (Courant 2019d). Furthermore, some representatives of the CSFM deploy this discourse to justify their legitimacy:

> "What are the drawbacks of sortition? One can sometimes tell us: 'Who are you to represent me? I don't know you, I didn't choose you' (…). I answer: 'You just have to volunteer for the lottery. If you did, you had *as much chance* as me to be selected randomly. If you were volunteer and that you were sorted, you would have *as much legitimacy* as I do today'"[25].

"We are faceless"

In the case of the Irish Citizens' Assembly (ICA), indicators of *humility-legitimacy* are also perceived in some of the discourses of the various citizen representatives interviewed. One interview is clearly more explicit than others on this point because the interviewee was answering a question regarding accountability:

> "Yes we are representing the citizens of Ireland but… (I can't think of the word)… we have more *humility* than that. Somebody might want to be broadcasted all over Ireland. Most of us want to represent the country not for ourselves. We didn't sign up to be the 100 faces of Ireland… we sign up to be totally *faceless*. Our names are on the report… but I don't want my face on the report. *Humility*… opposite to self-absorbed… that is the word I mean"[26].

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[25] Interview with a member of the CSFM (Navy), Versailles, March 2014; emphasis mine.
[26] Interview with a young female member of the assembly, Dublin, October 2017; emphasis mine.

Adopting the constructivist view of Saward (2010), we can consider this humility as a "resource" for the representative claim and the *legitimacy claim* crafted by the speaker. However, the point is not to adopt a cynical perspective and to consider those "argumentative resources" as mere lies or tricks to justify a position but rather to view those principles described during the speech as potentially sincere beliefs held by the actors. Because the speeches were gathered during confidential face-to-face interviews and not during public discourse, they are more likely to not be a mere reflection of the "the civilizing effect of hypocrisy" (Elster 1998). Furthermore, most of the citizens interviewed in this study refused to give interviews for the press or to speak during the live streamed plenary sessions of the ICA.

Interestingly, the *humility claim* appears to be a strange type of representative or legitimacy claim. Contrary to numerous cases, here, the "maker" of the claim seemed embarrassed to claim anything. Even though the interviewee genuinely believed the members of the ICA were "representing the citizens of Ireland," she argued that this fact did not result from their pride or lust for celebrity. The contrast with politicians appears especially striking because she repeated the term "*faceless*" during the interview. Indeed, an important feature of election campaigns are the posters bearing the faces of the candidates. Sintomer (2013) studied an event in which this instrument of electoral democracy was subverted: A radical left wing candidate in a Berlin constituency chose to put a picture of her back rather than her face on campaign posters, questioning the political relevance of showing faces on posters. I have observed this desire to be a *faceless representative* in cases of sortition other than the ICA. In France, several activists groups ran for elections while promoting sortition and direct democracy. Two of them, DemoRun in 2015 and MaVoix in 2017, decided not to reveal the faces of their randomly selected candidates on their campaign posters. DemoRun's candidates could be seen holding their voter cards in front of their faces, while MaVoix's posters were mirrors, aiming to reflect the faces of those looking at them and bearing the inscription "Who does represent me best?," implying that the represented are best represented by themselves (Courant 2018, 2019c).

"We have nothing to gain"

During the interview, a young female member of the ICA explained:

> "We volunteered… we don't do it for the fame… to be rewarded… we are not being paid. I honestly feel I am being paid just in knowledge and the chance to tell what we want to the Government (…). Nobody knows about us. We don't give a shit if we don't get the credit. I could live the rest of my life knowing I was a part of a huge societal change in Ireland"[27].

Once again, the virtues of the citizen representatives are depicted as a reverse image of the flaws of the politicians. This discourse of randomly selected citizens echoes numerous pro-sortition activists putting forth the comfortable wages of the elected officials as a factor of detachment from "real life" (Courant 2018). In contrast, citizen representatives "are not being paid" and "have nothing to gain." It is interesting to note that citizens taking part in this mini-public seem to converge toward views held by supporters of political sortition, the majority of the latter having never participated in a mini-public but defending it based on written (often academic) descriptions. Other ICA members expressed this critique of elected officials more explicitly:

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[27] Idem.

> "Politicians don't always act according to their conscience. Because they need to get elected. (…) It [the ICA] brings issues to the public attention"[28].
>
> "We [ICA members] are *ordinary people*. We are not doing it for the money, we are not doing it to keep our jobs… We are not saying "yes" because [otherwise] the people won't vote for us next time (…). We are just ordinary people, trying to work it out. Whereas the politicians all have something to gain, they are all… It is all about empty promises when there is elections coming up and… you know, a lot of the politicians are corrupt. I think they are in every country. We want… most countries want their politicians not be corrupt but it doesn't happen. Money and power seem to corrupt people. *We have nothing to gain*… by, you know, going in a particular direction or supporting it one way or the other. Except maybe the future. That's what we have to gain… if the government will do anything"[29].

As we can see, there is a feeling of distrust toward politicians that is widespread among the majority of the ICA participants who were willing to be interviewed[30] and more broadly among most representative governments' citizenry (Tormey 2015). However, citizen members of the previous Irish mini-public, the Convention on the Constitution (CotC), saw their level of trust toward politicians rise as the deliberation progressed (Suiter *et al.* 2016a: 42). Procedural and institutional choices have a strong impact on perceived legitimacy; therefore, I do not wish to oppose procedural and perceived legitimacies but to study their articulation. The difference of opinion in the two assemblies can be explained by their composition. While the ICA gathered 99 citizens exclusively, the CotC was a mix of 66 citizens and 33 politicians. Interviews with the former chair of the CotC as well as with former citizen members reveal a disappointment in this modification because they believed having ordinary citizens deliberate with elected representatives in the CotC was fruitful. As Jacquet (2017) showed, defiance toward politicians can be a factor that contributes to both agreeing to participate in a mini-public and refusing; it is not exclusively disappointed citizens that accept their random selection, but they are an important share of this public.

"We are ordinary people"

As we have just seen, in their discourses, interviewees emphasized the fact that assembly members "are ordinary people." This echoes Manin's (2012) analysis, which defined election as founded on a distinction principle, contrary to sortition. Pursuing this reflection, I am opposing a *superiority-legitimacy* based on distinction from a *humility-legitimacy* based on equality or non-superiority. In the former, representatives are legitimate because they are deemed better than the represented; in the latter, they are legitimate because they are considered equal to the represented (Courant 2017, 2019b). "Ordinary people" becomes a logical "object" for a representative claim made by a randomly selected citizen:

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[28] Interview with a senior male member of the assembly, Dublin, November 2017; emphasis mine.
[29] Interview with a senior female member of the assembly, Malahide, July 2017; emphasis mine.
[30] The fact that I could not conduct interviews with all ICA members but only with those agreeing to be interviewed is a bias that one needs to keep in mind. I am not pretending my sample fully represents the whole assembly, but the 23 citizens I interviewed present a good diversity of profiles in terms of age, sex, social class, geographic location, etc.

> "*Q – Do you think the general public will listen to the ICA?* A: Yes, yes I do think so yes (…). I think because it is coming from the citizens. This group of people who are not professors, who are not economists… A group of *ordinary citizens*"[31].

> "I don't feel I am representing the West (of Ireland), or that I am representing mothers… If anything I would say that I am very much part of *very ordinary people* who struggle. Life is being a struggle, and I am part of that"[32].

This discourse shows that participants have a relative, not total, freedom vis-à-vis procedural and institutional settings. The ICA criteria of representation, given to the polling company for the random selection of the representative sample, were age, gender, social class, and region. However, a citizen could refuse the assignment to represent Group A (here, "the West" or "mothers") and freely decide to identify with Group B ("ordinary people") instead. In this case, the "object" of the representative claim is broader and more political than a polling demographic category. Random selection seems to provide citizen representatives with greater independence than quotas. Although quotas do help provide diversity, they also institutionalize divisions through arbitrary and legally constructed groups that might limit the choice and action of the representative.

Turnover numbers related to ICA members provide more empirical evidence of *humility-legitimacy*. Indeed, a fairly high number of participants were replaced over the year-and-a-half existence of the assembly. As one can read on the ICA's website: "Since the inaugural meeting on 15 October 2016, 53 Members have been replaced." This number is vastly superior to those of other citizens' assemblies, with one defection in British Columbia, six in the Netherlands, and none in Ontario (Fournier *et al.* 2011: 47). How does one make sense of this difference? First, Canadian and Dutch participants "were remunerated for their service to the community" (Fournier *et al.* 2011: 10). Second, the recruitment process was quite different; in non-Irish assemblies, a series of preliminary meetings ensured that the final randomly selected citizens were motivated, while in Ireland, there was no such process. Third, the duration of the process was longer in the Irish case. Fourth, the ICA dealt with five different topics, while other assemblies only had one. It seems rational that the interest of participants fluctuated depending on the subject at hand in Ireland, and it also seems rational that other assemblies wanted to see the end of their single-issue process.

There are two ways to look at the high turnover in the ICA. One could perceive it as a lack of commitment and civic-mindedness. Alternatively, one could argue, as I do, that it reflects a form of humility, as if Irish members refused to see themselves as exceptional or personally essential to the process. Due to their absence of individual pride, they accepted that they could be replaced by any other randomly selected "ordinary people" because they did not win a competitive selection process stressing their personal qualities as out of the ordinary. Moreover, rotation has been in "elective affinity" (Weber 2004) with sortition since Athenian democracy and its "principle of rotation," affirming that citizens are equals and therefore interchangeable units (Courant 2017, 2019b).

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[31] Interview with a senior male member of the assembly, Dublin, November 2017; emphasis mine.
[32] Interview with a senior female member of the assembly, Malahide, July 2017; emphasis mine.

"We just want the person to be able to make the decision"

The final indicator of a perceived legitimacy in terms of humility is that Irish citizen representatives justified their legitimacy based on their lack of decision-making power. They acknowledged that they were preparing propositions but that the final decision remained in the hands of the maxi-public and of the politicians. We will debate this need in deliberative democracy for third parties' acceptance and external legitimacies in the following part of this article. When asked why politicians or the citizenry should listen to the ICA recommendations, a young male assembly member answered:

> "Well, the politicians anyway they brought this group together. And they were looking for a recommendation if they brought us together… And if they want to take our advice, they can. If they don't, they don't have to. I can understand that. But that's kind of what makes it legitimate… for me (…). I don't think the citizens have to listen to us. But politicians, they all agreed to bring together the citizens' assembly for the reason of having recommendations. So I assume that's why they should at least listen to us.
>
> *Q- And do you think the population will listen to you?*
>
> A: (…) It's up to them if they want to listen to us or not. I don't think any citizen is under any obligation to listen to us, or to take into account our views or our recommendations. I would hope so but they are under no obligation to.
>
> *Q- So, you don't think that if in the future a citizens' assembly was to be replicated, it should have the power to directly change what it wants to change? Do you think it should always go through a referendum?*
>
> A: Oh definitely, yeah! Especially for the… I mean it is not our job… when you're messing with the system then I find… We have law making system and law enforcement and whatever. And this is just giving too much power to one group. And I wouldn't agree with that, no"[33].

This strong desire to claim no superiority of the ICA's voice over the voice of the people is quite striking. Even though citizen representatives knew they became more educated than the general public, it did not push them to see themselves as having power over the represented. A young female member directly linked that to humility while talking about the potential referendum on abortion (still uncertain at the time of the interview):

> "Humility, like being faceless… You're doing it because you care about the topic not to be famous. Just to input your soul in the country that you live. You get to have humility… just looking past more than just yourself… The Citizens' Assembly embraces that. Everyone, all the citizens [of the assembly] really care about people you never met… but they [citizens outside the assembly] should be able to do what they want… We really care that they should be able to do that for themselves… We just want the person to be able to make the decision. That is what humility means… It is probably the only context where I feel I have humility…"[34].

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[33] Interview with a young member of the ICA, Malahide, April 2018.
[34] Interview with a young female member of the assembly, Dublin, October 2017; emphasis mine.

Humility-legitimacy is clearly present, under different forms, in the discourses of ICA members. What are the implications of this concept for a potential "new spirit of democracy"?

Humility as the new spirit of sortition and as the new spirit of democracy?

Connecting perceived and procedural legitimacy

In asking how participants perceived their own legitimacy, I tried to look at a relative blind spot in the study of deliberative democracy. This comprehensive approach is interesting in itself, but not sufficient, for there is a larger question at hand here. As we have seen, some randomly selected citizens tend to perceive and justify their legitimacy as based on humility, a feature ignored by almost all analyses of sortition. Could this principle of *humility-legitimacy* explain one of the deep reasons behind the return of sortition to politics in the 21st century?

As noted: "Historical analyses reveal three successive principles for sortition: the random selection of citizens for public offices in ancient Athens, based on the principle of *equality*; the lottery to pick out members of popular jury, aiming for *impartiality*; and opinion polls giving a *representativeness* of the population through representative sample" (Courant 2019b). Some authors, which Sutherland (2017: 5) referred to as the "invisible hand research school," have insisted that representativeness is a new principle explaining the phenomenon of political sortition in contemporary democratic innovations (Carson and Martin 1999; Fishkin and Luskin 2005; Sintomer 2019). There is no doubt that this does play a role, but, drawing from Weber's (2004) study on the "spirit of capitalism," I seek complementary explanations to this phenomenon by looking at a potential *new spirit of sortition*: humility. This new spirit of sortition was revealed by the study of actors' perceived legitimacy but is also deeply connected to a procedural understanding of sortition. In this perspective, *humility-legitimacy* is understood both as a cognitive representation put into discourse by actors and as a result of the horizontal and noncompetitive procedure of random selection.

I argue that the concept of *humility-legitimacy* gives us the opportunity to think about some of the changes representative governments are undergoing nowadays as they are adopting deliberative and participatory procedures, searching for a "new spirit of democracy" (Blondiaux 2008). The puzzle here is the following: Why are sortition activists and elected officials alike supporting deliberative democracy through randomly selected assemblies? How does one make sense of this consensus that brings together two normally opposed groups?

Weak representatives to radicalize democracy

Some activists defend sortition as a way to radicalize democracy. According to them, random selection allows for more impartiality and representativeness (Courant 2018, 2019c). However, they not only want "more accurate representatives" but also "humble representatives." Sortition activists have a desire for representatives with weak legitimacy to prevent those representatives from dominating the represented. This structural fear that the elites or "the *grandi*" will dominate "the people," to use Machiavelli's terms (1992), explains why radical democrats favor random selection.

Indeed, contrary to other modes of selection such as election, nomination, or certification, the sortition procedure is not a "test" stating the superiority of the one being selected (Courant 2017, 2019b). In this sense, humility is the fact of not being arrogant, not feeling superior. This is better achieved through random selection than a procedure in which the winner can claim his or her merit and superiority, as seen in post-election celebrations, for instance. In this way, radical democrats see sortition as giving less power to the representative and, by consequence, more power to the people.

Empirical studies have confirmed this "weak legitimacy" of randomly selected citizens because no mini-public ever made a final binding recommendation itself. Citizen representatives' recommendations always require the approval of one or several other political entities, often the whole citizenry via referendum. The property of *humility-legitimacy* seems to guarantee that randomly selected representatives do not make a decision on their own but are always consultative, giving the final word to other actors. Citizen assemblies' proposals were:

- directly submitted to referendum in British Columbia and Ontario (Fournier *et al.* 2011);

- transmitted to the parliament and government, which then decided which reform to pass by referendum in Ireland (Courant 2019a; Suiter, Farrell, and Harris 2016);

- given to an elected committee of non-politicians then submitted to referendum in Iceland (Bergmann 2016);

- transmitted to the government in the Netherlands (Fournier *et al.* 2011);

- used to inform the voters before referendums in Oregon (Knobloch *et al.* 2015);

- without institutional effects in Belgium because the G1000 was a civil society device, not a state-supported one (Jacquet *et al.* 2016).

It is therefore rational for radical democrats to defend sortition and its "humble representatives" because they demand more consultation and inclusion of the people in political decisions. Activists are opposed to an autonomous body of representatives with the power to make binding decisions, sometimes against the will of the represented. In this perspective, some propose a model in which citizen assemblies deliberate on a proposition that is then approved (or not) by referendum, rendering democracy more direct. Moreover, representatives with *humility-legitimacy* seem particularly appropriate for constitutional deliberative democracy because most constitutional reforms or new constitutions must receive the approval of the people through referendum.

Enlightened mini-publics to govern the represented

If *humility-legitimacy* is a reason for radical democrats to support sortition, it seems counterintuitive that this principle would also push elected officials to support mini-publics. It is, however, the case. In order to tackle the growing distrust they face, politicians must consult the people (Tormey 2015). However, how can they do so without giving up (too much) power? Mini-publics present themselves as a viable alternative to direct democracy or imperative mandate. As elected officials establish randomly selected assemblies, they show their commitment to democracy and to the "deliberative imperative" (Blondiaux and Sintomer 2002), while retaining enormous control. Politicians are free to decide whether they want to set up a deliberative device, when, on which topic, for how long, who would chair it, who the staff would

be, its budget, and, more importantly, what would happened to the recommendations of the assembly. Elected officials remain the "veto players" at each step of the agenda setting (Lascoumes and Le Galès 2012; Tsebelis 2002). The clearest example is Iceland, where two randomly selected assemblies and a nonpartisan elected council saw their new constitution approved by referendum only to be blocked by the parliament (Bergmann 2016).

Irish citizen members were well aware of their weak legitimacy and their dependency on the political class: "I hope the government will act on our recommendations" was one of the most recurring themes that came up in interviews. Interviewed civil servant staff members, facilitators, and politicians alike shared this perception that the citizens' assembly had limited legitimacy to make propositions without guaranteeing their implementation, this being the prerogative of elected representatives. This explains why an increasing number of politicians are promoting sortition without threatening the foundation of the representative government. The 2017 campaign in France is a striking case in which three of the main candidates advocated and implemented some forms of deliberative sortition (Courant 2018). One of them, Arnaud Montebourg, answered a journalist questioning his idea: "randomly selected citizens would only be able to make propositions, not to take decisions, because they don't have representativeness [i.e., legitimacy]."

According to Rancière: "The scandal of democracy, and of the drawing of lots that is its essence, is to reveal that (the title to govern) can be nothing but the absence of title" and that, due to equality, sorted citizens "have no title to govern, nor to be governed" (2005: 47; 49). This explains the desire of radical democrats for weak representatives, but this also explains why randomly selected participants do not "scare" elected officials. The latter know that their power and their electoral *superiority-legitimacy* is deemed greater than the weak *humility-legitimacy* of citizens' assemblies. The Icelandic case and the Belgian G1000 prove that without official political and institutional support, a randomly selected assembly cannot achieve changes (Bergmann 2016; Jacquet *et al.* 2016).

More than just being merely armless, mini-publics could pose a threat to democracy. As Chambers (2009) argued, deliberative democracy could abandon mass democracy. In this pessimistic view, politicians would consult an enlightened mini-public to avoid direct democracy procedures such as referendums and to discredit the ignorant crowd as well as the radicalized militants. This trend can be compared to the evolution of opinion polls. Champagne (1990) showed that the recognized voice of the people shifted from mobilization such as protests, criticized for being the expression of a minority, to opinion polls, claiming to accurately represent the whole citizenry. Hence, the legitimate depiction of the people shifted from mobilized collectives to a "disbanded multitude" of individuals whose preferences would be taken separately and then aggregated. In a similar vein, the Great National Debate launched by Macron in 2019 aimed at substituting panels of randomly selected citizens to the "Yellow vests" protesters as the "voice of the French people" (Courant 2019e).

The servants of the people? Internal and external legitimacies

Looking at the Icelandic, Irish, and Belgian cases, Talpin (2016b, 105) quickly suggested that they "articulate four forms of legitimacy." He distinguished *epistemic* legitimacy "granted to experts and scientists"; *common sense* legitimacy "coming from ordinary citizens' input into mini-publics"; *democratic* legitimacy "based on numbers, can be granted by referendums"; and finally, *representative* legitimacy "of elected officials." The proposed typology is interesting but needs to be adapted to gain accuracy, notably because the terms "democratic" and "representative" create

confusion, as mini-publics are also deemed representative, not just elected officials. I propose distinguishing between internal and external legitimacies. As I said, *internal legitimacies* claimed for mini-publics are diverse: *impartiality* claims refer to the assembly considering all opinions; *epistemic* claims refer to the mini-public being educated through the deliberative process and its cognitive diversity; *similarity* and *representativeness* claims refer to the members constituting a fair cross section of society; and finally, *equality*, *ordinariness,* and *humility* claims refer to citizen representatives preparing decisions without having the final say on them. However, due to the hegemony and history of the representative government, the legitimacy of mini-publics appears weak compared to that of elected officials or of direct referendums. This is also due to the mini-public's lack of quantitative legitimacy produced by voters' mass participation in election and votes (Parkinson 2003).

Discussing Talpin's typology, I would suggest that a mini-public needs the following *external legitimacies*: the teaching of experts to gain *expertise* legitimacy[35], the help of a professional staff to obtain *organizational* legitimacy, the support of politicians to gain *electoral* and *institutional* legitimacy, the attention of the media to achieve *public* legitimacy, and the approval of its proposition by a referendum to gain *popular* or *quantitative* legitimacy. A final type of external legitimacy could be *mobilized* legitimacy, held by involved groups of citizens in associations or protests. In the case of ICA's debates on abortion, pro-choice activists held signs claiming: "Listen to the citizens' assembly." In this perspective, radical democrats and activists tend to defend a mini-public articulated with public, popular, and mobilized legitimacies, while politicians would favor a citizens' assembly essentially dependent on experts' expertise legitimacy, on staff's organizational legitimacy, and on their own electoral and institutional legitimacy.

Going back to our definition of legitimacy, why would people consider randomly selected assemblies legitimate? Why would the represented have the feeling or the belief that citizen representatives are rightly entitled to speak for them and make recommendations to change the constitution? How would *humility-legitimacy* underwrite "consent, the willingness of the *demos* to accept decisions without the use of force" (Courant 2019b)? The answer is precisely because through their humility, sorted citizens show respect to the whole citizenry and ask for its direct approval. This weak legitimacy creates representatives that will keep considering, consulting, and including the represented, in contrast to the *superiority-legitimacy* produced by election. In this sense, election can be seen as a procedure in which the represented give consent and power to the representatives to make all or most of the decisions. On the contrary, sortition can be seen as a procedure through which the represented maintain their power and have the final word on future decisions; the representatives merely prepare the terms of referendum. A middle ground is liquid democracy, where citizens give power to representatives to make decisions for them but have the right to take that power back and use it themselves at any moment.

This explains why radical democrat activists claim that "sortition produces servants while election produces masters" (Courant 2017, 2018). The figure of the servant is linked with humility, abnegation, and altruism. As we have seen, this theme came up in various ICA members' discourses:

"You have a hundred random citizens giving their time freely, expressing their opinions... And I think people, most people would see that. The fact that there is no

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[35] Epistemic claims can be internal if focused on deliberation and cognitive diversity (Landemore 2013) or external if focused on the teaching of experts. To avoid confusion, I call this second category "*expertise legitimacy*."

payment involved and people are giving up their time, their Saturdays and Sundays. Listening"[36].

This figure of a humble "servant representative" selected by lottery is also present in Amish communities. Pastors are randomly selected, but they do tedious tasks no one envies. When the lottery concludes, the "winner" often cries and shows no pride because pride is a sin and humility is a key value in Amish culture (Courant 2019c; Kraybill 2001). More broadly, legitimacy through humility is crucial to Christian tradition, which emphasizes that "to govern means to serve," as Dalarun empirically demonstrated (2012). Some monastic communities used sortition to appoint spiritual leaders and various offices. Procedures other than sortition aim toward producing humility. The religious monasteries using election rather than sortition strongly condemned any candidate voting for himself as sin of pride (Christin 2014). In the Roman triumph ceremony, the victorious general received the applause of the crowd, but the slave holding his laurel wreath above his head constantly repeated, "You are only a mortal; do not forget it." Finally, as Bobb (2013) argued, elected politicians can display humility, but this is described as an extraordinary virtue that few possess because electoral success and political power tend to corrupt people and push them to believe in their superiority. Sortition, on the other hand, seems to be in "elective affinity" with *humility-legitimacy*. Humble representatives with weak legitimacy might then serve the people instead of ruling them.

Therefore, *humility-legitimacy* can be seen as *a legitimacy without authority*. This echoes Weber's short-lived attempt at thinking a fourth type of "legitimate authority," a democratic one, resting on the will of the governed (Sintomer and Gauthier 2014; Weber 2014b). However, although this weak legitimacy offers promises of empowering the people in the eyes of radical democrats, it also appears harmless in the eyes of politicians. The latter believe citizen representatives will not challenge their authority. Nevertheless, it is not unthinkable that, at some point, a mini-public might claim to be "more representative" and perhaps "more legitimate" than an elected body, precisely because of its consideration of the represented opinions. In this case, the *new spirit of sortition* would not reinforce "audience democracy" but actually challenge the very principles of representative government as defined by Manin (2012).

Conclusion: Humility as a necessary condition for deliberative democracy

Analyzing the articulation between procedural and perceived legitimacy highlights an important principle of democracy, namely the procedural and cognitive perception of the proper attitude representatives should display. This directly echoes Weber's (2004) discovery of the elective affinity between the protestant ethic and the spirit of capitalism. Regarding politics, I argue that humility-legitimacy produced by the random selection of representatives might constitute the new spirit of democracy.

Within deliberative democracy, humility is actually the foundation for the other legitimacies. Intellectual humility is necessary to impartial, epistemic, and representative processes. Competitive election is a process by which candidates show their partisan positions as well as their knowledge of economy, policies, diplomacy, etc. On the contrary, a lottery does not test the partisan leaning nor the ready-made knowledge of the citizens picked. Therefore, randomly selected mini-publics must

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[36] Interview with a senior male member of the assembly, Dublin, November 2017.

hear all sides of an argument, which provides impartiality, and educate themselves by auditioning various experts and actors, which provides epistemic gains. This is possible because the participants have the humility to admit they do not know certain things, which election candidates tend not to do because they must show their superiority while discrediting their competitors. Moreover, humility allows for turnover in the representation, in contrast to many politicians continuously running for re-election and, especially in France, exercising two or three electoral mandates at the same time. Humility is a necessary condition for an individual to change his or her mind and listen to arguments that might affect his or her beliefs. Standing in a position where they do not claim having superior knowledge of legitimacy, citizen representatives are more likely to follow "the forceless force of the better argument" (Habermas 1992).

Humility-legitimacy is even more crucial to constitutional deliberative democracy. Indeed, most political systems require that a new or a revised constitution should be submitted to the approval of the people by referendum. Therefore, having the proposition made by a randomly selected mini-public, mindful of its weak legitimacy and of the necessity to consult the maxi-public, appears logical. However, recent critics of direct democracy and referendums, especially after Brexit, pose questions regarding the "new spirit of democracy" (Blondiaux 2008). Will mini-publics be used as "governmentality devices," to use Foucault's (2004) concept, aiming at controlling the represented? In this perspective, citizens' participation would be reduced to closely monitored deliberative institutions, designed by elected officials and under the scrutiny of experts and civil servants. Alternatively, will mini-publics allow for a democratization of democracy? In this perspective, the humble citizen representatives would prepare recommendations submitted to the people, articulating deliberative and direct democracy (Gastil and Richards 2013; Goodin and Dryzek 2006; Knobloch, Gastil, and Reitman 2015). Only time will tell. In the meantime, a fair amount of research remains to be done to understand the dynamics and articulations of the various perceived and procedural legitimacies, as well as their political consequences for the future of democracy.

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