CORA Cork Open Research Archive
Cartlann Taighde Oscailte Chorcaí

Title	'Systematizing' constitutional deliberation: the 2016–18 citizens' assembly in Ireland
Authors	Farrell, David M.;Suiter, Jane;Harris, Clodagh
Publication date	2018-11-01
Original Citation	Farrell, D. M., Suiter, J. and Harris, C. (2019) 'Systematizing' constitutional deliberation: the 2016–18 citizens' assembly in Ireland', Irish Political Studies, 34 (1), pp. 113-123, DOI: 10.1080/07907184.2018.1534832
Type of publication	Article (peer-reviewed)
Link to publisher's version	http://www.tandfonline.com/10.1080/07907184.2018.1534832 - 10.1080/07907184.2018.1534832
Rights	© 2018 Political Studies Association of Ireland. This is an Accepted Manuscript of an article published by Taylor & Francis in Irish Political Studies on 01 Nov 2018 available online: http://www.tandfonline.com/10.1080/07907184.2018.1534832
Download date	2026-11-06 13:36:13
Item downloaded from	https://hdl.handle.net/10468/10038

UCC
University College Cork, Ireland
Coláiste na hOllscoile Corcaigh

October 7, 2018

‘Systematizing’ constitutional deliberation: The 2016-18 Citizens’ Assembly in Ireland

David M. Farrell, Jane Suiter, Clodagh Harris[1]

A growing number of Europe’s democracies are employing deliberative methods in the process of reviewing their constitutions (Contiades and Fotiadou 2017; Reuchamps and Suiter 2016). Counted among them are: Iceland, Ireland, Estonia, Luxembourg and Romania. These follow earlier experiments in the Netherlands and in parts of Canada – the citizens’ assemblies that considered electoral reform (Fournier et al. 2011). What these processes of constitutional and institutional reform share in common is the central role played by random samples of citizens. Ireland has been at the forefront of this trend; indeed, it has become something of a trail-blazer. It isthe first case in which the process has been employed a second time: the Irish Citizens’ Assembly, which was established by the Irish government in late 2016 and operated through to early 2018, followed upon the Convention on the Constitution, held in 2012-2014. The creation of two mini-publics in quick succession and their significant role in supporting key referendums for constitutional change that followed (marriage equality in 2015 and abortion in 2018) suggests a degree of ‘systemization’ of deliberation (Parkinson and Mansbridge 2012) in the Irish process of constitutional review.

This report sets out the basic details of the most recent Citizens’ Assembly – how it was set up, its agenda, its manner of operation, and its outcomes. We conclude with a brief discussion of the recent Irish experience of constitutional mini-publics and the degree to which they speak to a process of systematizing deliberation in the Irish policy process.

The Irish Citizens’ Assembly

[1] The research underlying this paper (the authors were designated as the ‘Research Leader for the Citizens’ Assembly’) was co-funded by the Irish Research Council and the Secretariat of the Irish Citizens’ Assembly, in a grant awarded to David Farrell and Jane Suiter. We are grateful to Kevin Cunningham for his research assistance with the survey data.

The Citizens' Assembly (www.citizensassembly.ie) was established by the Irish government in October 2016 (following a commitment made by Fine Gael in its 2016 general election manifesto); its work concluded in the late spring of 2018. It followed closely the model of the 2012-14 Irish Constitutional Convention in having as its members 99 citizens selected at random by a leading market research company, RED C, and an independent chair (a supreme court judge).[2] The Dail resolution establishing the Citizens' Assembly gave it five items to consider (Table 1): abortion, the challenges and opportunities of an ageing population, fixed-term parliaments, the manner in which referenda are held, and how the state can make Ireland a leader in tackling climate change.[3] This rather eclectic set of topics in part resulted from commitments made by Fine Gael in its manifesto; but in part it reflected international pressures for action in key areas (notably on abortion and climate change) as well as the usual horse trading between potential coalition partners that precede the establishment of a coalition government, which is in this instance were unusually long (O'Malley 2016). The Irish government is under intense international pressure to take more radical action on climate change: the country is seen as a laggard in the steps taken to meet international targets. The government was also facing growing international demands for action on its ban on abortion, notably from the United Nations Human Rights Committee. With opinion polls indicating strong support for a liberalization of Ireland's abortion laws, the Irish government was forced to act. Under strong political pressure, and needing the support of the independent TD Katherine Zappone who had prioritized this topic as a condition of her joining the coalition government, the minority government proposed that this be the first item to be discussed by the Citizens' Assembly (for more, see Field 2018).

[Table 1 about here]

The genesis of the other three topics is somewhat harder to trace. In its manifesto Fine Gael sets out this rather curious rationale relating to the ageing topic: 'As part of the plans to mark the centenary of the 1916 rebellion, the Assembly will also be asked to examine how we

[2] The main area of distinction between the Constitutional Convention and the Citizens' Assembly was that the former's membership included 33 members of parliament, with a smaller number of citizen member (66). It is likely that the reason for not including politician members on this occasion was due to the first topic being considered – abortion – which has proven to be politically sensitive and therefore one that many politicians would prefer to steer clear of (cf. McGraw 2015). For more on the Convention, see Farrell, et al. (2017).

[3] The resolution announcing the establishment of the Assembly is available here: https://www.citizensassembly.ie/en/About-the-Citizens-Assembly/Resolution.pdf

should, as a republic, best respond to both the challenges and opportunities of an ageing population' (Fine Gael 2016: 101). There is no mention of the other two topics (referenda and fixed-term parliaments) in the Fine Gael manifesto, though it is known that there are concerns in government circles that the increasing regularity of referendums in Ireland (Suiter et al. 2018) may lead to referendum fatigue on the part of voters, prompting some to call for 'referendum days' in which bundles of referendums might be taken together. The assumption is that the topic of fixed-term parliaments was added as an item to placate the concerns of the Independent Alliance who were anxious to avoid being wrong-footed by the Taoiseach calling a snap election.[4]

The design of the Citizens' Assembly as a deliberative mini-public was characterized in particular by two main features. First, the members were regular citizens selected from the wider population. The selection of the 99 citizens was stratified based on four demographic targets: sex, age, social class and region, with the market research company's recruiters cold calling door-to-door to select the 99 members, and – at the same time – 99 substitute members. The second feature that marks this process out as a mini-public was its mode of operation. The members were arranged in circular tables of seven-to-eight. At each table there was a trained facilitator and a note-taker. The role of the facilitator was to ensure that roundtable discussions kept to the point and were respectful, and that every member had an equal opportunity to speak. The table allocations were rotated after each weekend so that members were mixed around.

[Table 2 about here]

Meetings took place roughly once a month, lasting for most of the weekend (all day Saturday and all of Sunday morning; on some occasions the Sunday sessions stretched into the mid-to-late afternoon). The itinerary (which was agreed by a steering group made up of the members, and supported by an expert advisory group) generally consisted of the following main types of activity (this is illustrative):

- Presentations by legal, ethical and medical experts (between 15-30 minutes in length. Briefing papers were circulated days in advance so that the members had an opportunity to read them. The briefings and presentations were designed to be as

[4] The Fine Gael manifesto had proposed two other agenda items for the Citizens' Assembly, that were not ultimately included: Seanad reform, and the power of Oireachtas committees to conduct inquiries.

objective as possible; though on occasions – notably when dealing with ethical matters – there were experts with differing perspectives pitched against each other.

- There were also presentations by advocacy groups and on occasions (notably when discussing abortion) personal testimonials by a number of women.
- Question and answer sessions.
- Small group roundtable facilitated discussions in closed session (i.e. no cameras or recording).
- Private reflective moments in which the members were invited to write their personal responses to a series of questions.

As Tables 1 shows, the treatment of the five topics varied in quite significant ways, most notably in terms of the amount of time devoted to a topic, ranging from one day in the case of fixed-term parliaments to nine and a half days in the case of abortion. In part this variation reflected the level of complexity of the topic, though clearly climate change warranted more than just the four days allotted to it, indicating that budgetary limitations and political interests (in the sense that abortion was prioritized over everything else) mattered too. Of course, the variation in time also reflected levels of interest in the topic, as shown by the wide difference in numbers of public submissions – over 12,000 on abortion versus a mere eight on the topic of fixed-term parliaments.

Table 2 reveals another feature of the Irish process, namely the large turnover in membership (requiring repeated rounds of recruitment to fill the gaps, resulting in a grand total of 152 members who were recruited over the Assembly's 15 months of operation[5]), and the challenge of getting members to turn up. The first and final meetings stand out starkly in this regard: only 76 members turned up for the first meeting, whereas for the final meeting there were only 73 members in attendance. This is very different from the experience of the Canadian and Dutch cases, which tended to experience far lower levels of turnover and far

[5] Details of the methodology used to recruit the members and the representatives of the membership are available here: https://www.citizensassembly.ie/en/About-the-Citizens-Assembly/Who-are-the-Members/ Indeed, the need to renew members was the cause of some public controversy when in early 2018 the Assembly secretariat discovered that the recruitment of seven new members between December 2017 and January 2018 had not followed the proper procedures for random selection. As a result, a number of the votes of the Assembly in the weekend affected (which had considered 'the manner in which referenda are held') were deemed uncertain because they had been close votes. Full details are provided here: https://www.citizensassembly.ie/en/News/Statement-from-the-Citizens%E2%80%99-Assembly.html

higher levels of turnout (Fournier et al. 2011). It is likely that an important factor in the Irish case was the decision not to provide members with an honorarium in recognition of the time and effort they put into the process, a point noted by the Chair of the Citizens' Assembly in its final report.[6]

[Figure 1 about here]

The turnover of members is likely to have had more to do with the lack of honoraria and the length of the process than with levels of overall satisfaction. As part of a research project to assess the Citizens' Assembly as a deliberative process members were surveyed after each meeting and asked a battery of questions on the quality of facilitation and the small table discussions.[7] These surveys ensured a strong element of quality control of the process – the secretariat was provided with feedback reports after each meeting that were then shared with the members. Figure 1 illustrates a portion of the survey's wider findings, reporting on the responses to a series of questions designed to measure the 'deliberative quality' of the round table discussions over the course of the five weekends focused on abortion. Given the intensity of those discussions this provides a hard test of the levels of success of the deliberative process. As the figure reveals, the levels of satisfaction remained high across the five weekends (as they did across all eleven weekends of discussion): the bulk of members felt that they were free to raise their views, that they had ample speaking opportunities, and that other members respected what they had to say. For the most part, there were also few cases of domination of discussion by other members, though this is one area where we the members were somewhat more equivocal.

Interviews with a sample of the Citizens' Assembly members in the final weeks of its operation also reveal high levels of satisfaction with the process.[8] As one male member put it: 'The beauty of the whole thing [is] it's a neutral environment. There's a great level of respect for everybody's opinions: we haven't had any fisticuffs. They're have been strong

[6] See chapter 8 of the final report, available here: https://www.citizensassembly.ie/en/Manner-in-which-referenda-are-held/Final-Report-on-the-Manner-in-Which-Referenda-are-Held-and-Fixed-Term-Parliaments/Final-Report-on-Manner-in-which-Referenda-are-Held-Fixed-Term-Parliaments.pdf

[7] This project follows a similar study of the Irish Constitutional Convention. For more on that, see Suiter et al. (2016).

[8] Face-to-face interviews were carried out with 13 members of the Assembly in the final two weekends of meetings.

view expressed at times, but nobody's fallen out over it'. Similar views were expressed by one of the female members: 'Everyone could make their point … There was no shouting: [if anyone tried to take over] they were put in their place… I felt I could ask anything and didn't feel I would be shouted down by anyone at the table'. There was general agreement, however, that matters were more tense during the discussions on abortion than for any of the other topics.

One concern regularly raised in the interviews was over the degree of follow through by the government, and with good reason. The government may have reacted quickly on the abortion issue (Field 2018; Suiter 2018), and it also established an Oireachtas committee to consider the Assembly's recommendations on climate change, but to date (as of October 2018) there has been no reaction whatsoever to the other three topics, and this despite the clear commitment given in the resolution establishing the Assembly that the government would provide a 'response to each recommendation of the Assembly, and, if accepting the recommendation, will indicate the timeframe it envisages for the holding of any necessary referendum'.

A similar lacklustre, tardy response by government was experienced after the Constitutional Convention, which saw movement on some of its recommendations but a number of others that are still on-going (e.g. the October 2018 referendum on Blasphemy) – several years later – and others that probably will be simply ignored (for more see Farrell 2018). It is likely to be quite some time, therefore, before we learn the fate of the Citizens' Assembly's recommendations on ageing, referenda, and fixed-term parliaments.

The 'systemization' of deliberation in Ireland

As indicated above, the Citizens' Assembly followed in the wake of an earlier deliberative mini-public, the Constitutional Convention (2012-14). And like its predecessor it represented an important stage in the process leading up to the calling of a national referendum and also in its successful passage – marriage equality in 2015, which followed the deliberations of the Constitutional Convention (Elkink et al. 2015), and abortion in 2018, which followed the deliberations of the Citizens' Assembly (Elkink et al. 2018). Ireland, therefore, not only stands out internationally as the first country in the world to hold two constitutional mini-publics in quick succession, but also as a world leader in the linking of deliberative democracy (mini-publics) and direct democracy (referendums).

This speaks to a wider debate in deliberative theory about how deliberation may not occur in isolation, but rather as part of the wider political system (Parkinson and Mansbridge 2012). How this might operate in practice is still being debated (Owen and Smith 2015; Bächtiger et al. 2018), but there are some who argue in favour of making direct democracy – such as referendums – more deliberative by adding randomly selected citizen assemblies into the mix (Gastil and Richard 2013).[9] In this way citizens' assemblies can perform a 'discursive role', bringing the focus of referendum debates onto arguments that have been deliberatively scrutinized (Niemeyer and Jennstål 2018: 330; Curato and Boker 2016). As Renwick and his colleagues have argued a citizens' assembly could have played a valuable role in guiding the 'Brexit' debate, had one been established in advance of the referendum (Renwick et al. 2018); indeed, an experimental 'Brexit citizens' assembly' that his team ran soon after the vote showed interesting evidence of opinion shifts among the participants.[10]

The 2016-18 Irish Citizens' Assembly, like the Irish Constitutional Convention before it, provides an instance of how deliberation can be inserted into the referendum process in a meaningful way. They illustrate powerful real-world examples of the potential systemization of deliberation. Whether these examples will be followed through into the future is an open question. In the light of the perceived success of these processes, a growing number of political parties and groups are calling for new citizens' assemblies on key issues (such as women in politics, Catholic church influence over education, a mayor for Dublin, multi-cultural politics, or Ireland's future in the European Union). However, deliberative mini-publics have not yet been institutionalized into the Irish system of constitutional review: the initiative remains with the political classes to determine whether the positive experiences shown by these deliberative mini-publics will be repeated in the future.

Bibliography

Bächtiger, André, John Dryzek, Jane Mansbridge, and Mark Warren. 2018 (eds.). *The Oxford Handbook of Deliberative Democracy*. Oxford: Oxford University Press.

[9] A good example of how this works in practice at US state level is provided by the 'Citizens' Initiative Review' process in the state of Oregon. See https://healthydemocracy.org/cir/ The academic research underlying this is reported here: http://sites.psu.edu/citizensinitiativereview/people/

[10] For more on the Brexit Citizens' Assembly, see here: https://citizensassembly.co.uk/brexit/about/

Contiades, X. and A. Fotiadou. 2017 (eds.). *Participatory constitutional change: the people as amenders of the constitution.* London: Routledge.

Curato, Nicole and Marit Böker. 2016. Linking mini-publics to the deliberative system: a research agenda. *Policy Sciences*, 49: 173-90.

Elkink, Johan, David Farrell, Theresa Reidy and Jane Suiter. 2015. Understanding the 2015 marriage referendum in Ireland: context, campaign, and conservative Ireland. *Irish Political Studies* 32: 361-81.

Elkink, Johan, David Farrell, Sofie Marien, Theresa Reidy, Jane Suiter. 2018. Marriage and Abortion: Liberal Ireland on the march. Paper presented at the annual conference of the Political Studies Association of Ireland, Limerick, October.

Farrell, David. 2018. What happens after a Citizens' Assembly? *Irish Politics Forum* blog post, July. Accessed here: https://politicalreform.ie/2018/07/18/what-happens-after-a-citizens-assembly/

Farrell, David, Clodagh Harris and Jane Suiter. 2017. Bringing people into the heart of constitutional design: the Irish Constitutional Convention of 2012-14, in X. Contiades and A. Fotiadou. (eds.), *Participatory constitutional change: the people as amenders of the constitution.* London: Routledge.

Field, Luke. 2018. The abortion referendum of 2018 and a timeline of abortion politics in Ireland to date. *Irish Political Studies* (published online at https://www.tandfonline.com/doi/full/10.1080/07907184.2018.1500461).

Fine Gael. 2016. *Fine Gael general election manifesto, 2016: Let's keep the recovery going*. Available here: https://www.finegael.ie/the-party/manifesto/

Fournier, Patrick, Henk van der Kolk, R. Kenneth Carty, André Blais, Jonathan Rose. 2011. *When citizens decide: Lessons from Citizen Assemblies on Electoral Reform.* Oxford: Oxford University Press.

Gastil, John and R. Richards. 2013. Making direct democracy deliberative through random assemblies. *Politics & Society*, 41: 253-81.

McGraw, Sean. 2015. *How parties win: Shaping the Irish political arena.* Ann Arbor, MI: University of Michigan Press.

Niemeyer, Simon and Julia Jennstål. 2018. Scaling up Deliberative Effects: Applying Lessons of Mini Publics, in André Bächtiger, John Dryzek, Jane Mansbridge, and Mark Warren. 2018 (eds.). *The Oxford Handbook of Deliberative Democracy*. Oxford: Oxford University Press, pp. 329-47.

O'Malley, Eoin. 2016. 70 days: Government formation in 2016, in Michael Gallagher and Michael Marsh (eds.) *How Ireland voted 2016: The election that nobody won.* London: Palgrave Macmillan.

Owen, David and Graham Smith. 2015. Deliberation, democracy, and the systemic turn. *Journal of Political Philosophy*, 23: 213-34.

Parkinson, John and Jane Mansbridge. 2012 (eds.). *Deliberative systems: deliberative democracy at the large scale*. Cambridge: Cambridge University Press.

Renwick, Alan, Sarah Allan, Will Jennings, Rebecca Mckee, Meg Russell, Graham Smith. 2018. What kind of Brexit do voters want? Lessons from the Citizens' Assembly on Brexit, *Political Quarterly.* Early View https://doi.org/10.1111/1467-923X.12523.

Reuchamps, Min and Jane Suiter. 2016 (eds.). *Constitutional Deliberative Democracy in Europe*. Colchester, Essex: ECPR Press.

Suiter, Jane. 2018. Deliberation in Action: Ireland's Abortion Referendum. *Political Insight*, *9*(3), 30-32.

Suiter, Jane, David Farrell and Clodagh Harris. 2016. The Irish Constitutional Convention: A case of 'high legitimacy'?, in Min Reuchamps and Jane Suiter (eds.). *Constitutional Deliberative Democracy in Europe*. Colchester, Essex: ECPR Press.

Jane Suiter, David Farrell and Clodagh Harris. 2018. Ireland's evolving constitution, in Paul Blokker (ed.), *Constitutional Acceleration within the European Union and Beyond.* London: Routledge.

Table 1. The Irish Citizens' Assembly: topics, public interest, meetings, output

Topic	Numbers of days of meetings[a]	Public submissions[b]	Output	Date report sent to Parliament	Government reaction
The Eighth Amendment of the Constitution (abortion)	9.5 days	12,200	1 key recommendation (in various parts)	29 June 2017	Considered by a special parliamentary committee. Government accepted proposal for a referendum. Referendum passed in May 2018
How we best respond to the challenges and opportunities of an ageing population	4 days	122	15 recommendations plus 6 ancillary ones	8 December 2017	No reaction to date
How the state can make Ireland a leader in tackling climate change	4 days	1,185	13 recommendations	18 April 2018	A special parliamentary committee has been established to consider the report
The manner in which referenda are held	1.5 days	206	8 recommendations	21 June 2018	No reaction to date
Fixed term parliaments	1 day	8	7 recommendations	21 June 2018	No reaction to date

a Based on the published schedules for each weekend. This does not account for timetable over-runs, which proved to be pretty acute on several weekends. The numbers of days of meeting have been rounded to the nearest half day, excluding the time spent voting and counting the ballots.

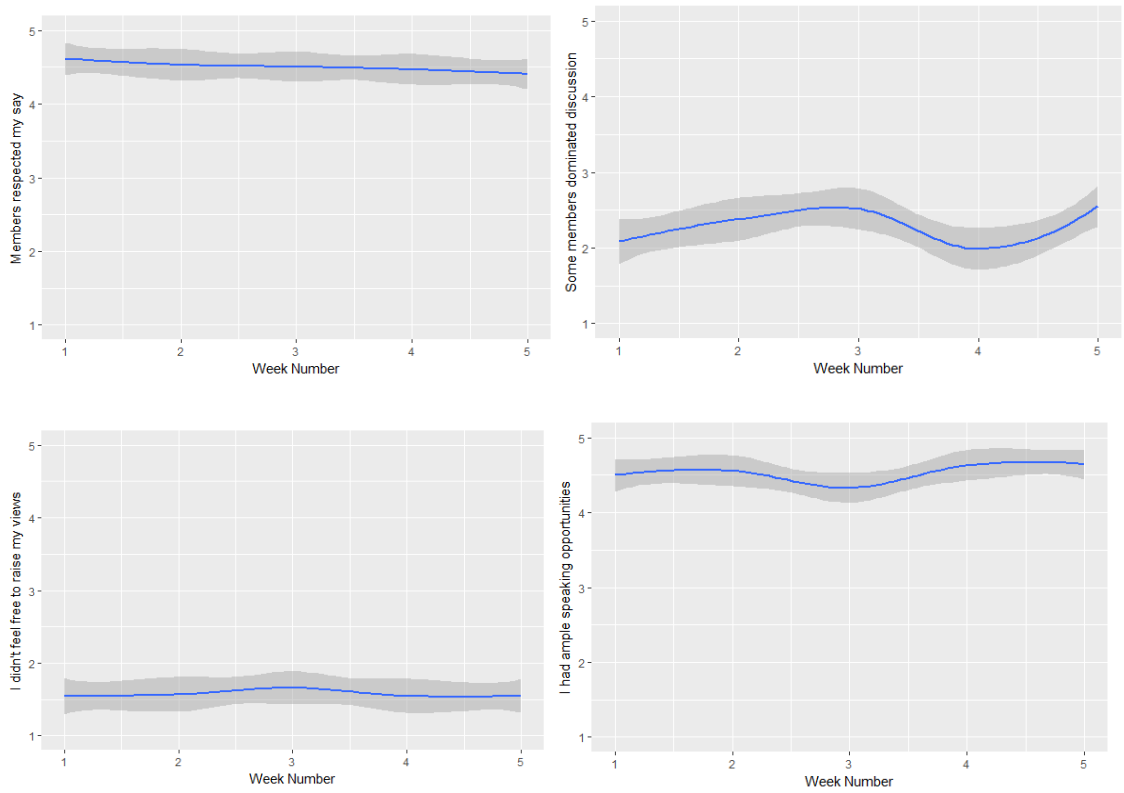
b The number of public submissions on the topic in question published on the CA website.

Table 2. Membership turnover and turnout

Weekend	Topic	Meeting dates	Number of new members recruited	Total number of members[a]	Number of members present
1	Abortion	26-27 Nov 2016	11	98	76
2		7-8 January 2017	4	99	81
3		4-5 February	9	99	89
4		4-5 March		96	86
5		22-23 April		95	92
6	Ageing	10-11 June	7	98	73
7		8-9 July	6	99	80
8	Climate change	30 Sept-1 October	1	98	83
9		4-5 November	2	95	80
10	Referendums	Jan 13-14 2018	13	99	87
11	Fixed-term parliaments	April 14-15		91	73

[a] Not including the Chair (i.e. target full membership of 99)

Figure 1: Measures of Satisfaction with the Deliberative Process During the Discussions on Abortion



Note: 1=strongly disagree, 2=disagree; 3=neither disagree nor agree; 4=agree; 5-strongly agree. The response rates ranged between 76-91 (out of 99 members).
Source: Sunday surveys of Citizens' Assembly members