

Direct Political Participation in the Republic of Ireland

Citizen-initiated referendums on the horizon?

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During the past year, direct democracy has emerged in discussions on political and institutional reform in the Republic of Ireland (pop. 4.58m). This is in response to the major crisis of confidence in our way of governing ourselves arising from the fiscal and economic mismanagement during the past 15 years and the resultant EU-ECB-IMF programme.

A new political party Direct Democracy Ireland (DDIreland)¹ did surprisingly well in a by-election. It did not win a seat in Ireland's 166-member Dáil, the lower house of a bi-cameral legislature which with a Senate are the Houses of the Oireachtas/Parliament. The surprise was that although the DDIreland party candidate came fourth (of eleven candidates), he finished ahead of the Labour Party², which is the junior partner in a coalition Government with Fine Gael, a member of the European People's Party (EPP) in the European Parliament.

Constitutional Convention votes for direct democracy

Following the 2011 General Election, the Oireachtas (in practice our government which is completely fused with the legislature which Government controls) set up a Convention to look at eight specific issues in our Constitution over a one year time period.³ Citizens' initiative was not among these issues.

The Convention consists of 100 members:

- 66 citizens chosen by an opinion polling company;
- 33 politicians – 29 of whom are drawn from the Republic's Dáil and Senate, with 4 from the Northern Ireland Assembly.⁴;
- Chairman – appointed by the Government.

The Chairman of the Convention is supported by an Academic & Legal Support Group.

¹ For more details see <http://directdemocracyireland.ie/>.

² Those interested in the detail see <http://electionsireland.org/result.cfm?election=2011B&cons=731>

³ https://www.constitution.ie/Documents/Terms_of_Reference.pdf

⁴ The Government invited all parties represented in the NI Assembly to send one representative each. Four parties accepted this invitation ie. Sinn Féin, Social Democratic & Labour, Alliance. Green

The Convention started work in January 2013⁵. In June, the Convention voted, by very large majorities, in favour of direct democracy.

On the question as to whether ‘direct democracy’ (i.e. citizens’ initiatives) with adequate safeguards be introduced, the Convention voted as follows:

- 83% - YES · 16% - NO · 1% - No opinion

In that the Convention votes in favour of direct democracy, it was decided that this would apply as follows:

Placing items on, or removing them from, the legislative agenda:

- 80% YES, 19% NO, 1% No opinion

Requiring constitutional referenda to be held –

- 78% YES, 17% NO, 4% No opinion

This vote was extraordinary.

Direct democracy got onto the agenda when the Convention reviewed the Dáil electoral system over two weekends⁶. Some written and oral submissions explicitly advocated the introduction of direct participation in politics/direct democracy⁷. The new DD Ireland party may have had some impact. I do not know if any members of that party are among the 66 citizens randomly chosen as Convention members. As DD Ireland has not yet had any electoral success, party members are not among the politicians in the Convention.

Back to the future?

In one sense, the Convention’s recommendation on citizens’ initiative goes back to the first constitution of the Irish Free State adopted on gaining independence from Britain in 1922.

Direct democracy was provided for in that constitution⁸. However, the Government had power to change the Free State constitution without a referendum.

⁵ The Convention has met on 7 weekends since January. Plenary meetings of the Convention are web-cast live and are available on YouTube. The presentation on Direct Democracy (Sat 8 June 2013) starts at minute 15.00 here <http://www.youtube.com/watch?v=MI3O8voKEcY>

⁶ Changing our Dáil electoral system is often raised in discussions on political and institutional reform in the Republic of Ireland. This system is proportional representation using a single transferable vote in multi-seat constituencies (PR-STV). Simply put, it is an open-list system in which people vote by ranking candidates in multi-seat constituencies in order of preference. There is no option to vote simply for a party list, the ballot paper does have the candidates’ party affiliations. For more information see this official guide http://www.citizensinformation.ie/en/government_in_ireland/elections_and_referenda/voting/proportional_representation.html

⁷ I was among those who made written submissions advocating direct participation in politics through citizens’ initiatives. I also attended the June meeting of the Convention as an observer, without any speaking rights.

⁸ Article 48 “The Oireachtas may provide for the Initiation by the people of proposals for laws or constitutional amendments. Should the Oireachtas fail to make such provision within two years, it shall on the petition of not less than seventy five thousand voters on the register, of whom not more than fifteen thousand shall be voters in any one constituency, either make such provisions or submit the question to the people for decision in accordance with the ordinary regulations governing the Referendum. Any legislation passed by the Oireachtas providing for such Initiation by the people shall provide (1) that such proposals may be initiated on a petition of fifty thousand voters on the register, (2) that if the Oireachtas rejects a proposal so initiated it shall be

Citizens' initiative in the 1922 Constitution of the Irish Free State.

I do not know who or what groups worked to ensure that direct democracy measures were included in the Constitution of the Free State.

It is interesting that it did become part of our first written Constitution, given that the huge influence of Britain from which we inherited much of our political, legal and public administration practices and culture. Britain does not have a single written constitutional document, relying basically on parliamentary sovereignty. This contrasts with our 1937 Constitution, which states clearly that power is derived from the people.⁹

The Irish independence movement was based on becoming a republic. Strong direct democracy was advocated in the US by reformers during the Progressive Era in the late 1800s/early 1900s. Twenty four US states and many more local governments now have some forms of direct democracy. Given the connections between Irish nationalists and the US, this may have inspired those involved in the Irish independence movement.

There was a civil war in Ireland when the Irish Free State Constitution was debated and adopted. It was remarkable that the newly formed government trusted people with such direct power. Opening the debate on citizens' initiative in the Dáil in 1922, the then Minister for Home Affairs Kevin O'Higgins¹⁰ said

*In moving the adoption of this Article, I may say it will still further associate the people with the forging of the laws of the country, and it puts the power in the hands of the people of even initiating legislation. If a large section of the people feel that a certain law is desirable; and if Parliament fails to introduce the desired legislation, **power is given here to the people to initiate legislation themselves. It is the direct complement of the Referendum, and pretty much what can be claimed for the Referendum can be claimed for the Initiative—that it keeps contact between the people and their laws, and keeps responsibility and consciousness in the minds of the people that they are the real and ultimate rulers of the country.** (my emphasis)*

Ninety years later, in the European Year of Citizens, this statement by a Government Minister in a deeply divided society, stands as an excellent summary of the case for direct democracy, at local, national and transnational levels.

submitted to the people for decision in accordance with the ordinary regulations governing the Referendum; and (3) that if the Oireachtas enacts a proposal so initiated, such enactment shall be subject to the provisions respecting ordinary legislation or amendments of the Constitution as the case may be.

Source: <http://www.irishstatutebook.ie/1922/en/act/pub/0001/print.html>

⁹ Article 6. 1 All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good.

<http://www.irishstatutebook.ie/en/constitution/index.html>

¹⁰ Kevin O'Higgins opening the debate on Art 48 of the Free State Constitution.

<http://debates.oireachtas.ie/dail/1922/10/05/00016.asp>,

He was assassinated in 1927 – aged 35 – a late victim of the civil war which lasted about a year following Independence in 1922

In 1928, Éamon de Valera¹¹, then leader of the main opposition party, gathered sufficient signatures to trigger a referendum on an Oath of Allegiance to the King of England, as head of the British Commonwealth of which the Irish Free State was a member¹². Using powers written into the Constitution, the Government's response was to abolish provisions for citizens' initiative which had never been brought into force.

Our current Constitution

In 1937, Éamon de Valera - by then Head of Government - drew up a new constitution to replace that of the Irish Free State. This was adopted by referendum and is still in force.

However, this does not provide for citizen's initiative. De Valera did keep a mandatory referendum for constitutional change but restricted the power of initiating a referendum to the Dáil. In practice, this means only the Government can trigger a referendum. This is still the position in the Republic of Ireland.

Since 1937, there have been 33 referenda on the Constitution, most since 1972, when we voted to join what has become the European Union.

In our referendums, a simple majority of all valid votes is decisive. There are no quorums for turnout, voter approval percentages or geography. However, implementation is not guaranteed. In 1979, a referendum approved the enlargement of the electorate for 6 of the 60 senators, these six being elected by the graduates of two universities. Legislation has not yet been passed to implement this decision.

Citizens' initiated referendums on the horizon?

The Constitutional Convention reports and makes recommendations to the Oireachtas as soon as it has completed its deliberations, but not later than one year from the date of the first public hearing. The Government promised to provide a response to each recommendation within four months. If accepting the recommendation, Government would indicate the timeframe it envisages for the holding of any related referendum.

Up to the time of writing, the Government response to the Convention's recommendations¹³ is to hold at least one referendum in 2015, on same sex marriage.¹⁴

¹¹ Éamon de Valera was the dominant political figure in twentieth-century Ireland. He was a leader in the 1916 Rising and during the War of Independence from Britain 1919-21. He opposed the Treaty which ended that war and then led the opposition in the ensuing civil war (1922-1923). In 1926, he founded Fianna Fáil which formed the Government after a general election in 1932. He headed governments until 1948, then during 1951-4 and again from 1957-59. He was then elected President, an office he held for two consecutive seven years terms.

¹² Ireland ceased Commonwealth membership in 1949 when the Republic of Ireland Act 1948 came into force.

¹³ David Farrell "The progress of the Irish Constitutional Convention to date" 6 November 2013 <http://politicalreform.ie/2013/11/06/the-progress-of-the-irish-constitutional-convention-to-date/>

¹⁴ Referendum on same-sex marriage to take place in first half of 2015. Department of Justice and Equality Press Release. 5 November 2013 <http://www.justice.ie/en/JELR/Pages/PR13000379>

Reports suggest that the Government is also considering other issues on which the Convention has reported.¹⁵ There has been some talk of a Constitution Day on which a large number of amendments will be put to the people in referendums.

The Convention sent its report which included direct participation in politics through citizens' initiative to the Oireachtas in late August¹⁶. On this basis, the Government will respond before the end of 2013.

It remains to be seen how the Government responds to the Convention's very strong recommendation of citizens' initiative. Will it show the same commitment as it has shown on other Convention recommendations?

Early in 2011, the Government was elected with a widespread expectation of serious political and institutional reform. However, opinion polls continue to show dissatisfaction.¹⁷

The mutual education of the democratic process

Does the Government have the insight and competence to see that a well-designed and carefully implemented citizens' initiative, based on republican ideals, offers us a means of rebuilding trust in our way of governing ourselves?¹⁸

Are we and our politicians sufficiently courageous to act on the insight on Madison, one of those who drew up the US constitution over two hundred years ago,
"Ambition must be made to counteract ambition. In framing a government which is to be administered by men over men the great difficulty lies in this: first you must enable the government to control the governed and in the next place, you must oblige it to control

¹⁵(Taoiseach/Prime Minister)Kenny backs referendum on same sex marriage....Among the other proposals to be put to the people is a reduction in the voting age to 17, the extension of voting rights to emigrants, the deletion of the reference in the Constitution to women in the home and deletion of the offence of blasphemy. Report in Irish Times 5 Nov 2013 <http://www.irishtimes.com/news/politics/kenny-backs-referendum-on-same-sex-marriage-1.1584860>

¹⁶ Constitutional Convention. Report on Dáil electoral system Fourth Report. 28 August 2013 <https://www.constitution.ie/AttachmentDownload.ashx?mid=f17ca0d8-240f-e311-a203-005056a32ee4>

¹⁷ Paul Moran. "Public sees no end to economic woe" Sunday Independent 17 November 2013. This reports that

- 74% of those surveyed are dissatisfied with government;
- The largest single group (ie 36%) do not know how they cast their first preference vote if a general election were held tomorrow. This is larger than the combined total for the next two largest political parties.

<http://www.independent.ie/irish-news/politics/public-sees-no-end-to-economic-woe-29760607.html>

¹⁸ OECD Government at a Glance (issued on 14 November 2013) reports that between 2007 and 2012, Ireland suffered the highest fall in confidence in government across the OECD, from 63% to 35%. http://www.oecd.org/gov/GAAG2013_CFS_IRE.pdf.

itself. A dependence on the people is no doubt the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.”¹⁹

Citizens’ initiative is a means to increase the primary control of the people. It is an ever-present reminder that democratic governance depends on the people. In our Republic, the EU-ECB-IMF intervention has left a sense that Madison’s *auxiliary precautions* have failed us.

In another time of change in Ireland, the late Dr. David Thornley drew attention to the effects on our democracy of external stimuli to change *“There may be change in the criteria of decision-making at the top; change in social habits at the bottom. But unless these two are bridged by the mutual education of the democratic process, communication between the top and the bottom may cease. In Ireland, where the stimulus to change is external, something like this may in fact be happening”²⁰.....*

Swiss experience has shown how citizens’ initiative complements representative democracy at local and national levels. It encourages communication and discussion, as it is based on a view that citizens are more than economic units.²¹

In 2012, the Swiss MP Dr. Andreas Gross pointed out to a European Parliament Committee hearing on citizen participation that *“There is a notion of violence which is much broader than the normal classical notion of violence because democracy should constitute the rules, the rights and the procedures in order to make conflict solvable without any violence. And there is another notion we have to defend – conflicts, the reduction of conflict to violence is a huge misleading error because conflicts are in fact the media of social learning. You need to have conflicts to enable us to learn. Therefore you have to have procedures and rules which do not tend to violence, but to understanding. That’s the biggest challenge I think ...it is exactly the citizens who take up this notion of democracy... an invitation to be free together with others to influence your own basic common life base....”²²*

¹⁹ The Federalist. Middletown, Conn: Wesleyan University Press 1961 edited Jacob E. Cooke. Paper 51.

²⁰ Thornley, David (1964). “Ireland - the end of an era?” *Studies Vol LIII (Spring) Dublin*. Published as a Tuairim pamphlet No. 12. Dublin 1965.. Reprinted in Thornley, Y (ed) *Unquiet Spirit – essays in Memory of David Thornley*. Dublin. Liberties Press. 2008 p.167-184. He was professor of Political Science at Trinity College, Dublin, a respected commentator and a Labour Party politician. Born in England, he became an Irish citizen. He was first elected to the Dáil in 1969, re-elected in 1973 and lost his seat in 1977. He died in 1978.

²¹ “...But economics is not fighting the last war. In the past three decades, experimental methods have shown that people are more fair-minded and moral, and less calculating than the so called Economic Man of the textbooks. The fact that we are nicer and not quite as clever as economists once assumed has direct implications for policies to address the problems of financial instability, climate change, and economic disparity. The new research greatly expands the set of politically viable and economically effective policies to ensure a sustainable planet and to level the economic playing field....” Professor Wendy Carlin “Economics explains our world – but economic degrees don’t” Financial Times. Monday 18 November 2013 (behind a paywall).

²² Dr. Andreas Gross “Governing with the People – the impact of Direct Democracy on the level of information discourse, engagement, acceptance, integration” at the European Parliament Constitutional Affairs Committee (AFCO) hearing on Method for participation in EU Member States - model for a more democratic

Introducing such direct participation in politics in Ireland means that there would have to be a Government-triggered referendum on this issue. Were we, the people, to pass such a referendum, we would do no more than restore, in a contemporary form, power directly to ourselves, powers which we had in our first 1922 constitution, adopted at a time of bitter conflict in our then newly emerging state.

This position paper was issued by Donal O’Brolchain following a request by Democracy International to explain about the recent developments with regards to direct democracy in the Republic of Ireland. This paper presents the author’s viewpoint. We thank him for his contribution.



Donal O’Brolchain has taken an active interest in how democratic governance can be enhanced over the last 30 years. The European Citizens’ Initiative (ECI) re-kindled his interest in citizens’ initiatives as one the key checks and balances to limit the scope for excess by the powerful. Although he participates in civil society groups, he has never been a member of a political party.



Europe – A European Union of, by and for the citizens. How can Europe provide for better possibilities for the participation of its citizens? Bruxelles. 18 September 2012. His 20 minute address starts at about 14.25 here <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20120918-1400-COMMITTEE-AFCO>