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Workshop: Crowd-pleasers or key janglers? **The impact of drops in political legitimacy on democratic reform and their consequences**

Institutional muffling: constraints and resistance to the wave of democratic reforms in Ireland since 2011

Ireland has been one of the European countries in which the economic crisis struck more severely since 2009, with far-reaching economic, social, but also political consequences for the country, such as the virtual annihilation of the economic sovereignty of the country for a decade following the EU-IMF bailout. This meant that the ability to deliver output-legitimacy (Scharpf 1999) for Irish political parties was severely pruned. Moreover, the decline in political support for the institutions and the political actors plummeted since 2007, turning Ireland into one of the European countries where the level of distrust of institutions and parties is the highest. As a result of the mobilization of various actors of the civil society to promote a more democratic and transparent political system, the issue of “political reforms” has been put at the forefront of the campaign of 2011 for all major political parties, with a strong emphasis with the will to empower citizens and prevent future crisis by reforming Irish governance. A number of promises were made after the new Fine Gael- Labour coalition came into power, including the abolition of the upper House (the Seanad) and the creation of a Constitutional convention that would discuss a number of institutional provisions including the electoral system, the presidential term, gay marriage, or voting age. Hence, Ireland seemed to reunite in 2011 all of the conditions for major institutional reforms to happen: complete political alternation, very low level of political support, but also strong focus on the topic of institutional change and mobilization on the issue. However, the Irish case appears at first sight as a paradox, since the extent of institutional reforms undertaken since 2011 is, in fact, relatively limited compared to the initial promises. The puzzle this paper addresses is therefore the following: why did Ireland not reform *more* its institutions since 2011?

Ireland offers the perfect ground to understand the link between low output-legitimacy, drop of political support, and democratic reforms in Western Europe. This paper deals with the emergence, the nature, and the extent of the bundle of institutional reforms that were undertaken

after the new Fine Gael-Labour coalition came into power in 2011, through a case-study based on a number of interviews and varied secondary sources (reports, press articles, parliamentary debates, etc). The paper shows evidence that the way the process of reform unraveled and was acted upon by the politicians provides an answer to the abovementioned paradox. The agenda on institutional reform was both imposed to Irish elites and used by them in times of economic crisis and electoral recomposition during their campaign, but realities of government made it fade. Indeed, the issue of institutional reform is both not very salient, and actually difficult easier to promote than to implement. Hence, reforms of the formal democratic institutions implemented in Ireland since 2011 were limited to consensual issues not requiring a referendum.

We can summarize what has happened since 2011 under the general label of institutional muffling: limiting actual reforms to easier and consensual aspects, “scapegoating” by putting the blame on certain institutions (the Seanad) and putting off the agenda reforms implying dissent to later stages (by delaying the constitutional convention and controlling its agenda). In the end, Irish elites acted more as “key-janglers” rather than “crowd-pleasers”, by adopting consensual and not costly reforms rather than truly empowering the Irish citizens. The first section of the paper focuses first on the conditions of emergence of the debate on institutional reform in Ireland, showing that the economic crisis provided a clear “push” to the issue after decades of stasis, providing a clear narrative linking the crisis with a faulty institutional system. In the second section, I focus on the promises made by the new Fine Gael-Labour coalition entering power in 2011 and the construction of a scattered bundle of reforms, i.e. a process characterized by the concomitant apparition of several dimensions of institutional reforms in the agenda, but “broken down” into multiple issues. In the third section, I review what has been implemented or not since 2011, showing evidence that actual reforms were limited to consensual issues, whereas more difficult ones were dealt with by scapegoating and kicking to touch of the major issues. In the fourth section, I discuss preliminary theoretical lessons that can be drawn from the Irish case regarding the dynamics of reforms forced upon political elites in contexts of low legitimacy.

Section 1: Child of the crisis: the origins of the debate on “political reform” in Ireland

The debate on “political reform”, as it is entitled in Ireland, has developed in a context of unprecedented political and economic crisis which shook the very roots of the Irish party system during the election of 2011. The narrative that formed is a child of the crisis, leading to give responsibility to the political system for the gravity of the storm experienced by Ireland in the last

few years. This is in sharp contrast with the high degree of stability of Irish formal institutions since the adoption of the constitution in 1937, but also by a high degree of stability of its party system before 2011. It would be misleading to attribute entirely the emergence of the debate on political reform to the crisis, since a low intensity debate developed since the beginning of the 1990s on certain aspects of the political system. Yet, it remained confined to the margins of a wider debate about certain problematic constitutional provisions, until the economic crisis put the Irish political institutions to the forefront.

Institutional reform before 2011 in Ireland: (not so) much noise for nothing?

Even if this is not directly the topic of this paper, the remarkable stability of Irish institutions since 1937 is a notable and inescapable fact when one deals with institutional change in Ireland. A few major (and non-exhaustive) reasons can be advanced to explain this. First, the fact that the constitution of 1937 was a text of institutional reconciliation between political forces that had been deeply opposed during the process of independence. Second, the requirement to use a referendum to proceed to major institutional changes in Ireland, a tool that had prove quite risky in the past.¹ Finally, and more importantly, the uninterrupted domination of one major political actor over Irish political life in the previous decades, Fianna Fáil. Yet, since the 1990s, the unraveling of a debate on political corruption started to ask the question of the inadequacies of the Irish institutions and led to certain reforms regarding transparency, while certain aspects of institutional reforms were discussed in the shadow of a wider debate on the constitution. Debates on reforms of the Irish institutional system before 2011 took mainly two forms: the consequences of the revelations of tribunals of investigation² on corruption and transparency, and a tedious and very long list of reports on various aspects of the constitution initiated in the aftermath of the report of the Constitutional Review group released in 1996.

¹ From 1972 onwards, out of the 31 amendments that were put to the people of Ireland for approval, only 23 were accepted (Gallagher in Coakley and Gallagher 2010, 80). This means, in other words, than no less than one fourth were rejected. Only five of them were on matters directly related to minor modifications of the organization of the political system.¹ Regarding institutions, important provisions introduced by the government were not accepted by the citizens. Among the most notable examples, two attempts to replace PR-STV by the British First Past the Post electoral system were rejected by the voters in 1959 and 1968.

² Tribunals are a somewhat strange device of Irish judicial and political life, and a direct heir of the British tradition and of the Irish Free State (O'Neill 2000). They are established by ministers after the agreement of both Houses of the Oireachtas, invested with the powers, privileges and rights of the Irish High Court, and formed of independent member(s) appointed by the Oireachtas establish facts and, if needed, allegations over any matter of "urgent public importance". See *Tribunals of Enquiry (Evidence) Act*, 1921, and the amended legislation: *Tribunals of Enquiry (Evidence) (Amendment) Act*, 1979. The tribunals are not part of a traditional adversary legal system, but inquisitorial in essence (O'Neill 2000, 202). The tribunals cannot make more than establishing the truth, they are not entitled to sanction legally anyone for its actions.

The series of independent enquiries led by the tribunals since the beginning of the 1990s showed evidence of the pervasiveness of corrupt or non-ethical behavior at every layer of Irish political life, and of the deference and conniving relationship between business and politics in Ireland (Byrne 2012, 144). The political answers to these enquiries can be found in the multiplication of legislations over ethics and transparency adopted by cabinets of all political sensibilities since 1995, with no less than 25 pieces of legislations between 1995 and 2005 (Hugues et al. 2007, 383; Byrne 2012, 194). The findings of the tribunals has incidentally undoubtedly damaged the image of the *politicians* for the public, even though the criticism linking these deviant behavior to the *political system* itself rather than to individuals was to come only later on.

Secondly, the early debates on the institutional system were the result of the setting-up of a all-party Oireachtas Committee on the Constitution in 1996, renewed up until 2012. This parliamentary commission released a great number of reports on all aspects of the political system (Seanad, president, parliament, electoral system, etc.), consulting dozens of specialists. These reports did not result in actual laws for the most part, so that institutional reform was very much of a minority sport between gentlemen before 2011. The big parties did not have clear and consistent positions on political reforms, and no strong will to implement reforms, leading David Farrell to speak in an interview of an “implementation disorder syndrome” to describe the situation in which reports are written and not acted upon.³ To summarize, before the end of the 2000s, wrongdoings of individuals within the political system were pointed out through the tribunals, reports on potential changes were issued, but clearly, there was neither a strong interest nor a strong commitment from any part of the political class to push forward the agenda of political reforms. So, what has changed before the election of 2011?

“The system is broken”: the emergence of a dominant narrative after the crisis and its consequences on the 2011 election

What is very important to keep in mind is that from 1990 until 2007, Ireland proved vertiginously successful economically, gaining the cocky nickname of Celtic Tiger, and being presented everywhere in Europe as an exemplary success story. This economic development tended to hinder everything else, including, of course, the worrying conclusions of the tribunals of enquiry, and the debates on political reform. Between 2008 and 2011, the situation changed dramatically, unraveling the fragility of the basis of this economic success. The country went, in

³ Interview with David Farrell, Director of the SPIRE and Professor of Political Science in the University College of Dublin, 8th of May 2012, UCD, Dublin.

three years, from boom to bust, and more importantly for our topic, this led to the development of a narrative where not only the politicians were at fault, but the political system itself was held responsible of the spectacular demise of the Celtic Tiger. In turn, a proliferation of actors promoting the “political reform” agenda developed, leading all of the main political parties to a series of promises in their 2011 manifestos to bringing about substantial institutional change.

The reasons behind the Irish economic crisis have been abundantly documented and will be presented only succinctly here.⁴ As Bernhagen and Chari argue, “while opinions diverge as to whether the problem was caused by too little or by ineffective regulation, it is uncontested that the political context and regulatory framework in which financial markets operate constitute the conditions under which the crisis developed” (2011, 457). It is widely accepted that the Irish government actively fuelled the boom by encouraging financial exuberance through pro-cyclical fiscal policies (Bénétrix and Lane 2009, Lane 1998) and through light-touch financial regulation. This translated into a growth in credit, the concentration of lending on assets in property, high loan to value ratios, and high exposure to funding risks (Kirby and Murphy, 2010). Bernhagen and Chari identify three main steps leading Ireland into the crisis. First, the Fianna Fáil government took the crucial decision taken in September 2008⁵ to provide life-support to Irish banks by guaranteeing bank bailouts by taxpayers through the National Assets Management Agency (NAMA), which amounted in 2010 to more than €68 billion. Despite the reluctance of the government, they were eventually left with no choice but asking for the help of the IMF and the EU, who provided a package of €85 billion (33% of Irish GDP) assorted with drastic conditions that virtually took away the Irish economic sovereignty for the years to come (Chari and Bernhagen 2011, 474–475). Hence, Ireland was, and is facing a multidimensional economic crisis: a financial crisis, with the explosion of the property boom, a fiscal crisis, because of the commitment to use public money to prevent the Irish banking system from total collapse, an unemployment crisis as the number of unemployed exploded (Hardiman 2009). The main macroeconomic indicators (See Table 1) are enlightening: deep recession, tripling of the percentage of unemployed, and 32% of deficit in 2010.

⁴ For two interesting journalistic and critical accounts of the development of the crisis, see O’Toole 2010, Cooper 2011. For an expert of finance account, see the report of Honohan 2010. For an academic account summarizing and enriching previous analyses of the crisis, see Chari and Bernhagen 2011.

⁵ In this regard, Matt Cooper (2011) explains how byzantine the process leading to this decision was. Brian Cowen, the Taoiseach, and Brian Lenihan, the minister for Finance and ill from a cancer that eventually took his life, took this decision in the middle of the night; pushed by bankers and advisers, without consultation with any of the other members of the cabinet.

Table 1. Main macroeconomic indicators for Ireland, 2007-2010

Year	Growth	Unemployment	Deficit
2007	+5,6	4,6	0,1
2008	-3,5	6,3	-7,3
2009	-7,6	11,8	-14,3
2010	-1	13,6	-32,4

Notes: Growth refers to the percentage of growth of the GDP in constant prices.

Unemployment refers to percentage of unemployed among the total labour force.

Deficit refers to the government net lending/borrowing, as a percentage of the GDP.

Source: Figures for the deficit comes from the Organization of Economic Cooperation and Development and for growth and unemployment from those of the International Monetary Fund

Soon enough, a new narrative has developed in which culprits to the crisis were found: the Fianna Fáil government in power when the crisis unraveled, but also the Irish political institutions that failed to prevent in any way the crisis to happen. The narrative was built on by journalists, political scientists, economists, lawyers, who, with few exceptions, made the following arguments: the crisis was largely the result of the irresponsible behavior of the political decision-makers, fuelled by the proximity between the politicians and the financial world, by a populist and by a localist political culture. This behavior was made possible by the lack of accountability of these politicians. In turn, this absence of accountability was considered to have been caused by the very Irish political institutions. In other words, the crisis was not only caused by *politicians*, it was caused by the behavior that the *political system* entailed, implying that the only way to prevent such crises to happen again was to profoundly change the Irish political institutions. Niamh Hardinam summarizes the most widespread view by arguing that “During a boom, it is easy to overlook poor levels of performance. In hard times this is no longer possible. Good decision-making capabilities are precisely what seem to be in short supply in Irish society” (2009: 3). Journalists like Fintan O’Toole (2010) argued that Irish political culture was primarily at fault and points at the weak parliament and at the weak public services.

In other words, the feeling that institutions were at fault and needed reform was a “child of the crisis”. As Clodagh Harris, an academic strongly involved in projects on the evaluation of the quality of democracy, puts it in an interview: “The crisis that we faced was such a sharp, such a severe crisis that it forced all citizens, all politicians, policymakers, etc, to examine what had gone wrong. And there had been obviously discussions taking place around the issue ‘how come the

political system allowed this to happen?”⁶ Mair has already underlined the fact that interest towards how democracy works among academics tends to coincide with popular indifference or hostility (2006), and Ireland, after the lethargy induced by the Celtic tiger years, was no exception. Yet, despite the fact most commentators agreed on the rough lines, there was no agreement on the precise institutions that were at fault, and even less so on the solutions that needed to be implemented to make them better.

The proliferation of actors pushing for political reform, but an ill-defined agenda

At first sight, the proliferation of actors coming from civil society and the academic world who put some effort to set political reform on the agenda in one way or another in the aftermath of the crisis is quite impressive. Some of these actors are well established think tanks and NGOs pushing for a wide agenda of political and social reforms, such as TASC (think tank for Action on Social Change), the Irish Council for Civil Liberties (ICCL), Amnesty International Ireland, or the Women’s Council of Ireland. Some are trying to promote a more grassroots approach, based on debate and bringing together a mix of environmentalists, trade unionists, ordinary citizens, students, such as Claiming Our Future or Second Republic – An Dara Poblach, both founded in 2010. Some of the initiatives were promoted by academics, such as the creation of the platform blog politicalreform.ie under the initiative of David Farrell, Eoin O’Malley, Jane Suiter and Elaine Byrne involving junior and senior political scientists in the debate on political reform, the creation of the Reform Score Card to evaluate the commitments of the main parties on political reform in the 2011 election. Some joint efforts of the academics and civil society also took place, through the original initiative “We the Citizens” financed by Atlantic Philanthropies. Its chairman, Fiach MacConghail, presented it to me in an interview⁷ as a “non-partisan, civil society project” that was set out to see how the process of deliberative democracy could work in Ireland. By setting up a citizens’ assembly on the model of what existed in British Columbia for electoral reform, it aimed at influencing the political decision-makers in the way political reform should be brought about in Ireland.⁸ In the press, sustained attention was also given on the issue of political

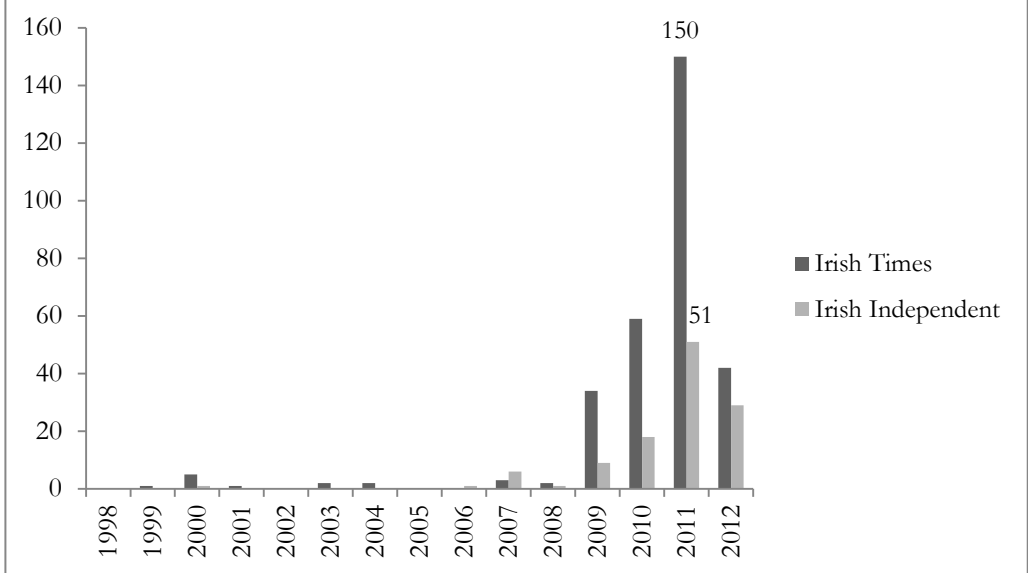
⁶ Interview with Clodagh Harris, University College of Cork, 21st of May 2012, through Skype.

⁷ Interview with Fiach MacConghail, director of the Abbey Theatre, Senator and Chairman of “We the Citizens”, 29th of May 2012, Abbey Theatre, Dublin.

⁸ “Behind the scenes, we were also trying to raise funds to run a citizens’ assembly, because we had been trying to push forward the idea that this was a useful device, but we were constantly critiqued by the journalists particularly, who said that the citizens’ assemblies could not have been working in Ireland, because Ireland is different”, says David Farrell, the academic conveyer of the We the Citizens initiative. Interview with David Farrell, Director of the SPIRE and Professor of Political Science in the University College of Dublin, 8th of May 2012, UCD, Dublin.

reform especially in 2011, especially in the liberal and progressive Irish times, with no less than 150 articles on political reform in Ireland in 2011.

Figure 1. Number of articles referring to “political reform” in Ireland for the main Irish newspapers, 1998-2012



Source: LexisNexis for the Irish Times and the Irish independent from 2006 onwards, Irish Independent website for the period 1998-2006
 The numbers are referring to the articles mentioning "political reform" in Ireland, excluding all articles from the section "world".

Since the beginning of the paper, I have deliberately been talking about “political reform” without defining it. The truth is that, despite the multiplicity of actors pushing roughly in the same direction for “political reform”, no clear definition of what they implied by this term really existed. As Elaine Byrne admitted in a column for the Irish Times in 2010, “there is a growing consensus for fundamental political reform but this is complemented by an uncertainty of how to go about it or what specifically those reforms should be.”⁹ Certain actors, mainly the longer-established ones such as TASC, include in their agenda of “political reform” aspects going from dealing with social and fiscal inequality, the right to vote for prisoners, regulation of social partnerships in Ireland, laws on transparency of the state, or children’s rights. Others go even further by pushing for the replacement of the 1937 constitution with a new, more inclusive one (Second Republic, Claiming Our Future). The academic world focused more on political institutions themselves, which are the focus of this thesis, but their lobbying tended to be limited to put these issues high on the agenda, with no precise proposals such as the promotion of a new

⁹ Byrne, Elaine. “To move on we must never forget”, *Irish Times*, April 4th, 2010.

electoral system, or a precisely defined local government reform, and so on. Some isolated individuals involved in the process of promotion of “political reform” did put forward some precise proposals, such as Elaine Byrne on her blog, or certain columnists such as Vincent Browne who argued for the instauration of a three year term for TDs.¹⁰

These actors agreed on certain aspects: a vast majority of them pushed for the creation of some form of citizens’ assembly, and for a deliberative and participative process of institutional change in general. Secondly, almost all of the various existing proposals went in the direction of a more inclusive and more transparent democracy, be it with a stronger parliament, a stronger civil society and/or a stronger local government. Whereas the objectives were shared (more democracy and transparency), no single democratic reform was really standing out. From the point of view of the politicians, Alex White, Labour senator, talks about a “very fuzzy agenda”, and argues: “People have got great ideas about the process, but not so much about the substance”.¹¹ Whereas politicians were well aware of the “buzz” around political reform, the ill-defined agenda of the promoters of political reform basically let them the field opened to decide what they wanted, or not, to include in their proposals for the 2011 election in this regard.

The 2011 campaign: a clear momentum for institutional reforms?

In the run before the general election of 2011, all of the major Irish parties adopted a number of promises regarding the reform of the Irish political institutions (See appendix), assorted with certain deadlines. While certain parties, in particular Fine Gael and Labour, converted earlier to the mood for political reform, during the time of the campaign of 2011, it seemed that there had never been such a momentum to reform the political institutions. Moreover, between 2007 and 2011, the trust of Irish citizens in the main political institutions (parties, parliament and government) dropped by around ten percentage points (table 2), making Ireland one of the countries with the lowest levels of political trust in all EU in 2009 (Hardiman 2010, 54).

¹⁰ Browne, Vincent. “Reform the Dáil to fix democracy dysfunction”, *Irish Times*, May 1st, 2011.

¹¹ Interview with Alex White, Labour ex-Senator and current TD, 24th of May 2012, Leinster House, Dublin.

Table 2. Trust in political institutions in Ireland in %, 2007-2011

	2007	2008	2009	2010	2011
Trust in political parties	22%	23	13	17	13
Trust in the parliament	33	36	19	22	21
Trust in the government	32	33	15	21	22

% of people who declare they “tend to trust” the following institution.

Source: Eurobarometers 68, 70, 72, 73, 76. http://ec.europa.eu/public_opinion/archives/eb_arch_en.htm

This drop of political support created a sense of urgency to act and propose measures. Whereas it was very difficult to make economic promises in a context where Ireland was deprived from most of its autonomy, promises to reform the political institutions were much “cheaper” to make. Fine Gael and Labour, who were expected to be the winners of the future general elections started to work on the issue of institutional reforms as early as 2010, by consulting academics and experts.¹² Fine Gael released in March 2010 an ambitious plan labeled “New Politics”, in which they stated: “Fine Gael’s starting point is simple: political failure lies at the heart of Ireland’s economic collapse.”¹³ These policy proposals were seen as a way to differentiate Fine Gael from the concurrence.¹⁴ The main measures of the plan included the abolition of the Seanad, an enhanced role for the parliament, rules to make the government more transparent and easier to scrutinize, the creation of a citizens’ assembly on electoral reform. They also announced that they would organize a “Constitution Day”, which would be a super-referendum on the points requiring constitutional approval, within 12 months of assuming office. This paved the way for the Labour Party, under the impulse of Brendan Howlin, who released its own plan in January 2011: “New Government, Better Government: changing a broken system. Labour’s 140 proposals to transform government, politics and the public services”. The argument is, again, to change the way politics is made in Ireland to prevent a further economic crisis to happen. The most emblematic measure is to call for the creation of constitutional convention composed by one third of experts, one third of politicians and one third of citizens to entirely redraft the Irish constitution by 2016, as well as a number of measures to enhance the power of the Dáil, among other things. In both parties, it was possible to identify a few individuals who gave a particular

¹² Interview with Elaine Byrne, political scientist and journalist, 10th of May 2012, Starbucks of College Green, Dublin.

¹³ Fine Gael, “New Politics”, March 2010, republished in 2011: <http://www.finegae2011.com/pdf/NewPolitics.pdf>

¹⁴ “It really was the political crisis that brought political reform back on the agenda and it provided a key component of our political campaign. (...) People were very interested in shaking up the system; it gave us something very different to talk about from the other political parties”. Interview with an adviser of the Taoiseach Enda Kenny, 30th of May 2011, Department an Taoiseach, Dublin.

impulsion to the debate: Enda Kenny, the leader of Fine Gael,¹⁵ and Brendan Howlin for Labour.¹⁶

Despite the fact all parties eventually expressed strong stances in favour of institutional reforms, not all of them did so early and enthusiastically. Fianna Fáil, on the contrary, climbed on the bandwagon when it became obvious that political reform would occupy the central stage of the 2011 campaign. The decision to hold the election in May 2011 was retarded until the last minute, so that FF had only a couple of months to assemble its manifesto, whereas the opposition had been drafting its project much earlier. Averil Power, FF spokesperson on political reform in 2011, confirmed to me in an interview that the process of drafting of the section on political reform started only around January, after the replacement of the Taoiseach Brian Cowen by a new leader, Micheál Martin. Many of the ideas, including the separation of the legislative and the executive were his, and the creation of the manifesto was made behind closed doors, between the leader and his advisors.¹⁷

When it got to the moment where actual manifestos for the 2011 election were released, all of the main parties took a number of commitments on political reform. Some, such as Fianna Fáil or Sinn Féin, called for the replacement of the electoral system by a mixed-member electoral system. All of them agreed on the abolition of the Seanad, or the establishment of an independent commission (See appendix). All of the manifestos contained several pages on political reform, and all, including the one of the party that had been in power for the last 12 years, Fianna Fáil, directly attributed the economic crisis to the failure of the institutions: “Of the many major failings in Ireland’s political culture the failure of our parliamentary system to consider structural problems until it was too late is the most significant. The dominance of short-term considerations in public debate is obvious.”¹⁸

Much could be said on the election of 2011, which was one of the most volatile of the history of Western Europe (29,6% of total volatility, See Mair in Gallagher and Marsh 2011). Yet,

¹⁵ The adviser of Enda Kenny described to me the work of putting together the manifesto, explaining how a small group of advisers recruited by FG after Kenny became leader in 2002 proposed drafts on all of the sections of the manifesto in permanent consultation with Kenny, before any of this document was put to the parliamentary party.

Interview with an adviser of the Taoiseach Enda Kenny, 30th of May 2011, Department an Taoiseach, Dublin.

¹⁶ Alex White explained to me that the “140 proposals” document, from which most of the proposals of Labour on political reform was drawn, was written by Brendan Howlin.

Interview with Alex White, Labour ex-Senator and current TD, 24th of May 2012, Leinster House, Dublin.

¹⁷ Interview with Averil Power, FF Senator and ex-spokesperson on political reform in the 2011 election, 29th of May 2012, Leinster House, Dublin.

¹⁸ Fianna Fáil manifesto for the general election of 2011, “Real Plan, Better Future”, p.32. <http://election.fiannafail.ie/pages/read-the-plan>

what mostly happened was the redistribution of the cards between the three main parties. For the first time in history, FG became the first party with 36% of the votes and 45.8% of the seats, Labour the second party with almost 20% of the votes and 22% of the seats. Fianna Fáil lost almost 25 percentage points of votes, and divided its number of seats by 4. Sinn Féin, finally, tripled its number of seats. The continuity also lied on the identity of the government coalition formed after the election, a Fine Gael-Labour coalition such as others that the country had experienced in the past (Little 2011). No party ever had such a momentum to apply its political programme, and promotes of institutional reforms were very confident in the new coalition to ring forward change, thanks to its comfortable majority and the near-unanimity of the main parties on the political reform agenda.

Section 2: From the compromises of the Programme for Government to a scattered bundle of reforms

As the first section has shown, the momentum to reform the institutions in 2011 was the result of the designation of the political system as the culprit for the economic crisis, the mobilization of a wide variety of actors with an imprecise agenda in favour of “political reform”, and of the promises of all of the main actors present in the parliament to adopt far-ranging institutional reforms. In fact, the promises made in the manifestos have resulted in the emergence of a scattered bundle of reforms, i.e. a process of reforms in which the political reform agenda has been divided into multiple “smaller” issues. Concretely, the Programme for Government adopted after the election of 2011 by the Fine Gael-Labour coalition took a number of commitments regarding institutional reforms, the more substantial being the commitment for the establishment of a constitutional convention and the organization of a referendum on the abolition of the Seanad, as well as a number of less emblematic provisions on various elements of the political system. The process of reform has been organized by scattering the agenda of reform into no less than three departments and a very large number of laws and proposals.

The content of the Programme for government

As it is the tradition in Ireland, the Programme for government (Pfg), underlining the policy priorities of the coalition entering power after the general election, was written quickly after the general election, with negotiating teams composed of frontbench members of both parties. One of the advisers of the Fine Gael team explains that the most contentious point was not on political reform, and that as a consequence, this section was written rapidly, leaving for

later stages the more contentious aspect: the agenda of the constitutional convention.¹⁹ While Labour pushed in its manifesto for a complete rewriting of the constitution, Fine Gael was in favour of a less ambitious and more focused plan of reforms, with the abolition of the Seanad at the forefront. The section on political reform also included discussions on constitutional amendments and transparency measures that had no direct link with the organization of the political institutions.

In the end, regarding the reform of political institutions, the two parties agreed on two priorities: holding a referendum on the powers of investigation of the parliamentary committees, and another on the abolition of the Seanad. The Pfg also promised the creation of a constitutional convention that would “consider comprehensive constitutional reform”,²⁰ including a variety of topics, some regarding the political institutions, some not: review of the Dáil electoral system, reduction of the presidential term, reduction of the voting age, but also same-sex marriage or removal of blasphemy from the constitution. The convention was supposed to report within 12 months, while the document is mute on its composition.

The Pfg also promised a parliamentary reform to give constitutional standing to major committees and reduce the number of committees, more powers to the speaker, extend the parliamentary question system to agencies founded by the state, increase time for oral questions, and, in general, reinforce the powers of the Parliament to hold the government and agencies accountable. This focus on accountability went along with a number of promises to improve transparency, such as the creation of a register of lobbyists, the reinforcement of the Freedom of Information Act, stricter legislation on donations to parties, candidates, and election spending, but also regulations to promote gender equality, by linking public funding to the number of women candidates for elections. The Pfg also focuses on “showing leadership”, with symbolic measures such as reducing the number of TDs (with no indication regarding the number) or a “code of good practice of the use of the government jet” (sic).

Other issues include the reinforcement of the power of the Dáil vis-à-vis the executive. A long list of proposals are given, among which: tackle the over-use of guillotine,²¹ increase the number of Dáil sitting days, devote one day a week to private members bills, establish a petition system in the Dáil to be managed by a new committee. Finally, on the topic of local government

¹⁹ Interview with an adviser of the Taoiseach Enda Kenny, 30th of May 2011, Department an Taoiseach, Dublin.

²⁰ Programme for government, p. 17., accessible from the website of the Department an Taoiseach: http://www.taoiseach.gov.ie/eng/Publications/Publications_Archive/Publications_2011/Programme_for_Government_2011.pdf

²¹ A guillotine motion (formally called “allocation of time motion”) is a procedural device used to speed up the passage of contentious legislation, strictly limiting the time devoted to the debate of a given clause, after which a vote is taken when time expires. This is another of the many remainders of the British parliamentary tradition.

reform, the Programme for government consists pretty much of a simple copy-paste of the measures contained in the manifesto of both parties (see Appendix), including making property-related revenues part of the income stream of local governments (FG), give powers to councilors to seek reports from providers of public services in their area (Labour), and a number of promises on possible services and competences that could be performed by local authorities: fire services, traffic, economic development, etc. Yet overall, the Pfg does not commit in any way to fundamental decentralization.

A number of aspects remain on how and by whom the reforms should be carried on remain ill-defined in the document. Overall, the Programme for government only provides a clear commitment on one major measure: the abolition of the Seanad, which is not justified any further. The “comprehensive constitutional reform” is left out to a constitutional convention, which would not tackle in any way parliamentary reform or the debate on the existence of the Seanad, but would discuss on Irish electoral system and the opportunity for gay marriage. Regarding the Dáil, the Pfg commits to a mix of symbolic and small measures to modify the organization of the work in the parliament. On local government, the document is both vague and not very ambitious.

A scattered bundle of reforms

Many issues regarding institutional reforms have been concomitantly put in the agenda in the manifestos of political parties, and afterwards in the Programme for government. What choice did the governing coalition make to implement this agenda? Did they choose a big “package” of reforms, or on the contrary to separate each dimension from one another?

The most emblematic aspects of the agenda of institutional reform (See Table 3), namely Seanad abolition and the organization of the constitutional convention are being dealt with by the Department of the Taoiseach, therefore under the close supervision of Enda Kenny. Paul Kehoe, minister of State of the Department of the Taoiseach is in charge with aspects regarding the functioning of the Parliament and the reform of the standing orders, so that all of the aspects regarding the powers of the Oireachtas as controlled by the same Department. The minister for Environment, Community and Local Government Phil Hogan is, as it is traditionally the case in Ireland, in charge of all technical and financial aspects of the electoral system, as well as of local government reform. Finally, the Labour Party has only the grasp on the aspect of the agenda of political reform not directly related with the political institutions. Rather, Brendan Howlin, minister for Public Expenditure and Reform is in charge of implementing all of the commitments

related with transparency, greater openness of the public sector and access of the citizens to information coming from the ministers and public agencies (through Freedom of Information).

Table 3. *Construction of the bundle of reforms in Ireland since 2011*

Dimensions of reform	Minister/department in charge	Laws, referendums	Aspects still on the agenda
Transparency, Public sector reform	Brendan Howlin, minister for Public Expenditure and Reform (Lab)	Referendum on the powers of enquiry of the Oireachtas (rejected oct. 2011) Referendum on judges pay (adopted oct. 2011)	Legislation on lobbying, corruption, whistleblowing, Expansion of Freedom of Information Act (2012-2013)
Electoral regulation and local government reform	Phil Hogan, minister for the Environment, Community and Local Government (FG)	Electoral (Amendment) Act, 2011 on political expenses, number of TDs, Electoral (Political Funding) (Amendment) Act 2012 on political donations, parties expenditures and gender balance	Local Government Reform (autumn 2012)
Reform of the Dáil	Paul Kehoe, Chief Whip and Minister of State for the Taoiseach (FG)	Reform of the Dáil standing orders, 2011	Subsequent reforms of the Dáil standing orders
Seanad abolition, Constitutional Convention	Department of the Taoiseach	Motion on the concrete organization of the constitutional convention (July 2012)	Seanad referendum (2013), concrete tackling of the proposals of the constitutional convention (2012-2013)

Three remarks come to mind when analyzing the composition of the bundle of reforms. First, the government made the choice not to give the responsibility of the agenda for reform to a single individual and ministerial department, but on the contrary to dispatch the different elements of the agenda to various ministers and departments. This, in turn, implies multiple sequences of discussion about reform, multiple legislations, and the scattering of the agenda of reform into multiple debates rather than a single, unique debate. Secondly, the Department of the Taoiseach is in charge of the two most important issues, while the aspects of reform that appeared as more peripheral in the Programme for Government are handled by different ministers. Thirdly, there has been less concrete progress on the two major issues (Seanad abolition and constitutional convention), while the first legislations adopted and referendums held concerned aspects such as electoral regulation or reform of the standing orders.

Section 3: The outcomes of the process of reform: few concrete results and strategies of institutional muffling

What has concretely happened since 2011 on institutional reforms? Not as much as one might have been expecting. The new governing coalition experienced an early referendum defeat

in October 2011 on the powers of enquiry of the Oireachtas, which had been labeled in 2011 as one of the two priorities. A number of legislations have been adopted, but falling short compared to the (already limited) commitments of the Programme for Government. The government has adopted two dominant strategies to deal with the most salient institutional reforms on the agenda: scapegoating, by pressing most of the public attention on the abolition of the Seanad, and kicking to touch, which is illustrated by the delays experienced by the constitutional convention and Seanad abolition.

The failed referendum on the powers of enquiry and timid results on other fronts

As soon as the new coalition came into office in 2011, a few symbolic measures were adopted, such as the reduction by 6.6% of the salaries of the Taoiseach, the Tánaiste, and the ministers. A reform of the Dáil standing orders was also adopted in July, 2011. Among other provisions, this reform reduced the number of committees from 25 to 16, gave extra powers to the Ceann Comhairle (Speaker) to require answers to parliamentary questions to ministers, increased significantly the number of Dáil sitting days, allocated one day a week for private member's business and the possibility to raise "topical issues".²² Note that some of the important symbolic commitments of Fine Gael, such as the election by secret ballot of the Speaker, or of the Programme for government, such as rules to limit the use of the guillotine motions, have not been adopted. This reform did give some limited extra powers to the Dáil vis-à-vis the government, yet it certainly did not affect significantly the balance of powers between the two institutions.

The second aspect for which the governing coalition took rapid action concerned the powers of enquiry of the Oireachtas, which was one of the recommendations of the Joint Committee on the Constitution.²³ This referendum was seeking to overturn a High Court Judgment of 2000, referred as the 'Abbeylara judgment', that considered that the Oireachtas had no inherent powers of enquiry under the Constitution.²⁴ The proposed amendment would have given explicit power for the Houses of the Oireachtas to conduct enquiries into matters of

²² Programme for Government – Progress Report March 2012, accessible on the Department an Taoiseach: http://www.taoiseach.gov.ie/eng/Publications/Publications_Archive/Publications_2011/Programme_for_Government_2011.pdf

²³ Joint Committee on the Constitution, 2011. *Fifth Report. Article 15 of the constitution: review of the parliamentary power of enquiry*. Dublin: Stationery Office.

²⁴ The Abbeylara judgment refers to the shooting of John Carty, who suffered from bipolar disorder, by the Garda in 2000. As a consequence, a subcommittee of the Oireachtas has tried to enquire into the circumstances of the shooting, before the High Court judged that the Oireachtas had no inherent powers to make enquiries, and more crucially to establish findings of facts, and conclusions as to the personal culpability of an individual so as to impugn his or her good name.

“general public importance”, with the power to make findings in respect to the conduct of individuals. One point was considered as more controversial, as the sub-section 4 of the proposal stated that “it shall be for the House (...) to determine the appropriate balance between the rights of persons and the public interest for the purposes of ensuring an effective inquiry”. This point had relatively unclear consequences, and most lawyers interpreted it as a way to make it very difficult for an individual heard in such enquiry to defend his or her rights in court if he or she felt to have been faulted. This last point was not debated thoroughly in Parliament, and put forward by Alan Shatter (FG minister for Justice), and Brendan Howlin (Labour Minister for Public Expenditure and Reform). Many constitutional lawyers took position against this referendum as a consequence of the lack of clarity of the last sub-section of the proposed amendment. Eoin Daly, for example, states that “Politicians are not to be trusted in deciding the appropriate balance when it comes to the good name of citizens. Their need for attention and for public approval undermines their capacity to act with necessary detachment when performing a quasi-judicial role as investigators.”²⁵

The referendum was held the same day as the presidential election, and rejected on the 27th of October 2011, with 53% of voters opposed and 47% in favour, and a turnout of 56%. This came as a clear blow for the government, all the more as opinion polls showed that Irish citizens displayed clear support for power of the Oireachtas to hold enquiries in principle: 74% of those who voted in the referendum were in favour, as well as 58% of the voters who voted ‘no’ in the referendum!²⁶ Experts gave three primary reasons to explain why the referendum was not adopted: the feeling among voters that the amendment was giving too much power to politicians, the lack of knowledge on the topic (with a large proportion of voters unable to recall the ‘yes’ and ‘no’ arguments), and finally, the fact to trust more experts such as Attorney generals or legal specialists who called for a ‘no’ vote than politicians.²⁷ Overall, this shows the difficulty for Irish political elites to deliver on the political reform agenda, as Irish voters tend to adopt a conservative stance on referendums: when they are uncertain about the consequences of a constitutional provision, and unclear about the arguments, they tend to reject it regardless of the support for the very principle of the amendment. Several politicians also consider that this

²⁵ Daly, Eoin. 'Oireachtas inquiries referendum needs more debate', *Irish Times*, September 17, 2011.

²⁶ See the report of Michael Marsh, Jane Suiter and Teresa Reidy, 2012. *Report on Reasons Behind Voter Behaviour in the Oireachtas Inquiry Referendum 2011*. Dublin: Department of Public Expenditure and Reform. <http://per.gov.ie/wp-content/uploads/OIReferendum-Report-Final-2003-corrected.pdf>

The report draws on quantitative data provided by the poll company Red C.

²⁷ Michael Marsh, Jane Suiter and Teresa Reidy, 2012. *Report on Reasons Behind Voter Behaviour in the Oireachtas Inquiry Referendum 2011*. Dublin: Department of Public Expenditure and Reform.

referendum served as a remainder, recalling them how distrustful Irish voters were of any measure reinforcing the power of politicians in the context of the crisis.²⁸ One can also interpret this referendum as the fact that the leading coalition under-estimated the costs of political reform, that had been perceived as an “easy”, valence and uncontroversial topic in the election for which citizens were enthusiastic in principle, whereas the referendum showed that actually adopting precise measures involved a great deal of debate, effort, and coordination.

Since this failed referendum, some of the commitments contained in the Programme for Government have been respected, but only on topics not requiring a referendum and a modification of the constitution. The Electoral (Amendment) Act of 2011 revised the terms of the Constituency Commission to prepare for the reduction of the number of TDs and reduced the spending limits and the level of election expenses that can be reimbursed for presidential elections. In 2012, a new legislation created a much tougher regulation of corporate donations to political parties by creating a registry of donors, obliging parties to disclose their accounts to the Standards in Public Office Commission, a reduction of the maximum donation to political parties both from companies and individuals, as well as the reduction of the threshold under which donations must be reported. Another important provision states that, shall parties not present at least 30% women candidates in the next general election, and 40% in the general election after that, their amount of public funding will be divided by 50%.

Other laws are under way regarding transparency and protection of whistleblowers (Protected Disclosures in the Public Interest Bill), while policy proposals on the regulation of lobbying have been published,²⁹ and the Government has approved plans to reform and expand Freedom of Information (FOI) and the remit of the Ombudsman. The Constituency Commission has produced a report in June 2012 in which it recommends to reduce the number of TDs from 166 to 158, much less than the initial promise of Fine Gael talking about a reduction by 20.³⁰ Plans for local government reform were announced on October 16, 2012. They include mostly a reduction of 40% of the number of local councilors, the suppression of 80 town councils and a reduction of the number of local authorities from 114 to 31 city and county councils, the creation of structures of oversight of local government, a reduction of the powers of councilors in the planning process, and new income streams for the local authorities through

²⁸ Interview with Alex White, Labour ex-Senator and current TD, 24th of May 2012, Leinster House, Dublin. Interview with Eoghan Murphy, Fine Gael TD, 24th of May 2012, Leinster House, Dublin.

²⁹ A policy paper has been released by Brendan Howlin in July, 2012. See <http://per.gov.ie/wp-content/uploads/Regulation-of-Lobbying-Policy-Proposals.pdf>

³⁰ Constituency Commission Report, 2012. *Dáil and European Parliament Constituencies*. Dublin: Stationery Office.

the institution of a property tax.³¹ Therefore, it would be wrong to say that nothing has been done to deliver on the agenda of political reform, but the most contentious promises have not been held, and implemented reforms were the “easiest” ones, i.e. the ones that could be achieved without a referendum, and that did not involve a great deal of redistribution of powers.

Scapegoating: the example of Seanad abolition

The proposal to abolish the Seanad is one of the most highly visible proposals contained in the Programme for Government, and was present in the manifestos of all of the four main political parties in 2011. This is a very good illustration of one of the two dominant strategies used by the parties in government regarding the sequence of institutional reforms started in 2011: scapegoating. As it was made clear in the first section, the overwhelming focus on political reform in the 2011 election was the result of the emergence of a narrative linking the crisis with the failures of the political system, therefore largely consisting in pointing fingers at various aspects of the Irish institutions. In this context, the Irish upper house served as a cheap expiatory victim. The Seanad, its functioning, and the lack of added value of an upper house in its existing form has been criticized for decades, but most of the conclusions of the debates called for a profound reform of the Seanad.

The decision to abolish the Seanad if Fine Gael went back to power was taken unilaterally by Enda Kenny and his advisors, without the consultation of the parliamentary party, and announced by Kenny himself in October 2009 at the occasion of the Fine Gael presidential dinner. The proposal caught everyone by surprise, including of course Fine Gael senators. It was soon directly or indirectly endorsed by politicians outside of the Fine Gael party, such as Noel Dempsey (FF) who declared that he was “not sure” the Seanad still had a role, or by Pat Rabbitte (Labour) who said he saw “merit” in the proposition of Kenny.³² Progressively, this position was endorsed by all of the major political parties, with a strong and explicit link made between the economic crisis, the need to reform the institutions, and the call to abolish the Seanad. When I asked to one of the advisers of Enda Kenny why Fine Gael chose the abolition of the Seanad as its “showcase” political reform, his answer was clearly pointing at political communication, rather than at any grand visionary plan on the way Irish political institutions should look like:

³¹ Although the precise terms on the property tax are not known, the government created recently a household tax, affecting equally all landlords regardless of their income or of the size of their residential property. On this ground, it has been heavily criticized, and led to the creation of a powerful grass-root movement against it, leading to the boycott of the tax by more than one million households.

See Coppinger, Ruth. “Household tax revolt the price of years of austerity”, *Irish times*, April 4th, 2012.

³² McGee, Harry. “Dempsey 'not sure' if Seanad has role”, *Irish Times*, October 19, 2009.

“Easy communication.(...) I think that was just a simple idea that could be easily communicated, whereas a lot of the other reforms, or issues about electoral reform, constituencies, lists, the public would find it difficult to understand without knowing how the system works an awful lot. It would have been harder to communicate on those issues than say, simple message of Seanad abolition, the reform agenda of the Seanad has not worked out, and therefore we put this out there”.³³

In other words, proposing the abolition of the Seanad had two objectives for Enda Kenny: putting on a table a “big” political reform that was not too costly, given the bad image of the Seanad, and to show leadership in a pre-electoral campaign context: “I’ve taken a leader’s initiative on this and that’s what leaders are for”, said Kenny on RTÉ’s Morning Ireland radio programme after his proposal.³⁴ Several of the experts and politicians I interviewed also emphasized the fact that, in the context of 2009 when political support had never been so low in Ireland, the idea to get rid of politicians costing money was very appealing. For example, Jimmy Devins explains:

“Because of the deep financial crisis in the public expenses, it was suddenly very appealing to say we will abolish one chamber, and in the process get rid of all these politicians who were seen to be having very high salaries. And that stroke a cord with the general public. How much money they would actually save in the context of the money the country owed was minuscule. But nobody ever explored that because there was a general feeling among the population that politicians are bad, they’ve got us into this crisis, if some of them are not going to have a nice safe job then great! Let’s get rid of them”.³⁵

What is striking in reading the press, the debates on the abolition of the Seanad, and the notes of the interviews is the quasi-absence of the framing of the debate in terms of “Do we need a second chamber and how should the parliament be organized vis-à-vis the government?” by the partisans of abolition,³⁶ but rather, the superficiality of the arguments pushing for Seanad abolition: saving money, leading by example, doing something.

Hence, at first sight, “shooting the Seanad” was a cheap electoral strategy. Yet, concretely, it soon became obvious after the election that the abolition of the Second Chamber is an extremely complex legal matter: the Seanad is mentioned 67 times in the Irish constitution in no less than 16 articles, which implies that the abolition would require the rewording of a substantial part of the constitution. As a consequence, the date for the organization of the Seanad

³³ Interview with an adviser of the Taoiseach Enda Kenny, 30th of May 2011, Department an Taoiseach, Dublin.

³⁴ Collins, Stephen. “Bruton backs Kenny on abolition”, *Irish Times*, October 20, 2009.

³⁵ Interview with Jimmy Devins, ex Fianna Fáil TD and junior minister, 18th of May, 2012, in his office, Sligo.

³⁶ The only notable exception is the appendix of one of the policy document of Labour written by Brendan Howlin, in which he examines the history of the Seanad Éirann in Ireland and carefully examines the arguments for retaining a second chamber using academic arguments, before concluding on the necessity to abolish the Seanad. See the policy document “New Government, better government”, accessible on the Labour website: <http://www.labour.ie/download/pdf/newgovernmentbettergovernmen.pdf>

referendum has been delayed up to Autumn 2013 at the earliest. Moreover, and contrary to some of the marginal reforms discussed previously, there are clear winners and losers to the abolition of the Seanad in every single party in the parliament, the losers being, of course, the senators themselves. The rebellion against Seanad abolition has already started, with the adoption of a non-binding motion of the opposition in June 2012 to propose to include Seanad reform in the topics dealt with by the constitutional convention, with the support of three Labour senators,³⁷ and the tribune of various influential former politicians to promote reform rather than abolition.³⁸ More crucially, Eamon Gilmore has allowed in late August 2012 Labour TDs and senators to campaign against abolition, whereas Fine Gael had to use the threat of its whip to discipline the party.³⁹ Labour is therefore clearly stepping back on this commitment due to intra-party conflicts about the Seanad.

The issue of the Seanad abolition is extremely revelatory of the dynamics of political reform under the constraint of a situation of crisis. Whereas it was inexpensive to put the issue of Seanad abolition on the agenda in a context of distrust of politicians, the actual implementation of this policy involves risking a great deal of political capital for the partisans of the reform: not only winning the referendum is getting trickier with the multiplication of voices against abolition, but the two parties promoting this policy are facing revolt in their own ranks, as there are clear costs involved by Seanad abolition, with hypothetical gains. Hence the paradox: talking about reform is cheap, implementing reform can be costly, in particular if this involves the risk of a losing a referendum in a context where the legitimacy of politicians is plummeting.

Kicking to touch: the Constitutional convention

Along with Seanad abolition which appears already as severely compromised, the second important aspect of political reform that had been showcased in the Pfg was the organization of a constitutional convention. This convention was supposed to report within 12 months after the new coalition was in power. It was finally launched on the 1st of December, 2012, and has been assigned an agenda that is both large (many issues will be discussed) and narrow (most of these issues are deemed as unimportant by most experts and commentators).

³⁷Collins, Stephen. "Coalition defeated in Seanad as Labour Trio breaks ranks", *Irish Times*, June 21st, 2012.

³⁸ Collins, Stephen. "Six eminent former members start campaign to save Seanad", *Irish Times*, July 23, 2012.

These members are respectively TK Whitaker (ex civil servant, minister, Seanad leader, and chair of the Constitutional Review Group), Mary O'Rourke (ex FF minister and chair of the last report on the Seanad, Bríd Rodgers (former Northern Ireland ombudsman), Maurice Hayes (ex independent politician), John A Murphy (historian) and Mary Henry (former Trinity College senator).

³⁹ Kelly, Fiach. "Coalition rift opens over plan to scrap Seanad", *Irish Independent*, August 29 2012.

The very fact that this constitutional convention will come into existence is certainly the point on which Irish civil society has had the most decisive impact on the agenda of the coalition regarding institutional reforms. The notion of constitutional convention is based on existing experiences in various countries, in which citizens got directly involved in the process of deliberation about certain important institutional issues. In Australia in 1998, a mix of professional politicians and citizens met to decide whether or not Australia should become a Republic. Two Canadian provinces, respectively British Columbia in 2004 and Ontario in 2007, as well as Netherlands in 2006 organized citizens' assembly composed exclusively of ordinary citizens chosen randomly to review their electoral systems. Finally, in 2011, in the aftermath of the economic meltdown, Iceland organized a constitutional council to proceed to a thorough review and reform of the constitution, composed of elected citizens. Political scientists involved in the deliberation of the Joint Committee on the constitution, and in particular Kenneth Benoit, presented the advantage of such a form of deliberation to review contentious institutional aspects such as the electoral system, in order to depoliticize the issue and to involve the citizens in the production of propositions of reform that would be seen as more democratic and legitimate.⁴⁰ As it was already mentioned, the organization "We the citizens" organized a citizens' assembly in 2011 in order to show the merits of such a mode of decision, and its feasibility in the Irish context.

The constitutional convention that was set in place in Ireland does not look as a proper citizens' assembly *per se*. The convention will have to report within 12 months, and focus on eight topics: the review of the Dáil electoral system, the reduction of the presidential term from 7 to 5 years and its alignment with European and local elections, giving citizens living abroad the right to vote at Irish embassies in presidential elections, provision for same-sex marriage, amending the clause on the role of women in the home and encouraging greater participation of women in public life, increasing the participation of women in politics, removing blasphemy from the constitution, and finally, reducing the voting age to 17. The convention is composed by 100 members, chaired by the economist Tom Arnold, 66 members of the public selected randomly thanks to the electoral register, and 33 politicians including members of each of the parliamentary party and parliamentarians from Northern Ireland.⁴¹ The convention will be free to consider

⁴⁰See the summary of the intervention of Kenneth Benoit, Joint Committee on the Constitution, 2010. *Fourth Report. Article 16 of the Constitution: review of the electoral system for the election of members to Dáil Éirann*. Dublin: Stationery Office, p. 154, in which he explains the advantages of the citizens' assembly. The report also has a detailed appendix about the experience led in British Columbia, Ontario and Netherlands.

⁴¹ On the non inclusion of experts and members of the civil society, the government has declared: "The Government is conscious that a number of interest groups have signalled a desire to be represented at the Convention. However, as the Convention is intended to be a forum mainly for ordinary citizens, the Government is of the view that interest groups should not be members of it." See

other topics only when it will have deliberated on all the topics on the agenda, and will start by looking at two matters and reporting in a delay of two months: presidential term, and voting age. The inclusion of aspects such as gay marriage can be explained by the disagreement between Labour and Fine Gael on this particular issue, making it easier to “kick it to touch” to the convention.⁴² The most crucial aspect is without a doubt the non-binding character of any of the recommendations made by the convention: “It is for the Government to decide whether or not to bring forward legislation proposing Constitutional change, and for the Oireachtas to decide on whether the matter should be put to the people in a Referendum.”⁴³ During the adoption of the resolution about the constitutional convention in July 2012 in the Oireachtas, the government committed to respond within four months to any proposals made by the constitutional convention, and if accepting the recommendation to provide a timeframe for a referendum.

The proposed organization of the convention largely ignores the suggestions made by the Technical Group of the Dáil Éirann around the same time,⁴⁴ suggesting the inclusion of experts and members of civil society in the constitutional convention, a timeframe leaving more time for debate, the inclusion of topics such as the strengthening of the Oireachtas as the topics for debate, the review of local government, and a thorough review of the constitutional articles related to marriage, the family and religion, and fundamental rights. The convention has also been heavily criticized as being hardly the “comprehensive constitutional review announced”, ironically referred as a “charade” and a “joke”,⁴⁵ noting that the important issues (gay marriage and review of the electoral system) are being pushed down the agenda. Former politicians such as Jimmy Devins qualify the constitutional convention as a “talking shop”, because of the absence of binding mechanisms to implement its suggestions.⁴⁶ Elaine Byrne notes that the inclusion of a

<http://www.merrionstreet.ie/index.php/2012/02/constitutional-convention-government-proposals-28-february-2012/>

⁴² On this issue, Matt Wall says: “But I think what they’d agreed on is that they managed to focus the assembly on very narrow targets, in a very unsystematic way. So, for example, one of the things they are going to look at is gay marriage, should gay marriage be legal? I don’t think that’s really a political reform issue. So I think that the government has managed to move an issue that would have been controversial for them to deal with to this body, so they killed two birds with one stone. Because also this body will be focusing on gay rights, it is not gonna be able to focus on institutional reform at the same time”

Interview with Matt Wall, post doctoral researcher at ELECDEM, Phd in Trinity College Dublin and consultant for the Joint Committee on the Constitution, 2nd of May 2012, through Skype.

⁴³ Ibid.

⁴⁴ Technical Group of Dáil Éirann. “Constitutional convention 2012: technical group submission”. March 6th, 2012,

⁴⁵ O’Mahony, Conor. “This so-called constitutional convention is a charade”, *Irish Times*, June 7, 2012.

⁴⁶ Interview with Jimmy Devins, ex Fianna Fáil TD and junior minister, 18th of May, 2012, in his office, Sligo.

third of politicians will make it very difficult for ordinary citizens to get the grasp on the debate.⁴⁷ The more optimistic analysts, such as David Farrell, consider that the very fact to organize such a convention is a big step and victory in itself for the inclusion of citizens.⁴⁸

What is undeniable is that the slowness with which the process is moving suggests makes is more and more unlikely that the proposals of the convention will be acted upon. Indeed, any suggestions would require a referendum that should not be organized in all likelihood before 2014 for the first proposals, and 2015 for the later ones, hence soon before the next general election. Risking losing a referendum a few months before a general election is more costly than losing one at the beginning of the mandate. Therefore, despite the will to include citizens in the process, and beyond the debate of the boldness of the move or not, the coalition in power has already significantly retarded the launch of this device of institutional change, and has been careful in not taking any commitment to implement its proposals. In other words, the coalition has kicked to touch in several regards: by making unclear when, how much, and whether any of the suggestions of the convention will be eventually turned into referendums, by stuffing the agenda with issues not belonging to institutional reform (gay marriage in particular) but contentious for the coalition, and by leaving aside important issues such as the balancing of power between the executive and the Dáil. As a consequence, the agenda of the convention is both composed by extremely contentious and salient issues, and by others which have no impact whatsoever on the balance of powers. The most likely outcome is that there will be a lack of time, political resources, and momentum to implement most of the suggestions of the convention, and that this will have served as a fancy gadget rather than as a way to fundamentally reflect upon institutional change.

Section 4. Generalizing from the Irish case

Even though the bundle of reforms under discussion in Ireland is not yet final, several early conclusions can be drawn about this process, which can be summarized with the idea of institutional muffling. First of all, whereas the general agenda of “political reform” was brought at the forestage by the context of crisis and distrust of politicians and institutions in 2011, the elites soon realized that the cost of implementation of the most emblematic reforms were high.

⁴⁷ As Elaine Byrne explains, “the whole point of deliberative democracy is that it’s citizen-led, and if you’re going to have 33 politicians, they’re going to take it over. (...)And politicians, they speak better and they articulate their views better, and so, I think that they will dominate it.”

Interview with Elaine Byrne, political scientist and journalist, 10th of May 2012, Starbucks of College Green, Dublin.

⁴⁸ Farrell, David. “Constitutional convention will be bold new step”, *Irish Times*, September 8, 2012.

Secondly, the mode of bundling used in Ireland (scattering the debate into multiple issues, scapegoating the Seanad and kicking to touch many aspects to the constitutional convention) has resulted in delaying and weakening institutional reform in Ireland, resulting in limiting the reforms adopted to non-constitutional matters not requiring a referendum, and consequently, keeping of the political institutions untouched. Finally, the case of Ireland is illustrative of the difficulties to overcome institutional inertia, even in a context where the incentives to proceed to democratic reforms is strong.

Strength of the context, weakness of the implementation

Agenda-setting on the issue of “political reform” in Ireland has been characterized by several aspects: its imposition by the civil society on political elites, its valence character, and the absence of salience of particular issues.

First, the notion of “political reform”, and the narrative leading to the idea that institutions should be changed as a response to the crisis was forced upon political elites by a series of experts, analysts, and groups of the civil society. The mode of emergence of the agenda on “political reform” could be qualified, if we use the terminology of Renwick (2010), as elite-mass interaction. The first part of this paper made clear that institutional reform was far from the priority of the Irish political parties up until 2010 at least. Since the overwhelming majority of citizens and analysts directly attributed the responsibility of the crisis to the politicians, it was almost compulsory for them to talk about institutional reforms. The question remains, however: why, in a context that is “on paper” so favourable to reform (salience of the issue on the election of 2011, and mobilization of a part of the civil society to bring about reform) did the agenda dilute in a great part over the course of the reform process?

The answer to this question largely has to do with the very nature of the issue of political reform in Ireland. “Political reform” *as a whole* can be considered as a valence issue in Ireland: the parties were differentiated not so much by “what they advocate but by the degree to which they are linked in the public’s mind with conditions or goals or symbols of which almost everyone approves or disapproves” (Stokes 1992, 143). Therefore, what was important for the parties was to be seen as taking more commitments than their counterparts regarding political reform, and to multiply promises of reform, whereas the content of these commitments itself was not so crucial. Moreover, whereas political reform was a salient issue in the political discourse for the 2011 election, no particular and emblematic measures really stood up, with the exception of the constitutional convention and of Seanad abolition. Therefore, this agenda was both salient *as a whole* in the electoral campaign of 2011, and mostly non-salient *on particular issues*. What we also

mean is that, despite the fact no political parties could ignore the will for political reform in 2011, none of the actors producing the narrative pushed towards the same issue: some insisted on electoral system change, others on parliamentary reform, others on local government reform, etc. To use the terminology of Baumgartner and Jones (2005), attention to the issue of political reform came from a large amount of information about the identification of the problem (the political system), but there was much fewer and highly contradictory information about the solutions that had to be implemented. This largely explains why the manifestos of the parties focused on multiplying promises in every direction rather than on well-identified measures.

What has been made clear after the new coalition came into office, especially in the light of the referendum on the powers of enquiry of the Dáil is that, despite the fact everyone is in favour of political reform in principle, this is not so simple as soon as one gets down to particular measures. The governing coalition failed to win a referendum on a position favoured by an overwhelming majority of citizens in principle (75% agreeing that “the Oireachtas should be able to hold enquiries into matters of general public importance”). Figures of November 2011 suggest that on issues such as the abolition of the Seanad, or local government reform to give local authorities autonomous financial resources, citizens were much more torn (respectively 59% and 62% in favour). Only a small majority of citizens said to be in favour of a reduction of the presidential term (54%), and only 34% in favour of replacing the PR-STV electoral system.⁴⁹ In these circumstances, it is very clear that *talking* about reform was cheap, but *actually implementing* particular important reforms is both costly and uncertain.

This is the reason why all of the measures that have been adopted (on electoral regulation, on standing orders of the Parliament) concerned low-salience and uncontroversial elements, i.e. aspects agreed by all the parties, that did not spark off a lot of interest to begin with, and even more crucially, that did not require a referendum. On the contrary, all of the aspects of the Programme for Government that involved intra-party dissent (such as Seanad abolition) or intra-coalition dissent (such as the agenda, the composition and the scope of the constitutional convention) were delayed, and strategies to limit the impact of the reforms were adopted. In other words, in a context where the agenda of institutional reforms is imposed to the elites, and where the salience of institutional reforms for the political parties is low, political elites tend to adopt strategies to limit the scope of institutional reforms to inconsequential aspects of the

⁴⁹ Michael Marsh, Jane Suiter and Teresa Reidy, 2012. *Report on Reasons Behind Voter Behaviour in the Oireachtas Inquiry Referendum 2011*. Dublin: Department of Public Expenditure and Reform. <http://per.gov.ie/wp-content/uploads/OIReferendum-Report-Final-2003-corrected.pdf>

political system, and are very reluctant to risk political capital to push for the adoption of institutional reforms.

Scattered bundling as a process delaying and weakening institutional reform

Bundles of reform in the context of a process-tracing analysis can be defined as following, either as package deal, or as a sequence:

- 1- One reform, or attempt or reform, modifying *at the same time several dimensions* of the institutional architecture,
- 2- Two or more reforms, or attempts or reforms, dealing with several dimensions of the institutional architectures that were initiated, discussed, and/or adopted, concomitantly or not, *and explicitly linked by the reform initiators* during the process.

In the case of Ireland, we are clearly witnessing the second form of bundles: a series of institutional reforms touching upon several aspects of the institutional architecture that were explicitly linked by the initiators of reform (Fine Gael and Labour), both in their manifestos and in the Programme for government, but were discussed and adopted (when they were) at several different moments. This is the process that we have called “scattered bundle”. The important aspect to keep in mind is that the choice to proceed by separating the different of reforms in time and between ministers was a deliberate strategy. The analysis of the process of reforms since 2011 leads me to conclude that the consequence of this strategy was to limit the scope of the reforms adopted to the aspects of the Irish institutional system not included in the constitution.

Identifying the central aspects of any institutional system is of course a qualitative work in essence, as it depends as much of the formal institutions as of the institutional practices that the political actors adopted over time. What I mean here by “central aspects” of a given institutional system are the features that are the most central in explaining the distribution of powers in a given polity, both horizontally (between legislative, executive and judicial power and between political parties), and vertically (between central and sub-national entities). This idea is largely intersecting with the parties-executive dimensions and the federal-unitary dimension (Lijphart 1999). We can consider that the four most important aspects of the Irish institutional model are the following: the PR-STV electoral system, the strong domination of the executive over the Parliament, the very weakly decentralized organization of the territory in Ireland, and the strong judicial power. It becomes increasingly clear that none of these central features will be affected by the process of institutional reforms currently taking place in Ireland, even so if the Seanad is

eventually abolished or the constitutional convention eventually manages to push for one or two referendums.

In this regard, the way the process has unraveled in Ireland has the consequence to limit the scope of institutional reforms. By linking together many issues, some controversial (review of the electoral system), some rather meaningless (reduction of the presidential term) in the constitutional convention, and by delaying the launch of this convention, the coalition in power in Ireland has effectively neutralized many of the more contentious institutional issues contained in the Programme for government. Concomitantly, by adopting regularly “peripheral” institutional reforms (on electoral regulation, on standing orders of the parliament), the coalition manages to keep some its promises and to “tick boxes” in the political reform part of the Pfg. The segmentation of the agenda into multiple minor issues enables both to limit the salience of political reform on the agenda (because it is hard to keep the attention of the opinion and the elites on complex and technical topics with not very visible consequences), and to facilitate the adoption of certain reforms, given the strong parliamentary majority of the coalition in power.

What is, again, particularly striking, is the differential treatment made by the Labour-FG between institutional issues requiring a referendum (Seanad, all aspects included in the Constitutional convention) and those which do not (the other reforms). While strategies of institutional muffling (such as scapegoating for the Seanad and kicking to touch for the constitutional convention) were used for the issues requiring a referendum, scattering the agenda was used to adopt other reforms. The more problematic aspect of the bundles of reform under way in Ireland is undoubtedly the promise to hold a referendum to abolish the Seanad, which might prove very costly in terms of political capital, in particular for Enda Kenny, if it is lost. In other words, the way the process of political reforms was handled in Ireland shows how elites tend to limit decisions to the easiest and supposedly more inconsequential aspects of the agenda, while using strategies to lose time, decrease the saliency of institutional matters, or even as a convoluted way to manage ‘non-decision’. Why, then, is there a degree of institutional inertia inherent to the processes of institutional reforms in a context forced upon the political elites?

Institutional inertia in a reactive process of reform

Paradoxically, the story of the institutional bundle initiated in Ireland in 2011 tells us as much about mechanisms of institutional inertia as they do on mechanisms of institutional change. By drawing on the general concepts of self-enforcing institutions and path dependence, neo-institutionalist scholars have identified three main factors of stability: the transaction costs inherent to institutional reform (reforming is never cost-free, (North 1990)), the risk-aversion of

actors with the power to change the rules (actors might prefer *status quo* to risk even if they anticipate they could theoretically gain something from change), and the absence of rationale for institutional reform related to increasing returns that actors gain from using institutions (Pierson 2000): the more they use it, the more benefits they get from using it). In other words, the unwillingness of the actors actually able to modify the status quo and the uncertainty and costs coming along with reform lead to a situation of stability that Shepsle has defined as a “structure induced equilibrium”⁵⁰ (Shepsle 1989) and others as “self-enforcing institutions”⁵¹ (Goodin and Klingemann 1998).

What is currently happening in Ireland is informing rather than infirming these assumptions on institutional change. The transaction costs’ argument in Ireland is illustrated by the fact that all major institutional reforms require a referendum, but minor institutional changes do not. The risk-aversion argument is exemplified by the absence of major proposals for institutional change despite the fact Fine Gael and Labour benefit from the bigger parliamentary majority of Irish history. Finally, the argument on the absence of rationale for reform is translated by strategies of institutional muffling to limit the scope and the impact of the reforms promised.

In other words, the Irish process shows how elites behave regarding institutional reform in a context where they are strongly constrained to act. The drop in political support and the tone of the 2011 electoral campaign, focusing heavily on political reform, implied that the coalition in power could not avoid making *some* institutional reforms. Yet, the FG-Labour coalition acted a bit like a “jack of all trades”, developing quickly a set of reforms affecting multiple dimensions of the institutional system, but throughout a process that facilitated, consciously or not, a dilution of the promises made by the coalition. Undoubtedly, by the end of the legislature, in pure numbers, a number of laws regarding political reforms will have been adopted, but this should not hinder the fact that many of the initial commitments made in 2011 have watered down or disappeared in the meanwhile. Indeed, the most important motivation of the coalition parties to conduct these reforms was to show that they were drawing lessons from the crisis and appearing to be changing the way politics was done. And this motivation is clearly fading as time goes by: as Gerard Hogan explains, the narrative attributing almost exclusively to the politicians and the institutions the responsibility of the crisis is less pregnant now than in 2011.

“The more this crisis goes on, the more there’s a realization in the public that, yes we made mistakes and we are partly to blame, but a lot of the problems are at European governance

⁵⁰ Shepsle defines structure induced-equilibrium as the fact that “no alternative allowed by the rules of procedures is preferred by all the individuals, structural units, and coalitions that possess distinctive veto or voting power” (1989: 137).

⁵¹ Self-enforcing institutions are defined by the fact that “it is in the interest of the actors to abide by the limits imposed by the institutions” (Weingast in Goodin and Klingemann, 175).

level and within the Eurosystem itself. And people are beginning to realize 'look. We could have the most perfect constitution in the world, it would not get our GDP ratio down to 60%'. Now there is a determination that it will never happen again. But if you're with the view as I am that the constitution is not so much to blame, well then, will change in the constitution stop it happening again?"⁵²

Conclusion

To conclude by coming back on the theme of the workshop, i.e. legitimacy and political reforms, the Irish story gives us important insights about the way in which the two aspects are linked. First of all, it is absolutely clear that the development of the agenda of political reforms is directly, and explicitly, linked with the unprecedented crisis of legitimacy experienced by Irish politicians and institutions in the aftermath of the crisis of 2008. Secondly, the difficulties to actually remedy the wrongdoings coming mostly from long-established practices through institutional reforms explains the difficulty of the promoters of institutional reforms to come up with a coherent plan of claims on how to reform the political system. Thirdly, the Irish case clearly shows that, when the process of institutional reforms is mostly the result of external pressures, elites are neither capable nor willing to spend a lot of political capital into a deep restructuring of the institutional system. This, in turn, explains why most of the reforms adopted in Ireland since 2011 remained “on the surface”, and why all changes requiring substantial engagement (and referendums) were left aside or delayed. In this regard, Irish elites acted much more as “key-janglers” (with the adoption of merely symbolical reforms) rather than “crowd-pleasers”. And this conclusion actually leads to the formulation of an interesting paradox: institutional reforms tend to be promoted and most needed in times of crisis where the elites who actually have the power to implement them suffer the most from the lack of legitimacy, and have the least political capital to achieve important reforms.

⁵² Interview with Gerard Hogan, constitutional lawyer, ex-adviser to the all-party Committee on the constitution, and Judge in the High Court, 29th of May, 2012, Four Courts, Dublin.

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Appendix. *Main institutional reforms promised in the manifestos of the major Irish parties, 2011*

Party	Parliament / Government	Electoral reform / access to suffrage	Local Government / direct election
Fine Gael	<p>Reforming the department of An Taoiseach into a cabinet office</p> <p>Abolition of the Seanad</p> <p>Reduction by 20 number of TDs</p> <p>Pre-legislative scrutiny and allowance for committees to propose legislation</p> <p>Give constitutional standing to committees and further powers of investigation</p>	<p>Examine electoral reform in a citizens' assembly</p> <p>Increase the number of women in politics</p> <p>Establish an independent electoral commission</p> <p>Reduce the voting age to 17 and give citizens the right to vote in Irish embassies</p>	<p>Move community employment and enterprise support back to local government</p> <p>Ensure that all property-related revenues are part of the income of local government</p> <p>Direct election of the mayor of Dublin</p>
Labour	<p>Draft a new constitution with a constitutional convention</p> <p>Abolition of the Seanad</p> <p>Making ministers legally accountable</p> <p>Pre-legislative scrutiny and limitation of the use of guillotines</p> <p>Right for citizens to petition the Oireachtas</p> <p>Increase in Dáil sitting days</p> <p>Establishment of a bipartisan committee with powers of investigation</p>	<p>Establish an independent Electoral Commission</p> <p>Quotas to increase number of women in politics</p>	<p>Direct election of the mayor of Dublin</p> <p>Abolish county managers to replace it with a chief executive</p> <p>Give powers to concillors to seek report from providers of services (public and private)</p> <p>Give communities more control over transport, traffic, economic development and infrastructures</p>
Fianna Fáil	<p>Separate ministers from the Dáil and allowing non parliamentarians to be ministers</p> <p>Election of the Ceann Comhairle (speaker) by secret ballot, more time devoted to private member business in the Dáil</p> <p>Pre-legislative scrutiny</p> <p>More powers of oversight to committees</p> <p>Abolition of the Seanad IF the electoral reform and Dáil reforms are adopted</p> <p>Give committees further powers of investigation</p>	<p>Replacement of STV by a mixed system (single seat STV + top up proportional list)</p> <p>Introduce measures to favour gender balance within the top up national list</p> <p>Examine electoral reform in a Citizens' assembly</p> <p>Extension of the franchise for presidential elections to all Irish citizens including emigrants</p> <p>Establish an independent electoral commission</p>	
Sinn Féin	<p>Establish an all-Ireland constitutional forum to draft a new constitution</p> <p>Abolition of the Seanad</p> <p>Increase in Dáil sitting days, proportional allocation of committee chairs</p> <p>Give committees further powers of investigation</p> <p>Give Northern Ireland representation in the Dáil</p>	<p>Reduce the voting age to 16</p> <p>Establish an independent electoral commission</p> <p>Extend voting rights to Irish emigrants and long-term residents</p> <p>Replacement of PR-STV by a mixed system (1/3 PR, 2/3 PR-STV with 6 seat constituencies)</p>	