

Mary Murphy input into NWCI Constitutional Convention, UCC Cork,
September 24th 2012

There will be no silent sisters.

Thank you to Art O'Leary for outlining the government's process for the constitutional convention. Recent examples from other countries show that the process of how Constitutions were re-written is a valuable opportunity for widespread public debate on the sort of values and society citizens aspire to and want reflected in their constitution. A key lesson therefore is that the process helps determine what sort of constitution emerges.

Fine Gael favoured a national constitution day where a series of constitutional amendments would be put to the electorate. Labour on the other hand committed to establishing 'an open and participative Constitutional Convention, drawing on the best international experiences, to bring together our society's skills to ... let the Irish people design the Republic they want'.

Various groups offered suggestions. 'We the Citizens', led by a group of political scientists funded by Atlantic Philanthropies, promoted the approach of a citizens' assembly randomly chosen from the electoral

register. A campaign group 'Second Republic' argued that such an assembly, with the assistance of expert input, would be asked to bring forward proposals for constitutional reform within 12 months. Government would then be obliged within six months to put these proposals to a binding referendum.

Peadar Kirby and I argued that citizens' assemblies are most effective when tasked with single-issue projects such as electoral reform and that asking a citizens' assembly made up of randomly chosen citizens to undertake a wider review of the Constitution raises grounds for concern. A citizens' assembly proposal for electoral reform in British Columbia in 2004 took a significant amount of time and resources to look at just one subject. In some cases following citizens assemblies 'citizens' who did not take part were not sufficiently aware of the proposals and parties failed to play a campaigning role.

There are international examples of other types of models. By contrast, over the past decade new Constitutions have been written in Venezuela, Bolivia and Ecuador that were decisively approved in referendums. Instead of randomly selected citizens' assemblies, these proposals were drawn up by constituent assemblies which themselves were popularly elected. In these cases, governing parties all dominated the constituent assemblies, but some attempts

were made to include representatives of various civil society organisations among the candidates or participants of the ruling parties.

In Ecuador, for example, ecologists, representatives of the women's movement, progressive church people, and experienced social activists were elected to the constitutional convention under the banner the newly constituted Alianza País party of recently elected President Rafael Correa. Furthermore, the constituent assemblies facilitated the participation of a range of social movements. In the Venezuelan case, women's organisations proposed articles on reproductive and sexual rights, while human rights activists helped ensure that a broad conception of human rights was included in the new Constitution. In Bolivia and Ecuador especially, indigenous groups ensured that it was not only their own territorial and legal rights that were recognised but innovative rights such as conferring rights on nature itself.

Iceland on the other hand decided to elect a constituent assembly that bypassed the political parties due to the strong popular hostility to the parties following the financial crash in 2008. Instead a complex process allowed citizens to be nominated for election with the support of between 30 and 50 sponsors. The fact that 522 candidates presented themselves surprised observers, though only 36.8 per cent

of the electorate voted (compared to the 85.1 per cent that had voted in the 2009 general election).

The process resulted in an assembly more representative of civil society than of the country's political parties. A one-day National Forum of 950 citizens chosen randomly from the electoral register gave detailed inputs to its deliberations. Citizens could also follow the assembly's deliberations online and make recommendations on specific points while a mechanism was put in place to ensure that such recommendations received active consideration.

All these processes involved extensive public consultation and more than that they stretched public imagination. In each of them, the Constitution that resulted was broadly progressive, guaranteeing a range of not just civil rights but also social and cultural rights, as well as introducing innovative environmental rights in the cases of Bolivia and Ecuador. In the case of Venezuela, the new Constitution has become a popular document, sold at street kiosks and carried around by citizens in paperback format who refer to it to claim rights from the state. Each of the Latin American cases has also introduced a range of democratic mechanisms to enhance greater accountability by public officials, including the possibility of revocatory elections, while in Iceland provision has been made for referendums if requested by 10 per cent of voters.

Our Government therefore had much to consider. There was not enough active public debate or consultation about how we wanted to go about re-writing our Constitution is an essential part of the process. What we have is a mismatch of the two ideas and something that is neither a pure citizen assembly model nor a full blown constitutional convention model. In particular it is hard to reconcile the mixture of experienced politicians and inexperienced citizens in an equal process. What we are being offered falls between many stools and is likely to disappoint. While Art says 'the ship has sailed' and its design is complete a ship without sails or oars is unlikely to get far it may need to return to port for a refit.

Participation and representation in a republic rests on a bedrock of equality. There can be no equality unless we return to a fundamental re-evaluation of our values. Honohan (2001b:7) acknowledges republican thought is built on a fundamental belief in the interdependency of human beings and the idea of a common good. Ireland has been called a careless state, a republic which acknowledges and understands interdependence would ensure an ethic of care is at the heart of all policy. Recession is an ideal smokescreen for ideologues pursuing an agenda that hijacks and downgrades equality issues in the national policy agenda as 'luxuries we cannot afford'. Ireland in the twenty-first century remains a patriarchal state in which gender inequality is caused by and

embedded in the structures of economic, social and political systems that systematically benefit men more than women. Can the process we are being offered really meet this task?

But is the constitutional convention as an opportunity to assert republican values and to remedy the faultlines and dysfunctions in our political system that directly contributed to the crisis, to fundamentally reform the existing institutions of the Irish Republic. It is a sober thought but maintaining the same political fault-lines means the next crisis is guaranteed.

By inclusive citizenship, Dahl understands that no group will ever get a fair share of resources unless fully engaged in a democratic system; hence limits to participation, such as economic inequality, illiteracy, lack of capacity to acquire the resources to participate, and unequal status, cannot be allowed to become real obstacles for a functioning democratic republic. Income inequality powerfully depresses not only participation in elections, but also political interest and the frequency of political discussion. Much has been said about the forthcoming Constitutional Convention (CC) which is to start in September.

A totally digitised project will surely exclude many, only one in five elderly households is internet connected. If 62/66 citizens in the

assembly are internet connected are they really representative? Despite its clear limitations the Constitutional Convention is an opportunity to make progress but fundamental political reform concerning governance and political institutions and ultimately our capacity to govern ourselves. Our political institutions were the foundations from which we built the Irish political economy model that rendered us so vulnerable. Niamh Hardiman in 2012 argues Irish institutions are not only problematic but also resilient and resistant to meaningful reform. I have elsewhere renamed Fintan O Tooles book SHIP of FOOLS – the SHIP of MEN and written in a TASC publication Gender, Governance and Crisis, about the total absence of women in political business financial and public spheres – this is serious in its consequence – not only a matter of equality – a matter of governance and sustainability – gender equality works for everyone.

To work all citizens must be able to have the capacity to comment on their proposals and an active citizenry must invigilate and challenge any defects in the process. It is clear that the last two requirements imply a genuine equality of condition among citizens, with everyone having a voice. Reviewing a new RIA publication The origins of the Irish Constitution 1928-1941 edited by Gerald Hogan, Carol Coulter (2012) observes rewriting the constitution should not be drawing up shopping lists of reforms and rather is an occasion to consider what

our fundamental values are and what mechanism we need to ensure that they can be upheld. Ronan Keane (2012), responding to the same volume argues the fundamental redrawing of a federal European Union.

Many civil society representatives have argued they should have a specific role as experts in the convention, particularly those that may bring the voice of those under represented. Experts of any type have enormous power, to translate language into agendas, to determine how debates are framed. How will this power be monitored and contained? Other civil society groups argue that a shadow convention might be the best way to engage with the inadequacies of the formal convention. What would be relationship between the two. Most NGO's will simply get on with it, disappointed at the lack of ambition, conscious of the imperfection in the process they will engage where and how they can.

Despite critical assessment of many aspects of the constitutional convention many still hope that the crisis might provide opportunity; the next decade of commemoration offers still more opportunity. Ireland as a republic is weak in its 'public ness' and public sphere. Social partnership has captured the energy and creativity of some of civil society. However new public spheres are growing in strength,

we need places to talk about values outside our silos. Indeed new real and virtual forms of hedge schools, mind fests and talk forums are a feature of the last decade. It will be up to citizens to demand such change from below, to demand better political parties and leadership. Groups like the Claiming our Future and Second Republic have created space for citizens to explore and promote political reform. These spaces need to be gendered and gender needs to be part of their agenda. Congrats to NWCI on creating this space today.

In the last 1937 constitution the 3 women TD's made little contribution to public debate and were called the 'silent sisters'. Many other women spoke out. There will no silent sisters this time. If the state does not enable engagement the sisters will do it themselves.