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How to Have a National Conversation on Wales's Constitutional Future

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Independent Commission on the Constitutional Future of Wales

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Executive Summary

The Welsh Government has recently established *The Independent Commission on the Constitutional Future of Wales* with two objectives:

1. To consider and develop options for fundamental reform of the constitutional structures of the United Kingdom, in which Wales remains an integral part;
2. To consider and develop all progressive principal options to strengthen Welsh democracy and deliver improvements for the people of Wales.¹

In carrying out its work, there is a clear expectation for the Commission to “develop a programme of inclusive engagement with civic society and the Welsh public to stimulate a national conversation” on Wales’s constitutional future.² Such an expectation builds on the First Minister’s stated ambition for the Commission to “seek to engage with the people of Wales, particularly those who may not normally engage in these types of processes”.³ Recognising the centrality of this task, the Commission’s Co-Chair, Prof. Laura McAllister, recently noted that “the most important people in this discussion have to be the citizens of Wales”.⁴

The aim of this discussion paper is twofold: (1) to consider different methods of holding a national conversation that will facilitate the aims of the Commission, and (2) to suggest best practice based upon the experiences of other citizen-informed consultative processes. Our review considers three types of approaches to engaging citizens with constitutional debates and processes:

1. **deliberative mini-publics** (such as citizens’ assemblies and citizen juries) that bring together a small representative sample of citizens to discuss and decide on specific issues;
2. **national conversations** that aim to involve a larger number of citizens across society;
3. **hybrid approaches** that combine both small-scale deliberation with broader society-wide discussions.

We also draw on insights from the Constitutional Futures project co-ordinated by academics at Aberystwyth University’s Centre for Welsh Politics and Society, which has sought to pilot innovative ways of starting new conversations about constitutional politics in Wales.

In reviewing previous efforts at engaging citizens in debates about constitutional issues and processes of constitutional change, **three key challenges** emerge that a national conversation on Wales’s constitutional future must recognise and seek to overcome:

- **Low levels of public interest in, and understanding of, existing constitutional arrangements;** this may hinder citizens’ willingness to engage with any national conversation and limit the extent to which citizens are able to meaningfully consider and evaluate different constitutional options.
- **Inclusive and representative citizen engagement in constitutional debates and processes is very difficult to achieve in practice;** this may compromise and undermine the democratic legitimacy of any eventual constitutional decisions or recommendations.

1 <https://gov.wales/independent-commission-constitutional-future-wales/broad-objectives> (accessed 18 November 2021).

2 Ibid.

3 <https://www.thenational.wales/news/19608326.commission-will-reach-conclusions-wales-future> (accessed 18 November 2021).

4 <https://www.walesonline.co.uk/news/news-opinion/a-chance-grasp-control-destiny-22068892> (accessed 22 November 2021).

- **Citizen-informed processes of constitutional debate and change have mostly not resulted in major constitutional reforms;** this raises the question of how any national conversation on constitutional issues ties into political decision-making, and the extent to which citizen participation is consequential for processes of constitutional change.

In order to address these challenges, and to enable the Commission to facilitate a national conversation on Wales's constitutional future, we make the following recommendations:

A. General recommendations on how to structure a national conversation on Wales's constitutional future

Recommendation 1 - The Commission should adopt an array of methods for citizen involvement as part of the national conversation, in order to provide an opportunity for broad and inclusive citizen engagement as well as more focused and informed deliberation by a smaller representative sample of citizens.

Recommendation 2 - Different methods of citizen engagement are suited for different purposes. More focused deliberation by a smaller representative sample of citizens is better suited for the consideration of specific, complex and legal/technical issues, on the basis of comprehensive and balanced evidence and time for discussion; such an approach is this best suited to the first of the Commission's objectives ("To consider and develop options for fundamental reform of the constitutional structures of the United Kingdom, in which Wales remains an integral part"). In contrast, broader engagement and consultation with the Welsh public is better placed to identify values, preferences and aspirations; such an approach is thus best suited to the second of the Commission's objectives ("to consider and develop all progressive principal options to strengthen Welsh democracy and deliver improvements for the people of Wales").

Recommendation 3 - The Commission should give careful consideration to how these different methods of citizen engagement (small-scale deliberative mini-publics and broader Wales-wide consultation) relate to each other, e.g. how they are sequenced and inform each other. This should take into account the different kinds of issues that may be discussed by each method (specific legal/technical constitutional issues vs. values, preferences and aspirations) and how these can/may inform each other.

Recommendation 4 - In order to evaluate the nature, impact and legitimacy of citizen input into the debate on Wales's constitutional future, the Commission needs to gather evidence on which citizens/groups participate in any national conversation on these issues, and how such participation takes place. This is critical for any evaluation of the success of its citizen engagement strategy.

B. Specific recommendations for the design of an inclusive and representative national conversation on Wales's constitutional future

In relation to the design of a process of citizen deliberation:

Recommendation 5 - The Commission should undertake to organise citizens' juries composed of a representative sample of citizens in different locations across Wales (e.g. in each local authority), as a more cost-effective way of engaging more citizens overall, increasing accessibility, accessing a broader range of views, and raising the profile of the Commission's work.

Recommendation 6 - The selection of citizens for participation in any kind of deliberative mini-public must i) actively promote the recruitment of under-represented and marginalised groups in order to increase the representativeness of the sample of participants; and ii) screen for initial opinions via a survey prior to selection to ensure a range of views and perspectives on the constitutional issues to be discussed.

In relation to the design of a broader Wales-wide phase of citizen engagement and consultation:

Recommendation 7 - A larger scale national conversation must deploy innovative methods

– and not just rely on public meetings - to reach and engage with different citizen groups across Wales. The approach should be developed in consultation with, and draw on the networks of, stakeholders, civil society and community groups who already have extensive experience of citizen engagement.

Recommendation 8 - The provision of online engagement opportunities (e.g. via website or social media) should be considered as part of a national conversation, but is not sufficient by itself to ensure broad and representative citizen engagement. Consideration should be given to collecting basic socio-demographic information for online participants so that the profile of contributors can be evaluated.

Recommendation 9 – In all phases of its citizen engagement strategy, the Commission should aim to give citizens an agenda-setting role, by creating opportunities for citizens to influence what constitutional issues that will be discussed.

C. Recommendations on processes of citizen engagement and involvement

In relation to the specific process of citizen deliberation:

Recommendation 10 - The information provided as the basis for any deliberative mini-public must be balanced and comprehensive, and consideration should be given to incorporating a “learning phase” prior to the start of the deliberation process itself to maximise the opportunities for citizens to gain a full understanding of the issues under consideration.

Recommendation 11 - The timeframe for a deliberative mini-public should be as long as possible to allow sufficient time for information provision, expert interrogation and extensive deliberation of the issues under consideration; deliberation should also be facilitated by trained moderators who actively work to ensure everyone’s voices can be heard and so that an atmosphere of respectful engagement can be maintained.

In relation to the broader process of Wales-wide citizen engagement and consultation:

Recommendation 12 - A broader phase of Wales-wide citizen engagement and consultation must start with a public information campaign that enables citizens to develop an understanding of current political structures in engaging, accessible and relevant ways.

Recommendation 13 – The Commission should explore the potential for using creative processes and practices as one method for engaging citizens as part of the national conversation. Such approaches may be particularly appropriate for understanding citizens’ preferences and concerns, and can open up new spaces for public discussion of the kind of Welsh democracy people want to live in.

Recommendation 14 - In order to maximise their legitimacy, both deliberative and broader Wales-wide citizen engagement phases must be fully transparent about the ways in which decisions or recommendations are arrived at. A culture of radical openness should be cultivated in the administration of the process to the greatest extent possible.

D. Recommendations to ensure that citizen-informed recommendations have an impact

Recommendation 15 - The Commission should urge the Welsh Government to be clear at an early stage how they will respond to the findings of its recommendations. This will encourage citizen participation by making people feel that their contribution matters, thus increasing the legitimacy of the Commission’s work.

Recommendation 16 - The Commission should ensure the ‘buy in’ of politicians and political parties during all phases of its work, given the evidence that lack of support from government or during legislative processes is the main reason for citizen-informed constitutional recommendations failing to make a meaningful impact on the political process.

Recommendation 17 - A media communications strategy should be developed, including

media training/briefing sessions, which can promote understanding and raise awareness of the Commission's work and support effective communication of it to the Welsh public.

Recommendation 18 - After completion of its work, the Commission should consider communicating its achievements and recommendations to the Welsh public in accessible ways, in order to maximise awareness of the citizen engagement process.

Recommendation 19 - The Commission should consider measuring the impact of citizen engagement with its work on i) citizens themselves (in terms of their view of the issues under consideration and their general attitudes towards politics), and ii) the Welsh public (in terms of its awareness of and evaluation of the Commission's work, views on constitutional issues, and general attitudes towards greater citizen engagement in politics). This should be done through regular data collection (e.g. surveys) tailored to different phases and methods of citizen engagement during and immediately after the Commission's work. Such data is essential for the Commission to evaluate the success of a national conversation on Wales's constitutional future.

Introduction

The Welsh Government has recently established The Independent Commission on the Constitutional Future of Wales with two objectives:

1. To consider and develop options for fundamental reform of the constitutional structures of the United Kingdom, in which Wales remains an integral part;
2. To consider and develop all progressive principal options to strengthen Welsh democracy and deliver improvements for the people of Wales.⁵

In carrying out its work, there is a clear expectation for the Commission to “develop a programme of inclusive engagement with civic society and the Welsh public to stimulate a national conversation” on Wales’s constitutional future.⁶ Such an expectation builds on the First Minister’s stated ambition for the Commission to “seek to engage with the people of Wales, particularly those who may not normally engage in these types of processes”.⁷ Recognising the centrality of this task, the Commission’s Co-Chair, Prof. Laura McAllistair, recently noted that “the most important people in this discussion have to be the citizens of Wales”.⁸

The aim of this discussion paper is twofold: (1) to consider different methods of holding a national conversation that will facilitate the aims of the Commission, and (2) to suggest best practice based upon the experiences of other citizen-informed consultative processes. In our view, such a national conversation:

- must secure input from as many people as possible,
- from the widest possible range of backgrounds and experiences,
- with the issues at hand presented to them in a way they can understand, and with opportunities to respond in ways that allow them to express themselves effectively.

This will ensure the Commission’s recommendations most closely reflect the values and preferences of the people of Wales.

We focus specifically on comparing and evaluating the experiences of three types of approaches to engaging citizens with constitutional debates. These can be differentiated in terms of the number of citizens typically involved:

1. **deliberative mini-publics** (such as citizens’ assemblies and citizen juries/panels) that bring together a small representative sample of citizens to discuss and decide on specific issues;
2. **national conversations** that aim to involve a larger number of citizens across society;
3. **hybrid approaches** that combine both small-scale deliberation with broader society-wide discussions.

We also present insights from the Constitutional Futures project, which has sought to pilot innovative ways of starting new conversations about constitutional politics in Wales (Text Box 1).

Taking advantage of recent developments in the research and practice of holding these different kinds of citizen-informed approaches to constitutional change will support the

⁵ <https://gov.wales/independent-commission-constitutional-future-wales/broad-objectives> (accessed 18 November 2021).

⁶ Ibid.

⁷ <https://www.thenational.wales/news/19608326.commission-will-reach-conclusions-wales-future> (accessed 18 November 2021).

⁸ <https://www.walesonline.co.uk/news/news-opinion/a-chance-grasp-control-destiny-22068892> (accessed 22 November 2021).

Commission to deliver on its ambition to ensure citizens' voices have a central place in the debate about Wales's constitutional future.

In the next section, we briefly outline the growing interest among scholars and politicians in whether and how citizens can take part in debates about, and be involved in processes of, constitutional design and reform. We also introduce in more detail the three types of approaches to citizen engagement with constitutional issues, and present a framework that analyses them in terms of the i) what citizens are involved, ii) how this involvement takes place, and iii) the impact such citizen-involvement has on decision-making in relation to constitutional issues. It is our contention that these aspects – the what, how and impact of citizens' input into constitutional debates – are critical determinants of the democratic legitimacy of any process of constitutional debate or reform. Section 3 proceeds to consider each of these dimensions of citizen involvement and participation in turn.

Text Box 1

The Constitutional Futures project (<https://constitutional futures.aber.ac.uk>) - co-ordinated by Dr. Anwen Elias and Prof. Matt Jarvis from Aberystwyth University's Centre for Welsh Politics and Society - aims to start new conversations about how Wales should be governed, as the basis for imagining different constitutional futures. It is piloting innovative ways of engaging citizens in discussions about constitutional politics that affect them but rarely include them. Working with partners including Co-Production Network Wales, Omidaze Productions and Swansea University, the project has hosted online discussion groups and poetry workshops with different communities across Wales, and will be exploring the use of other creative approaches to citizen engagement over coming months.

Context and Framework for Analysis

The Welsh Government's ambition to involve citizens in discussions on Wales's constitutional future must be seen in a broader context where, over several decades, fears that representative democracy is in crisis have grown: fewer people turn out to vote in elections, there is a growing sense of distrust of politicians and political parties, and citizens feel increasingly detached from and unhappy with elected political institutions. In response, public authorities and civil society organisations around the world – and at different levels of government – have sought to find new ways of re-engaging citizens with politics. These efforts at increasing and deepening citizen participation in the political decision-making aim to bolster **democratic legitimacy**: political decisions should better reflect the preferences and needs of citizens, and citizens are more likely to accept political decisions that they feel they've had a say in shaping.

Since the 1990s, such citizen engagement efforts have increasingly taken a 'constitutional turn'. Historically, constitution-making and revision has mostly involved elites such as constitutional lawyers and politicians.⁹ In contrast, the case has increasingly been made that involving citizens in constitutional processes is essential for the legitimacy of any resulting constitutional proposals or settlement.¹⁰ There is also growing evidence that doing so increases public knowledge about and a sense of ownership of constitutional arrangements.¹¹

There has thus been a growing interest in whether and how citizens can take part in debates about, and processes of, constitutional design and reform. Whilst referendums have long been used as a tool for giving citizens a direct say on constitutional issues, more recently other innovative approaches have also been deployed. These have included new forms of citizen participation and deliberation via public consultations, online forums and social media, constitutional assemblies and deliberative mini-publics (see Table 1). In particular, much attention has been paid to recent experiments in participatory constitution-writing in Iceland and Ireland as possibilities of creating new paths to constitutional change (see Text Box 2).

9 Elster, J. (1995) 'Forces and mechanisms in the constitution-making process', *Duke Law Journal*, 45: 2, 364–96.

10 Dryzek, J. (2010) *Foundations and Frontiers of Deliberative Governance*. Oxford: Oxford University Press; Parkinson, J. (2006a) *Deliberating in the Real World: Problems of Legitimacy in Deliberative Democracy*. Oxford: Oxford University Press; Eisenstadt, T.A., LeVan, A.C., Maboudi, T. (2015), 'When talk trumps text': The democratizing effects of deliberation during constitution-making, 1974-2011', *American Political Science Review*, 109, pp. 592-612.

11 Widner, J. (2005), *Constitution Writing and Conflict Resolution*, No RP2005-51, WIDER Working Paper Series, World Institute for Development Economic Research (UNU-WIDER). Available at: <https://EconPapers.repec.org/RePEc:unu:wpaper:rp2005-51> (accessed 21 October 2021).

Table 1

Location (Year)	Name	Topic	Format (number of People)	Constitutional outcome
UK (1994-8)	'Power and the People' Deliberative Polls	Britain's role in EU, future of monarchy	Deliberative Poll (c.300)	Deliberations recorded and highlights shown on Channel 4.
Australia (2002-3)	South Australian Constitutional Convention	Reform of the South Australian Constitution (including role and function of Houses of Parliament, number of MPs, citizen-initiated referenda, functioning of government, electoral system reform).	Citizens' Assembly (330)	No change due to lack of parliamentary support.
British Columbia, Canada (2004)	Citizens' Assembly on Electoral Reform	Electoral system reform	Citizens' Assembly (161)	Failed in a referendum for not meeting required majority threshold (60%)
Ontario, Canada (2006)	Citizens' Assembly on Electoral Reform	Electoral system reform	Citizens' Assembly (103)	Failed to gain majority support in a referendum
Netherlands (2006)	Citizens' Forum on the Electoral System	Electoral system reform	Citizens' Assembly (140)	Recommendations side-lined after change in composition of coalition government
Scotland (2007)	A National Conversation	Discussion of constitutional options for Scotland's future (mainly feasibility of independence)	National Conversation (c. 474k website hits, 4,300 website comments, 3,500 attendees at meetings)	No increase in support for independence, but promoted new levels of debate on constitutional issues.

Table 1 (continued)

Location (Year)	Name	Topic	Format (number of People)	Constitutional outcome
Wales (2007-9)	The All Wales Convention	Improve understanding of devolved government, evaluate support for primary law-making powers for National Assembly for Wales.	National Conversation (c.1,700 attendees public events, 392 submissions to website, 1,925 responses to questionnaire, 76 submissions of evidence)	Recommendation to continue to the next stage of proposed devolution of powers for Wales, approved by referendum in 2011.
Australia (2009)	Citizen's Parliament	Harmonisation of laws between states, electoral reform, devolution and political education.	Citizens' Assembly (150)	Proposals heard in Australian Senate, but no reforms.
Iceland (2010-3)	Constitutional Assembly	Draft new Icelandic constitution (see summary in Text Box 2).	National Forum (950); Constitutional Committee (7 experts); Constitutional Council (25)	Draft constitution approved by non-binding referendum, but proposals lacked legislative support in the Icelandic Parliament and were abandoned.
Egypt (2012)	Constituent Assembly	Draft new constitution	Regional public meetings to solicit constitutional proposals; constitutional drafts available online for public comment and voting.	New constitution ratified by referendum in September 2012 but suspended by the Egyptian army in 2013.
Ireland (2012-14)	The Convention on the Constitution	10 issues for discussion (see summary in Text Box 2).	Citizens' Assembly (100 (29 parliamentary representatives, 4 representatives of Northern Irish political parties, 66 citizens))	3 referendums have been held on issues resulting from the Convention: same-sex marriage (passed), reduction in age limit for President (failed) and removal of blasphemy offense (passed)

Table 1 (continued)

Location (Year)	Name	Topic	Format (number of People)	Constitutional outcome
UK (2015)	Citizens' Assemblies on English Devolution	Scope and scale of potential devolution of powers to local/ regional government	Citizens' Assembly North (Sheffield, 32 citizens + 15 local politicians) Citizens' Assembly South (Southampton, 23 citizens + 6 local politicians)	Key findings presented to local stakeholders and UK parliamentary committees and discussed widely in the media. Goal of using the assemblies as a pilot for a UK-wide constitutional convention has not been realised.
Chile (2015-16)	Constitutional Process Open to Citizens	Draft new constitution	Local, provincial, and regional consultation (questionnaire and public meetings)	Recommendations presented to the Chilean President in 2016 but reforms abandoned after election of new President in 2018. A new constitution is currently being drafted by an elected Constitutional Convention with provisions for citizen input (public meetings, submission of proposed content, interim referendum).
Ireland (2016-2018)	The Citizens' Assemblies	Abortion, the challenges of an ageing population, fixed-term parliaments, how referendums are held, climate change	Citizens' Assembly (99 plus Chair)	Referendum on abortion passed in 2018. Joint Committee on Climate Action established in 2019, with a further citizens' assembly on biodiversity loss as a result of climate change planned.

Text Box 2 – Constitutional reform in Iceland and Ireland

Iceland: The process of constitutional reform in Iceland began after the 2008 financial crisis, when the collapse of the country's banking system precipitated an economic and political crisis. In what became known as the 'pots and pans revolution', Icelanders took to the streets - banging their kitchenware - to protest against incompetent and corrupt politicians, and demanded an overhaul of political and economic institutions that were perceived to be dysfunctional.

In April 2009, a new centre-left coalition government was elected which began a three-stage process of constitutional reform:

- A National Forum of 950 randomly-selected individuals met for one day to gather the public's views on how the country's government and its constitution should be organised. Key priorities were the protection of human rights, democracy, transparency, equal access to healthcare and education, stronger financial regulation, and public control of Iceland's natural resources.
- These views were considered by a 7-member Constitutional Committee appointed by the Icelandic parliament. The Committee drafted a 700-page report that included proposals for constitutional revisions.
- These proposals were passed to a 25-member Constitutional Council made up of ordinary citizens. Tasked with producing a draft constitution, the Council opened this process up to the public: its deliberations were livestreamed online, whilst drafts of the constitution were made available via its website and social media for comment and discussion. This incremental and iterative 4-month process produced 12 drafts in total and has been described as the world's first "crowdsourced" constitution. A final draft of a new constitution was approved unanimously by the Council and presented to the Icelandic parliament on 29 July 2011.

After considerable political wrangling, a further revised draft constitution was put to an advisory referendum on 20 October 2012. 49% of registered voters took part, with 67% of those in favour of adopting the draft as the basis for a new constitution. Responsibility for approving a new constitution then shifted back to the Icelandic parliament. However, the bill to enact the new constitution faced strong opposition from some political parties and interest groups, and was never passed into law.

Ireland: The unprecedented economic and financial crises that began in 2008 also provided the context to discussions about constitutional reform. The failure of Ireland's governmental institutions to anticipate and adequately address the country's economic difficulties led to a declining level of trust in the Irish government and prompted widespread demands for political and institutional reform.

In February 2011, a newly-elected coalition government between Fine Gael and Labour agreed to establish a constitutional convention. The Convention on the Constitution (CC) was established in 2012 and was composed of 100 members: 66 citizens (chosen at random to reflect the demographic profile of the Irish population), 33 politicians (nominated by the Irish and Northern Irish parliaments) and 1 independent chairman (appointed by the Irish government).

The Convention adopted a 'citizen assembly' model and met over 8 weekends between 2012 and 2014. It deliberated on a total of 10 issues. 8 of these were specified by the Irish government: marriage equality, blasphemy, the role of women in the home and public life, women in politics, the electoral system, voting age, votes for non-Irish residents in presidential elections and the length of the Irish president's term of office. A further 2 issues were selected after the general public were invited to submit suggestions: parliamentary reform, and social, economic and cultural rights.

The Convention made 40 specific policy recommendations. When establishing the Convention, the Irish government committed to the timely consideration of any

recommendations made by it. To date, this has resulted in three referendums on proposed changes to the Irish constitution being held. On 22 May 2015, a proposal to reduce the minimum age for presidential candidates was defeated (by 73% against to 27% in favour), whilst another to allow for same-sex marriage was approved (by 62% in favour to 28% against). A referendum on 26 October 2018 approved the removal of the offence of blasphemy from the Irish Constitution (65% in favour, 35% against). Most of the Convention's other recommendations are either still under consideration by the Irish parliament or have been committed to in principle by subsequent Irish governments.

In order to facilitate our review and evaluation of different approaches to giving citizens a say on constitutional issues, it is helpful to differentiate between three main ways of engaging citizens with such debates and processes:

i) **Deliberative mini-publics:** these are events (such as citizens' assemblies, citizen juries and panels) that bring together a small number of citizens that are deemed to be representative of broader society in some way (e.g. age, gender, education, geography or social class) in order to discuss and decide on specific issues. Numerous models of representative deliberative processes have been developed, tested and implemented across the world;¹² Table 2 summarises some of the most commonly used to derive citizen recommendations and opinions on policy questions. Typically, such events follow a three-stage process: i) citizens are provided with balanced and evidence-based information on the topic under discussion; ii) the information provided is considered, discussed and deliberated on; iii) on the basis of this deliberation, a final position is taken on an issue (through consensus or voting). Deliberative mini-publics have been widely used to consider a range of political issues, including constitutional issues (see Table 1). Proponents of deliberative approaches to constitutional reform have argued that the intrinsic importance of constitution-making requires that procedures be based on rational and logical argument, and that the deliberative model is particularly suited to such tasks.¹³

12 For a detailed overview of different models, see OECD (2020) *Innovative Citizen Participation and New Democratic Institutions*. Paris: OECD Publishing. Available at: <https://www.oecd-ilibrary.org/sites/339306da-en/1/1/index.html?itemId=/content/publication/339306da-en&csp=07698b7c924c319d92a6500bf563da&itemIGO=oe&itemContentType=book> (accessed 5 January 2022).

13 Suiter, J. and Reuchamps, M. (2016) 'A constitutional turn for deliberative democracy in Europe?', in: M. Reuchamps and J. Suiter (eds), *Constitutional Deliberative Democracy in Europe*. Colchester: ECPR Press, p. 4.

Type of mini-public	Average number of participants	Timescale
Citizen Juries or Panels	15-25	Typically 2-4 days
Citizen Assemblies	30-300	Typically around 40 days of active participation over the course of several months, but sometimes much shorter timeframes (to consider fewer issues).
Citizens' Dialogues	150-200	Typically 2-3 days of deliberation
Deliberative Polling	130-400 (Usually 350-400 total participants including control groups, of whom around 100 will be asked to deliberate.	Typically 2-3 days of deliberation

ii) **National conversations:** a defining feature of such initiatives is citizen involvement at a larger scale than deliberative mini-publics; the aim is thus for participation by society more broadly (i.e. the maxi-public). Calls for 'national conversations' are commonplace in politics, and – like deliberative mini-publics – have been held on a range of political issues. As noted in Table 1, they have also been adopted as a way of prompting discussion on constitutional politics in the UK in particular. In practice, there is no single model or methodology for having such a conversation; understandings of the 'nation' to be addressed have varied widely, as has the kind of 'conversation' that is sought and how this is had. In general, however, there has arguably been a shift away from elite-driven and dominated debates on specific issues, towards national conversations that are more inclusive and participatory, and which aim at more in depth and higher quality discussion. In this respect, national conversations have increasingly sought to achieve the kind of deliberation characteristic of deliberative mini-publics; speaking of the 'National Conversation on American Pluralism' held between 1994-7, for example, its main organiser recalls the aspiration that "participants would learn from each other during the conversation, and the act of conversing might also push them to develop their own thoughts in ways that would not happen in isolation".¹⁴

iii) **Hybrid approaches that combine small-scale deliberation with broader public engagement:** more recently, several constitutional reform initiatives have adopted a mixed-method approach to citizen involvement and participation. The Icelandic constitutional process exemplifies such an approach, conceived as a multi-phase approach to citizen engagement at different scales, in different ways, at different points of the constitutional reform process (see Text Box 2).

In the rest of this paper, we undertake a comparative overview of these different ways of

¹⁴ Hackney, S. (1997), *One America, Indivisible: A National Conversation on American Pluralism and Identity*. Washington, DC: NEH, pp. 65-6.

engaging citizens with constitutional issues; and evaluate the strengths and weaknesses of different approaches. In order to do so, we deploy a framework developed by scholars to conceptualise and evaluate the democratic legitimacy of political systems and processes. We differentiate between three phases of decision-making where democratic legitimacy can be assessed: input, throughput and output phases. For each phase, we consider the nature of citizen involvement and participation, and the extent to which this has impacted on the legitimacy of constitutional reform:

4. The **input phase** considers what opportunities are available to citizens to be involved in debates about and processes of constitutional reform: *who gets to participate, and who gets to decide on what constitutional issues are to be discussed?*
5. The **throughput phase** focuses on the process of citizen involvement and participation itself: *how does involvement/participation take place, and how are decisions on constitutional issues taken?*
6. The **output phase** is concerned with the impact of citizen engagement and participation: *to what extent do citizen-informed proposals or recommendations influence decision-making on constitutional issues, and impact on society and politics more broadly?*

In the next section, we use this framework to map and evaluate the three types of approaches to citizens involvement and participation in debates on and processes of constitutional reform. In doing so, it should be noted that the academic literature that we draw on has, in general, paid unequal attention to the evaluation of the different approaches to citizen engagement outlined above. On the one hand - and as the political and scholarly interest in deliberative democracy innovations has grown - efforts to assess the detailed institutional design, operation and impact of deliberative mini-publics has also increased. On the other hand, and even though national conversations as a method of citizen engagement have been around for much longer, there is a dearth of work that has sought to analyse and evaluate the quality or impact of such initiatives. This makes evaluating the nature, impact and legitimacy of citizen input into national conversations on constitutional issues particularly challenging.

Constitutional Conversations and Deliberations: A Comparative Overview

3.i The input phase: opportunities for citizen involvement and participation in constitutional reform

3.i.a. Who participates?

A key distinction between different approaches to citizen engagement and participation at the input stage relates to the scale of involvement. Deliberative democracy formats typically only involve a very small number of participants, and are usually confined to citizens only (see Table 1).¹⁵ This is because the kind of intensive discussion between citizens that deliberation entails is very difficult to achieve at scale; “meaningful participation in collective decision by anything more than a tiny minority is inconceivable in contemporary nation states”.¹⁶ Crucially, however, the citizens chosen to participate in the deliberative event are representative in some way of the larger society they come from. In this respect they constitute a ‘mini-public’: they are ‘mini’ because they are small scale, manageable, and purposefully designed settings; they are ‘publics’ because the deliberation that takes place is taken to represent, or speak for, some larger public.¹⁷ In this sense, a deliberative mini-public “models what the electorate would think if, hypothetically, it could be immersed in intensive deliberative processes”.¹⁸

Citizen selection is usually achieved through a process of random sampling - often undertaken by polling companies - so that in principle every citizen from a defined population has an equal chance of being selected to participate. Advocates of deliberative democracy approaches argue that this approach to citizen selection gives you a mini-public where all viewpoints are represented. In this way, a deliberative mini-public should give you a good approximation of what citizens in general think of the issues under consideration when presented with relevant information on a topic, eventually leading to more legitimate decisions.¹⁹

There are, however, important limitations to the deliberative mini-public approach. A key consideration is that these, by their nature, include only a small number of people. In other words, mini-publics are not designed to engage society more broadly and are thus not appropriate (by themselves) if that is the goal.

Furthermore, in practice, there is evidence that it can be difficult to get a representative sample of citizens to participate in deliberative mini-publics. In part, this may be due to problems such as high levels of turnover and difficulty in ensuring that members attend sessions.²⁰ However, there are also challenges linked to the selection of citizen participants in the first place:

15 There are some exceptions to the citizens-only format of deliberative mini-publics. Ireland’s CC also included politicians as members of the citizen’s assembly, alongside citizens themselves (see Text Box 2), whilst a Constitutional Forum held in Romania in 2013 involved citizens alongside experts and civil society groups - see Gherghina, S. and Miscoiu, S. (2016), ‘Crowd sourced legislation and politics: The legitimacy of constitutional deliberation in Romania’, *Problems of Post-Communism*, 63: 1, 27-36.

16 Dryzek, J. (2001), ‘Legitimacy and economy in deliberative democracy’, *Political Theory*, 29: 5, p. 652.

17 Chambers, S. (2009), ‘Rhetoric and the public sphere: Has deliberative democracy abandoned mass democracy?’, *Political Theory*, 37: 3, 323-350.

18 Fishkin, J. (1991), *Democracy and Deliberation*, New Haven: Yale University Press, p.81; also Fishkin, J. (2009), *When the People Speak. Deliberative Democracy and Public Consultation*. Oxford: Oxford University Press.

19 Fishkin, *When the People Speak*; Contiades, X. and Fotiadu, A. (2014), ‘Introduction: Participatory constitutional change’, in X. Contiades and A. Fotiadu (eds), *Participatory Constitutional Change. The People as Amenders of the Constitution*. London: Routledge, p. 4.

20 Farrell, D., Suiter, J. and Harris, C. (2019), ‘Systematizing’ constitutional deliberation: The 2016-18 Citizens’ Assembly in Ireland’, *Irish Political Studies*, 34: 1, pp. 113-123.

- Citizen selection typically aims for descriptive representation, i.e. citizens that reflect selected socio-demographic characteristics of the population. There is growing evidence, however, that the citizens selected to participate in such mini-publics are not always fully representative of the larger population. Reflecting on Ireland's Convention on the Constitution (CC), for example, Suiter et al. note that certain groups (the homeless, new Irish citizens, the traveller community) were absent from the discussions due to small sample sizes and a lack of specific effort to recruit them, whilst it was more difficult to get women with young children to attend because of a lack of budget for childcare facilities.²¹ A similar point has been made about deliberative democracy events more generally: "not every group will have a black member, not every group will have someone from an isolated rural community, not every group will have a young mother on welfare".²² Others have argued that socio-economic status can also impact participant recruitment, with those from poorer groups less able to participate. To combat this James Fishkin, an early proponent of deliberative methods, offered payment to encourage and allow those from lower socioeconomic groups to participate in his polls.²³
- A sample of citizens that is representative in terms of socio-demographic characteristics does not necessarily mean that the members are representative of all the views that exist in society at large. This was a problem acknowledged by the team who organised the 'We the Citizens' citizen assembly in Ireland in 2011: whilst invitations to participate were issued to a random sample of Irish citizens, those who accepted the invitation were generally much more interested in politics than the general population.²⁴ Farrell et al. go further to argue that there is a liberal bias inherent in all deliberative democracy projects since those of a liberal disposition are more likely to participate.²⁵ This was seen in the composition of the Irish Citizens' Assembly 2016-18 in terms of members' views on the issue of abortion, with a majority already in favour of abortion reform.²⁶

A final thing to note about the use of deliberative mini-publics in relation to constitutional issues is the general preference for using the citizen assembly model (see Table 1). These have been particularly favoured in the Canadian, Irish and UK contexts, and previous experiences have strongly informed the design, implementation and evaluation of later efforts. What is absent in the extant literature is an evaluation of the strengths and weaknesses of the citizens' assembly model relative to other models of deliberative mini-public for the consideration of constitutional issues. In particular, little consideration has been given to the use of citizen juries or panels for such purposes, even though this is by far the most used model of citizen deliberation around the world.²⁷ Citizens' juries/panels follow the same learning, deliberation, and decision-making phases as citizens' assemblies, but over a shorter timescale; they also typically involve fewer people (see Table 2 above). For the purposes of including a deliberative dimension to any national

21 Suiter, J., Farrell, D. and Harris, C. (2016), 'The Irish Constitutional Convention: A case of 'high legitimacy'?', in Reuchamps and Suiter (eds), *Constitutional Deliberative Democracy in Europe*, p. 35.

22 Parkinson, J. (2006), *Deliberating in the Real World: Problems of Legitimacy in Deliberative Democracy*. Oxford: Oxford University Press, p. 79.

23 Fishkin, J. and Farrar, C. (2005), 'Deliberative polling: From experiment to community resource', in J. Gatsil and P. Levine (eds), *The Deliberative Democracy Handbook: Strategies for Effective Civic Engagement in the 21st Century*. San Francisco: Jossey-Bass, p. 74.

24 More recent citizen assemblies have sought to address this problem by ascertaining people's views on the issues to be discussed and selecting participants across a range of viewpoints. For example, the Citizen's Assembly on Brexit held in September 2017 also selected people on the basis of whether they voted to leave, remain, or didn't vote at all, in the 2016 Brexit referendum. See <https://constitution-unit.com/2017/09/08/citizens-assembly-on-brexit-how-were-the-members-selected/>

25 Farrel, D., Suiter, J., Cunningham, K. and Harris, C. (2020), 'When mini-publics and maxi-publics coincide: Ireland's national debate on abortion', Representation, DOI: [10.1080/00344893.2020.1804441](https://doi.org/10.1080/00344893.2020.1804441)

26 Farrell et al., 'When mini-publics and maxi-publics coincide', p. 13.

27 OECD, *Innovative Citizen Participation*. There is also experience in Wales of using citizens' juries. The Welsh Government-funded *Measuring the Mountain* project, for example, used such a model to explore the experiences of social care in Wales. The project report can be found at: <https://gov.wales/sites/default/files/publications/2020-12/measuring-the-mountain.pdf> (accessed 7 January 2022).

conversation on Wales's constitutional future, they have the following potential advantages relative to a citizens' assembly:

- The smaller scale of citizens' juries/panels makes it more feasible to hold multiple deliberative events across a wide geographical area. For example, the National Conversation on Immigration (see Text Box 3 below) held 60 citizens' panels across the UK. Such a de-centralised approach would **enable citizen deliberation to be extended across all parts of Wales (in contrast to a citizens' assembly held in one location) and make it easier for citizens to attend.**²⁸
- Holding a larger number of smaller deliberative mini-publics in this format can potentially **increase the overall number of citizens that take part**, thus going some way to addressing the criticism that deliberative mini-publics only involve a very small number of people. It can also enable the inclusion of citizens with a broader range of views, thus acknowledging the challenge faced by many citizens' assemblies in this respect.
- The holding of citizens' juries/panels can also be accompanied by other events in the same locations (such as public discussions, stakeholder meetings etc.), **thus raising broader awareness of and involvement with the constitutional debate.**
- The preparation for and delivery of citizens' juries/panels can be **standardised across all events** (e.g. in terms of preparation of learning materials), but a **decentralised approach also allows for flexibility to tailor agendas and materials to specific needs or issues in different places**, e.g. special citizens' juries for marginalised groups whose input may otherwise be hard to identify.
- The OECD estimates the unit price of delivering a citizens' jury/panel to be £66.5k vs £1.8 million per event average cost for a citizens' assembly.²⁹

In contrast, national conversations on constitutional issues have sought to engage a much larger number of citizens, the so-called 'maxi-public'. For example, the SNP aspired to a "national conversation on our future to allow the people of Scotland to debate, reflect and then decide on the type of government which best equips us for the future",³⁰ whilst the All Wales Convention (AWC) aimed to "facilitate and stimulate a widespread, thorough and participative consultation at all levels of Welsh society on the issue of primary law-making powers".³¹ These two initiatives employed a range of means to facilitate such a discussion, including public meetings, online consultation and (in the latter case) a questionnaire. They also sought to engage a range of stakeholders alongside citizens.

A key challenge facing such 'national conversations', however, is their eventual reach in terms of citizen engagement. For example, in total some 3,500 are estimated to have attended the SNP's public meetings, compared to some 1,700 in the Welsh case; these are very small numbers relative to the Scottish and Welsh electorates respectively.³² Harvey also notes for the Scottish case that whilst those attending these meetings were generally happy to listen and talk to SNP ministers, they were also often keen to steer the discussion away from constitutional issues in order to talk about other issues that mattered more to them.³³ The number of online submissions in each case was also quite low, and included those from stakeholders as well as individual citizens.³⁴ The crowdsourcing part of the

28 Rutter, J. and Carter, R. (2018) *National Conversation on Immigration. Final Report*. London: British Future and HOPE Not Hate, p. 24. Available at: <http://nationalconversation.uk/final-report/> (accessed 6 December 2021).

29 OECD, *Innovative Citizen Participation*, Table 3.1.

30 Scottish Government (2007), *Choosing Scotland's Future: A National Conversation – Independence and Responsibility in the Modern World*. Edinburgh: Scottish Government, p. v.

31 All Wales Convention (2009) *Report of the All Wales Convention*. Cardiff: National Assembly for Wales, p. 9.

32 Harvey, M. (2014) *Conversing with the Nation: Consultations and Referendums in Scotland and Wales under Devolution*. Unpublished PhD thesis, Stirling University, pp 185-7; 203-4.

33 Harvey, *Conversing with the Nation*, p. 181.

34 Ibid.

Icelandic constitutional experiment – which gave the constitutional draft its pedigree of the first participatory constitution in the world - resulted in a similarly low-uptake. As noted in Text Box 1, a key innovation was the invitation to citizens to submit written suggestions of what they'd like to see included in a new constitution via an online portal; ultimately only 360 suggestions emanated from a population of 320,000 or so.³⁵ The key lesson here is that even when there is an opportunity for broad participation, this is not taken advantage of by a large number of people.

In the Scottish and Welsh cases, there is little data available on the extent to which those who did engage with the 'national conversation' were representative of the Scottish/Welsh populations, although it has been noted that AWC's public meetings tended to attract "only people who were strongly in favour or deeply hostile to the referendum [on further powers to the Assembly], leaving a wide opinion gap in the middle".³⁶ There is more evidence from Iceland that flags up the biases that may arise from such open calls for citizen engagement and participation. An analysis of the profiles of those who took up the opportunity to suggest things to include in the constitution reveals that these were mostly middle-aged men who were highly engaged with specific political issues.³⁷ One of the members of the Constitutional Council has similarly noted that "the people who participated in the online dialogue were a self-selecting cohort, that is generally more interested in topics such as the freedom of speech and the Internet, than the members of the general Icelandic public".³⁸

The difficulty of reaching citizens beyond those who are already politically engaged was also encountered by the Constitutional Futures project:

- For an initial round of online workshops, the project team deliberately set out to talk to individuals and communities in West Wales that are typically not considered to be very politically engaged (such as those in socio-economically deprived areas and groups considered as 'hard to reach'). In this respect, the project failed to meet its goal: those who signed up via an open call for participants were white, mostly middle-aged and male, highly interested and – in many cases – already active in politics. Follow-up discussions with various community groups indicated that a more targeted and bespoke engagement strategy developed in co-operation with key stakeholders and community groups would be more likely to reach a broader and less politically engaged audience.
- Informed by this experience, a second round of workshops with young people aged 16-26 was more successful in recruiting more ethnically and gender diverse participants, this time from across Wales. This was achieved by exploiting the project team's existing networks (of young people and key stakeholders) and employing a young person to work as a 'peer recruiter', alongside an open call for participation via social media. In the workshop, and in a radical departure from top-down approaches to the development of citizen engagement strategies, participants were asked to share their own ideas for how to have a national conversation on Wales's constitutional future; these are summarised in Figure 1 below and encompass a considerably more diverse and innovative range of engagement methods than have been deployed elsewhere.

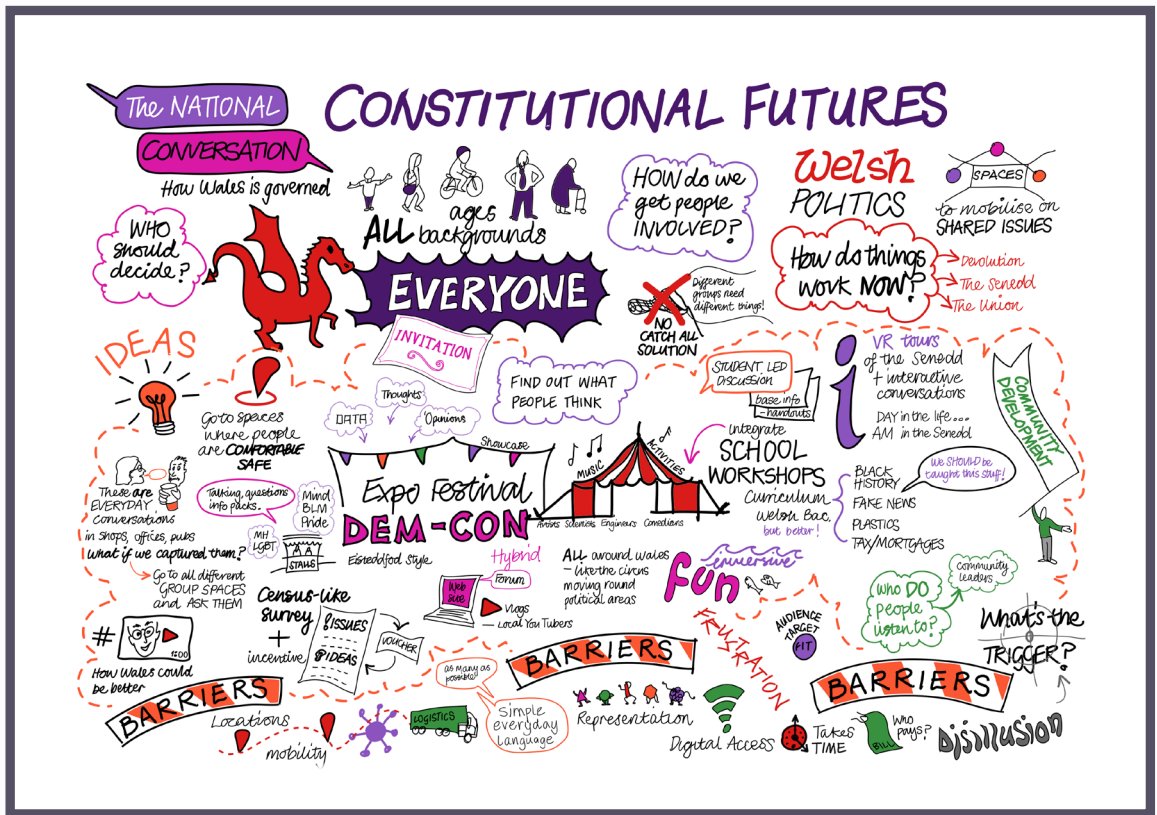
35 Landemore, H. (2014), 'Inclusive constitution-making: The Icelandic experiment', *The Journal of Political Philosophy*, 23: 2, p. 17.

36 Stirbu, D. and McAllister, L. (2011), 'An exercise in democratic deliberation: The All Wales Convention's contribution to constitutional change', *Contemporary Wales*, 24, p. 73.

37 Hudson, A. (2018), 'When does public participation make a difference? Evidence from Iceland's crowdsourced constitution', *Policy and Internet*, 10: 2, p. 196.

38 Oddsdottir, K. (2014), 'Iceland: Birth of the world's first crowd-sourced constitution?', *Cambridge Journal of International and Comparative Law*, 3: 4, p. 1217.

Figure 1 How should we have a national conversation on Wales's constitutional future?³⁹



One way forward for increasing the number and diversity of citizens engaging with any national conversation on Wales's constitutional future may be to combine different approaches in an effort to engage both mini- and maxi-publics at different stages of the process. Three examples serve to illustrate how this has been done in different places:

- As noted in Text Box 2 above, Iceland's constitutional reform process adopted an innovative three-phase engagement with i) randomly selected citizens (to generate initial values and preferences to be reflected in the constitution), ii) constitutional experts (to discuss citizens' views and suggest draft constitutional text), and iii) a smaller number of elected/appointed citizens (to deliberate on and draft the constitution, with input from the general population).
- In Ireland, the 'We the Citizens' citizens' assembly was preceded by a series of open public meetings in different locations. Their aim was to discuss the visions of ordinary citizens of what kind of Ireland they would like for the future, and themes emerging from these events informed the issues discussed at the citizen's assembly a few months later.
- Although not focused on constitutional issues, the 'National Conversation on Immigration'⁴⁰ provides an instructive example of a mixed-methods approach to citizen engagement, which included citizens' panels and stakeholder meetings across the UK, an open online survey, and a nationally representative survey (for further details, see Text Box 3).

39 This illustration was produced by an artist who attended the workshops, and who sought to capture in visual form the issues discussed by participants.

40 Rutter and Carter, National Conversation on Immigration.

Text Box 3: The National Conversation on Immigration

The National Conversation on Immigration (NCI) (<http://nationalconversation.uk>) was a consultation to explore opinions about, and possible policy towards, immigration to the UK in the wake of Brexit. It was run by the think-tank British Future and the anti-racism group Hope Not Hate between January 2017 and April 2018.

The NCI consisted of five streams of data collection:

- **60 citizen panels in towns and cities across the UK**, each composed of 10 representative members of the public. Panels were facilitated by trained moderators and lasted for around 1.5 hours. Participants were asked about the impact of migration in their local areas and the approach that they would like to see the Government take, their views on integration and about how the debate about migration could be kept decent and non-prejudiced.
- **Stakeholder meetings in each of the locations where panels took place**, open to public bodies, businesses, charities and NGOs. These discussed the policy changes they sought for immigration related matters.
- **An open survey** that asked respondents to rate and explain their attitudes to immigration. The survey ran for the duration of the national conversation and received 9,327 responses.
- **A nationally representative survey** run by ICM that asked a similar set of questions to the open survey, though in more detail; follow-up surveys focused on opinions in Scotland, Northern Ireland, UK adults born outside the UK, and ethnic minority adults. Responses were gathered from 3,667 people.
- **Events organised by other allied organisations** (e.g. NGOs and charities), including citizens' panels, schools workshops and public/sectoral meetings. Together, these attracted over 6000 people.

The conclusions of the NCI were presented to the HoC Home Affairs Committee as part of an inquiry into the future direction of immigration policy in the UK. These consisted of 9 principles to guide policy formation and 47 more concrete recommendations for specific policy action.

3.i.b Who sets the agenda?

The question of who sets the agenda for discussion in constitutional processes goes to the heart of issues of power: it directs attention to who is able to decide the nature and scope of the constitutional issues at stake.

In most cases – whether deliberative mini-publics or ‘national conversations’ – the agenda is set by the political elite. This may be more or less constrained in terms of the issues that are up for consideration, and there may be more or less scope in practice for citizens to shape the actual substance of discussion. For example, many of the earliest citizen assemblies on constitutional change (such as those in British Columbia and Ontario – see Table 1) were tasked with deliberating exclusively on the issue of electoral reform by their respective provincial governments. In Scotland, whilst the SNP’s ‘national conversation’ was open in principle to discussing different constitutional options for a future Scotland, in practice the bulk of discussion focused on Scottish independence, reflecting the fact that this was a process driven by a political party with a clear constitutional agenda. The SNP thus had the clear goal of engaging with the Scottish people with the aim of drawing them towards more favourable stances towards devolution and independence, ‘normalising’ the debate over the constitutional relationship between Scotland and the UK.⁴¹

In only a handful of cases has there been an effort to shift the balance of power in favour of citizens in the process of setting the agenda for constitutional debates and processes.

41 Harvey, *Conversing with the Nation*, p. 151.

In Iceland and Ireland in particular, there have been deliberate efforts to enhance the role of citizens in this respect. In Iceland, the National Forum was convened with the aim of identifying the values and preferences that people felt should be reflected in a new constitution, and fed into the subsequent expert-led stage of initial constitutional drafting. In Ireland, for the 'We the Citizens' citizen's assembly as noted above, regional meetings served the purpose of identifying the visions of ordinary citizens of what kind of Ireland they would like for the future; from the key topics that emerged from these events (taxation and spending, political reform, educational reform, role of MPs) the citizen's assembly eventually focused on the first two of these.⁴² Ireland's subsequent CC also had some scope to solicit suggestions for issues to be considered from the general public, which it did via a series of national roadshows and via an online submission portal. The result was that two additional issues were added onto the Convention's agenda – parliamentary reform, and economic, social and cultural rights – in addition to the 8 issues specified by the Irish government (see Text Box 2).

In none of these three examples, however, is it clear how exactly key values/preferences/themes informed, or were selected for consideration at, the next stage in the constitutional process. In this respect, agenda-setting decisions were still not entirely with the general citizenry. Concerns were also raised that this lack of transparency with respect to the Irish CC may have enabled special interest groups to influence the eventual choice of issues taken on for consideration: "such an inequality of access and influence over the CC's agenda substantially weakens its descriptive and deliberative legitimacy".⁴³

The Constitutional Futures project also sought to create a space for citizens to set the agenda for constitutional debate, but encountered a similar challenge in translating broad values and preferences into a more focused discussion of constitutional issues. Following the 'We the Citizens' approach noted above, discussion and poetry workshops asked participants to respond to the general question 'what kind of Wales would you like to live in, and how can we get there?'. In doing so, the aim was to anchor the conversation in the issues that matter to people in their everyday lives, and avoid the very complex technical and legal constitutional languages that can easily alienate people. The question worked well in giving plenty of scope for people to bring to the discussion the issues and values that are important to them, allowing clear themes to emerge as the basis of a vision for a future Wales (see Figure 2). It was much more difficult, however, to move from such exploratory conversations to more concrete discussions of, and proposals for, constitutional change. Part of the challenge here was the limited understanding amongst some participants of the current constitutional arrangements in Wales and the UK: a basic understanding of the specific nature of the constitutional status quo is necessary in order to consider how it might be reformed (we return to this challenge in the next section). The transition from exploratory conversations to more focused discussion of the constitutional dimensions of the issues raised may also require more time that was available in these workshops.

42 Farrell, D., O'Malley, E. and Suiter, J. (2013), 'Deliberative democracy in action Irish style: The 2011 We the Citizens pilot citizens' assembly', *Irish Political Studies*, 28: 1, 99-113.

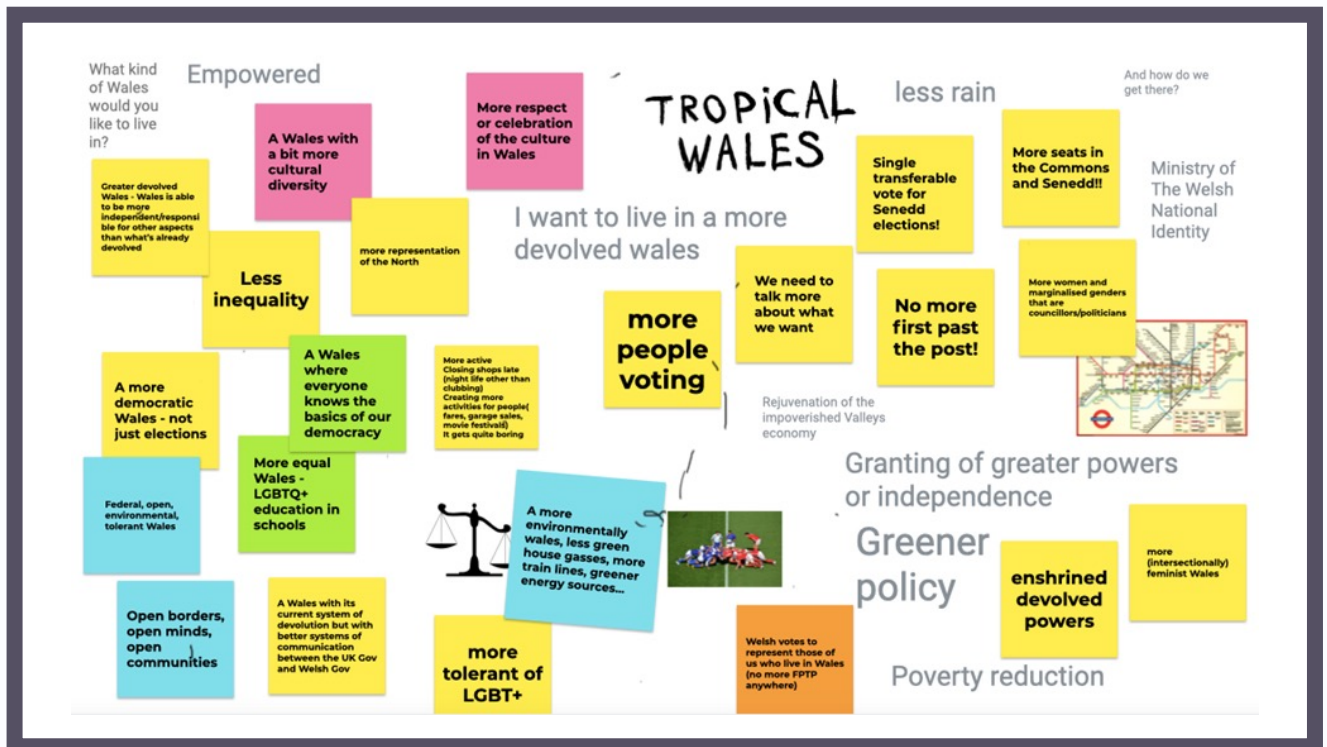
43 Carolan, E. (2015), 'Ireland's Constitutional Convention: Behind the hype about citizen-led constitutional change', *International Journal of Constitutional Law*, 13: 3, pp. 744-5.

Figure 2 Participant responses to the question ‘What kind of Wales do you want to live in and how can we get there?’

a) Online ‘open space’ workshops (participants co-define key themes for extended discussion):

<p>1. What role do identity and diversity play in our mission for a future Wales?</p>	<p>2. What would it mean for Wales to be a better society in 20 years time?</p>
<p>3. What would it mean to have a constitution for Wales, and how would we create it?</p>	<p>4. What makes Wales consequentially different to regions of the UK?</p>

b) Online workshops with young people (themes collected via Jamboard digital interactive whiteboard):



3.i.c Recommendations

Based on the evidence considered here, we make the following recommendations in relation to creating opportunities for citizen involvement and participation in a national conversation on Wales's constitutional future.

Recommendation 1 - The Commission should adopt an array of methods for citizen involvement as part of the national conversation, in order to provide an opportunity for broad and inclusive citizen engagement as well as more focused and informed deliberation by a smaller representative sample of citizens.

Recommendation 2 - Different methods of citizen engagement are suited for different purposes. More focused deliberation by a smaller representative sample of citizens is better suited for the consideration of specific, complex and legal/technical issues, on the basis of comprehensive and balanced evidence and time for discussion; such an approach is thus best suited to the first of the Commission's objectives ("To consider and develop options for fundamental reform of the constitutional structures of the United Kingdom, in which Wales remains an integral part"). In contrast, broader engagement and consultation with the Welsh public is better placed to identify values, preferences and aspirations; such an approach is best suited to the second of the Commission's objectives ("to consider and develop all progressive principal options to strengthen Welsh democracy and deliver improvements for the people of Wales").

Recommendation 3 - The Commission should give careful consideration to how these different methods of citizen engagement (small-scale deliberative mini-publics and broader Wales-wide consultation) relate to each other, e.g. how they are sequenced and inform each other. This should take into account the different kinds of issues that may be discussed by each method (specific legal/technical constitutional issues vs. values, preferences and aspirations) and how these can/may inform each other.

Recommendation 4 - In order to evaluate the nature, impact and legitimacy of citizen input into the debate on Wales's constitutional future, the Commission needs to gather evidence on which citizens/groups participate in any national conversation on these issues, and how such participation takes place. This is critical for any evaluation of the success of its citizen engagement strategy.

In relation to the design of a process of citizen deliberation:

Recommendation 5 - The Commission should undertake to organise citizens' juries composed of a representative sample of citizens in different locations across Wales (e.g. in each local authority), as a more cost-effective way of engaging more citizens overall, increasing accessibility, accessing a broader range of views, and raising the profile of the Commission's work.

Recommendation 6 - The selection of citizens for participation in any kind of deliberative mini-public must i) actively promote the recruitment of under-represented and marginalised groups in order to increase the representativeness of the sample of participants; and ii) screen for initial opinions via a survey prior to selection to ensure a range of views and perspectives on the constitutional issues to be discussed.

In relation to the design of a broader Wales-wide phase of citizen consultation:

Recommendation 7 - A larger scale national conversation must deploy innovative methods – and not just rely on public meetings - to reach and engage with different citizen groups across Wales. The approach should be developed in consultation with, and draw on the networks of, stakeholders, civil society and community groups who already have extensive experience of citizen engagement.

Recommendation 8 - The provision of online engagement opportunities (e.g. via website or social media) should be considered as part of a national conversation, but is not sufficient by itself to ensure broad and representative citizen engagement. Consideration should be given to collecting basic socio-demographic information for online participants so that the profile of contributors can be evaluated.

Recommendation 9 - In all phases of its citizen engagement strategy, the Commission should aim to give citizens an agenda-setting role, by creating opportunities for citizens to influence what constitutional issues that will be discussed.

3.ii The throughput phase: processes for citizen involvement and participation

3.ii.a How does citizen involvement/participation take place?

Different approaches to engaging citizens with constitutional issues have different aims in terms of what they hope to achieve from the engagement:

- For **deliberative democracy approaches, the goal is to ensure a high-quality deliberation on constitutional matters**. In practice, there is a generally accepted model for achieving such deliberation: citizens must be provided with balanced, comprehensive and evidence-based information about an issue, which they can discuss freely and equally with others, and come to an opinion on that issue informed by facts and logical reasoning.⁴⁴
- In contrast, for **national conversation-type approaches the goal is typically three-fold: raising awareness of, ensuring engagement with, and gathering of views or preferences on**, constitutional matters. Less emphasis is thus given to the balanced consideration and discussion of different viewpoints in order to arrive at an agreed or consensus position. In practice, and as indicated above, there is also considerable variation in the ways in which these views are collected and aggregated.

The general consensus on how deliberative mini-publics should work has led scholars and practitioners of such democratic innovations to pay increasing attention to the procedural aspects, since these determine to a large extent the quality of that discussion and its outcome.⁴⁵ Firstly, *the provision of information* is considered crucial so that deliberators can first learn about the issues at stake: “if the aim is to build constitutional deliberative democracy involving a large and diverse crowd of people, the question of information is even more important, to ensure sufficient epistemic completeness”.⁴⁶ Deliberative events aim at providing participants with all the relevant information on an issue, as well as experts, policy-makers and/or witnesses that they can discuss with and interrogate. In practice, however, what kind of information is provided and who provides it can be contentious issues. For example, the consequences of having incomplete or biased sources of information have been raised by various studies of Ireland’s constitutional citizens’ assemblies. With regard to the Irish CC, for example, Carolan has been critical of the lack of guidelines on the recruitment of experts or the identification of people to advocate for and against the proposals being considered: “such procedures are critical to the pursuit of a fair, representative and deliberative process, especially in light of the evidence from previous mini-publics about the potentially decisive influence of expert input”.⁴⁷ He is referring here to evidence from the ‘We the Citizens’ citizen assembly held some years previously, in which where strong agreement between the experts on some issues was found to have had a strong impact on assembly members’ own views, which clearly followed those of the experts.⁴⁸

Secondly, the *timeframe* given to deliberation may also matter. This can vary greatly: the examples listed in Table 1 range from deliberation over one weekend (Citizens’ Assemblies on English Devolution) to more than a year (citizens assemblies in British Columbia, Ontario, Netherlands and Ireland). The impact that this can have on how the deliberative process is organised, and the quality of the discussions, was raised in respect of Iceland’s National Forum (see above); taking place over one day, the tight schedule had the effect of undermining any possibility for meaningful deliberative exchange.⁴⁹ In a similar vein, Suiter et al. recall the challenge that faced Ireland’s CC in terms of achieving a balance between information-giving and small-group deliberation: tight timescales (with 10 topics to discuss over 8 weekends) meant that little time could be spent on a discussion of broader

44 Dryzek, J. (2010), *Foundations and Frontiers of Deliberative Governance*. Oxford: Oxford University Press, p. 7; Fishkin, *When the People Speak*.

45 Contiades and Fotiadu, ‘Introduction’, p. 4.

46 Reuchamps and Suiter, *Constitutional Deliberative Democracy in Europe*, p. 8.

47 Carolan, ‘Ireland’s Constitutional Convention’, p. 743.

48 Farrell et al., “Deliberative democracy in action Irish style”, p. 109.

49 Landemore, ‘Inclusive constitution-making’, p. 8.

principles or values because a lot of essential and sometimes quite technical information needed to be covered.⁵⁰ In this respect, the “learning phase” of the BC and Ontario CAs offered a different approach, with an extended period of time prior to the deliberation itself being dedicated to getting up to speed on the key issues; there is evidence to suggest that this enabled a greater nuance of understanding over the course of the deliberation.⁵¹

Thirdly, the process for ensuring that all participants can contribute to the discussion equally can also be significant. It is generally accepted that deliberation has to be modelled in such a way as to bring out everyone’s experience and perspectives, and foster openness towards the arguments of others. Several factors can have an impact here, for instance the role of the facilitators,⁵² group-composition – including the gender balance between participants and whether or not politicians are included in the deliberation⁵³ - and the use of multiple languages.⁵⁴ On the issue of facilitation, for example, Iceland’s National Forum has been criticised for having been organised more as a forum for sharing and aggregating views and preferences, rather than a genuine deliberation of substantive issues.⁵⁵ Other studies have sought to understand the impact of including politicians in the discussion on the quality of deliberation: evidence from the UK Citizens’ Assemblies on English Devolution reveals that citizens felt that politicians dominated the discussions, although no such evidence was found in Ireland’s CC.⁵⁶

In contrast to the extensive attention paid by scholars to evaluating the specific ways in which deliberative democracy events happen, there is significantly less study of processes of citizen engagement/participation in ‘national conversations’ on constitutional issues. Evaluating the processes, and thus quality, of such conversations is thus much more difficult. There are nevertheless some observations to made.

Firstly, both the SNP and AWC-led consultations recognised the need to provide information about the constitutional issues under consideration. For the former, this was closely focused around the party’s goal of Scottish independence; public engagement was thus structured around a set of SNP policy proposals for an independent Scotland that citizens were asked to respond to online and discuss in public meetings. The need for balanced information on these issues was not considered necessary precisely because having a balanced debate of different policy options/implications was not in practice the SNP’s aim.

In contrast, the AWC was established as an independent body with the explicit remit of raising awareness of and improving public understandings of the devolution settlement at the time.⁵⁷ The AWC’s own consultation and evidence-gathering confirmed the need for such information, given the “considerable confusion about the National Assembly for Wales’s current powers”.⁵⁸ The communications campaign developed included a leaflet and DVD summarising the current devolution settlement and what further powers might

50 Suiter et al., ‘The Irish Constitutional Convention’, p. 44.

51 Blaise, A., Carty, K. and Fournier, P. (2008), ‘Do citizens’ assemblies make reasoned choices?’, in M. Warren and H. Pearce (eds.), *Designing Deliberative Democracy*. Cambridge: Cambridge University Press, pp. 128-9.

52 Myers, G. (2007) ‘Enabling talk: How the facilitator shapes a focus group’, *Text & Talk*, 27: 1, 79-105.

53 Caluwaerts, D. and Deschouwer, K. (2013), ‘Building bridges across political divides: Experiments on deliberative democracy in deeply divided Belgium’, *European Political Science Review*, 6: 3, pp. 427-450; Flinders, M., Ghose, K., Jennings, W., Molloy, E., Prosser, B., Renwick, A., Smith, G. and Spada, P. (2016), *Lessons from the 2015 Citizens’ Assemblies on English Devolution*, p. 42. Available at: <https://citizensassembly.co.uk/wp-content/uploads/2016/04/Democracy-Matters-2015-Citizens-Assemblies-Report.pdf> (accessed 6 December 2021).

54 Caluwaerts, D. and Reuchamps, M. (2014), ‘Strengthening democracy through bottom-up deliberation: An assessment of the internal legitimacy of the G1000 project’, *Acta Politica*, 50, 151-170.

55 Landemore, ‘Inclusive constitution-making’, p. 18.

56 Flinders et al., *Lessons from the 2015 Citizens’ Assemblies*, p. 42; Farrell, D., Suiter, J., Harris, C. and Cunningham, K. (2020), ‘The effects of mixed membership in a deliberative forum: The Irish Constitutional Convention of 2012-2014’, *Political Studies*, 68: 1, pp. 54-73.

57 All Wales Convention, *Report of the All Wales Convention*, p. 9.

58 All Wales Convention, *Report of the All Wales Convention*, p. 85.

mean, shared via the AWC website, stakeholders and at public events.⁵⁹ The impact of such an information campaign, however, is extremely hard to evaluate: “In terms of its educator role, it is methodologically almost impossible to offer a hard empirical assessment of its success in closing the knowledge gap in Welsh society with regards to politics and constitutional arrangements”.⁶⁰

The lack of understanding of the current devolution settlement also came to the fore clearly during the pilot work undertaken by the Constitutional Futures project. As noted above, it proved challenging to steer exploratory discussions of individuals’ values and preferences for a future Wales to a discussion of the constitutional dimensions to the issues raised when there was no prior basic knowledge of the existing devolution settlement in Wales. In response, in some of the workshops the project team used short explainer videos produced by the Senedd to establish a baseline of knowledge at the outset.⁶¹ The experiences of the Constitutional Futures project and that of the AWC highlight the need for any attempt at having a national conversation on constitutional issues to include a public information campaign that enables citizens to develop an understanding of current political structures in engaging, accessible and relevant ways.

Secondly, and like deliberative mini-publics, these two national conversations took place over *differing timescales*: the Scottish national conversation was held during the summer of 2007, whilst the AWC worked from July 2008 to June 2009 (with a public engagement phase that lasted 6 months). However, there is little evaluation of the extent to which this impacted upon the kind of discussions that could be had, although it has been noted in passing that the “relatively short timescale” of the AWC resulted in “limited impact on boosting levels of political knowledge”.⁶²

Thirdly, in terms of *how participation was facilitated*, both processes relied heavily on the leadership of the organisers (SNP politicians and AWC members) as well as stakeholders themselves to host and facilitate public debate. This is in contrast to the strong emphasis in deliberative formats on using trained and neutral moderators as noted above. In the AWC case, this approach was motivated by the clear sense that “we wanted to get out and meet the people of Wales”; the leading role played by the AWC members themselves was thus part of a strategy to increase the visibility of, and public interest in, the AWC’s work. It is not clear how, or to what extent, these events were deliberately facilitated in order to foster constructive discussion. In Iceland, however, the crowdsourcing element of the constitutional process has been criticised for the stark absence of such a constructive exchange and debate of different views: “members of the crowd operated as free atoms commenting independently from each other, rather than constructively and in collaboration with each other”.⁶³ In the absence of careful facilitation and moderation, there is thus a risk that citizen engagement and participation is limited to opinion gathering and aggregation, rather than meaningful deliberation of different constitutional positions or options.

A final observation – that applies to both deliberative mini-publics and national conversation-type consultations – is the overwhelming reliance to date on citizen engagement via talk-centric modes of communication. Such modes – speaking, discussion and (in deliberative mini-publics) rational argument and formal reasoning – seek to engage individuals *cognitively*, that is they focus on gaining knowledge and comprehension on issues. However, **an emergent body of work has argued for the importance of forms of representation and communication that engage us affectively as well as cognitively**.⁶⁴ From such a perspective, it is recognised that political issues may also invoke a more emotive, visceral response that cannot be adequately captured (and may even be

59 All Wales Convention, *Report of the All Wales Convention*, pp. 13-14.

60 Stirbu and McAllister, ‘An exercise in democratic deliberation’, p. 68.

61 For example, the ‘Our Senedd’ video available here: https://www.youtube.com/watch?v=bLQ1HUD_jnA (accessed 6 January 2022).

62 Stirbu and McAllister, ‘An exercise in democratic deliberation’, p. 68.

63 Landemore, ‘Inclusive constitution-making’.

64 McNeill, F. and Urie, A. (2020) Collaboration before collaborative research: The development of the ‘Distant Voices’ project’, *Methodological Innovations*, first published online 1 July 2020.

suppressed) by discussion and deliberation.

Such work – as exemplified by the two cases presented in Text Box 4 – has sought to use creative processes and practices as a means to go beyond rationality, facts and debate into more affective engagement with other people’s lives and concerns. It has also been argued that such creative approaches can be an effective way of creating spaces for social and political dialogue within communities and across unequal societies, allowing different people and viewpoints to come to the fore which might not in other circumstances, and cultivating political literacy and engaged citizenship.⁶⁵ Such approaches are resource and time-intensive, and are challenging to formalise at larger scales. They have also yet to be systematically applied to the consideration of constitutional issues, although the Constitutional Futures project is in the process of evaluating the utility of poetry as a means for articulating constitutional values and preferences. However, they usefully flag up the importance of thinking in broader and more innovative ways about how to stage an inclusive and engaging conversation with the Welsh public on such matters.

Text Box 4 – Creative approaches to discussing political issues

Distant Voices – Coming Home (www.distant-voices.org.uk)

The Distant Voices – Coming Home project (co-ordinated by Glasgow University) explores crime, punishment and reintegration through song-writing and other creative methods. It developed from a desire amongst academics and practitioners to find new ways to draw on research on how and why people stop offending to inform criminal justice reform. Musicians work in prisons and communities to support collaborative song-writing sessions involving people within or affected by the criminal justice system. These songs have been performed at different public events by Scotland’s leading musicians, and have been used to prompt new public and political discussions of how people move on from crime and punishment.

The Democracy Box (<https://www.omidaze.co.uk/the-democracy-box>)

The Democracy Box project (co-ordinated by Omidaze Productions) aims to promote understanding of UK democracy. It works with young people aged 16-26, born or based in Wales, to co-create resources that provide information about the UK’s democratic system and structures. These resources – songs, podcasts, videos and illustrations – are shared via social media, with the aim of promoting basic information about how democracy works in the UK. A toolkit is also being developed for secondary school teachers, to enable them to work with their students to create and share creative content that develops political awareness and understanding amongst school children in Wales.

3.ii.b How are decisions taken?

In deliberative mini-publics, an important question is that of *how deliberation is translated into decision*. This can happen through consensus-building or solution-finding through discussion. More typically, however, deliberation is followed by a secret vote to determine positions, priorities or recommendations. This has been routinely done, for example, in Ireland’s various constitutional citizen assemblies (see Table 1). Most crucial for the legitimacy of this process is its transparency. Criticism has again been made of the Icelandic constitutional process in this respect: much of the Constitutional Council’s deliberations were not accessible to the public; a lack of resources and time constrained members’ ability to plough through all suggestions systematically; and members also decided amongst themselves what to engage with, without any obligation to take up things

65 Mistry, J. (2021) ‘Evolving social and political dialogue through participatory video processes’, *Progress in Development Studies*, 21: 2, 196-213; Flinders, M. and Cunningham, M. (2014) *Participatory Arts and Political Engagement*. Swindon: Arts and Humanities Research Council. Available at: https://www.americansforthearts.org/sites/default/files/AHRC_Cultural_Value.pdf (accessed 17 December 2021).

they didn't agree with.⁶⁶

In the context of national conversations, where it is consultation and engagement (rather than deliberation) that usually features, the question of how decisions are reached is not always possible to assess. The impact of the SNP's consultation on its policies and strategies for an independent Scotland, for example, has not been evaluated. In contrast, and given the very different nature of the AWC's consultation, great emphasis was placed on the transparency of its process of considering the evidence gathered by it and how this informed its eventual recommendations:

'In all our deliberations we have worked with impartiality, giving full consideration to all sides of the debate. We made every effort to ensure our work was conducted in an open and transparent manner, and that we were accessible to the public - through putting our evidence on the website, publishing notes of our Committee meetings, and making sure Committee Members were present at all of our public events to discuss the issues with the public face to face. We encouraged views on any aspect from anyone, anywhere in Wales. Evidence submitted to the Convention has been subject to robust scrutiny - identifying and addressing the arguments raised.'⁶⁷

In this respect, transparency can be said to be equally important for the legitimacy of a 'national conversation' that is genuinely interested in drawing on citizens' views and preferences, as part of a process of gathering an evidence base for recommendations on constitutional change.

3.ii.c Recommendations

Based on the evidence considered here, we make the following recommendations in relation to creating opportunities for citizen involvement and participation in a national conversation on Wales's constitutional future.

In relation to a specific process of citizen deliberation:

Recommendation 10 - The information provided as the basis for any deliberative mini-public must be balanced and comprehensive, and consideration should be given incorporating a "learning phase" prior to the start of the deliberation to maximise the opportunities for citizens to gain a full understanding of the issues under consideration.

Recommendation 11 - The timeframe for a deliberative mini-public should be as long as possible to allow sufficient time for information provision, expert interrogation and extensive deliberation of the issues under consideration; deliberation should also be facilitated by trained moderators who actively work to ensure everyone's voices can be heard and an atmosphere of respectful engagement can be maintained.

In relation to the broader process of Wales-wide citizen engagement and consultation:

Recommendation 12 - A broader phase of Wales-wide citizen engagement and consultation must start with a public information campaign that enables citizens to develop an understanding of current political structures in engaging, accessible and relevant ways.

Recommendation 13 - The Commission should explore the potential for using creative processes and practices as one method for engaging citizens as part of the national conversation. Such approaches may be particularly appropriate for understanding citizens' preferences and concerns, and can open up new spaces for public discussion of the kind of Welsh democracy people want to live in.

Recommendation 14 - In order to maximise their legitimacy, both deliberative and broader Wales-wide citizen engagement phases must be fully transparent about the ways in which decisions or recommendations are arrived at. A culture of radical openness should be

⁶⁶ Bergmann, E. (2016), 'Participatory constitutional deliberation in the wake of a crisis: The case of Iceland', in in Reuchamps and Suiter, *Constitutional Deliberative Democracy in Europe*, p. 24; Landemore, 'Inclusive constitution-making', p. 15.

⁶⁷ All Wales Convention, *Report of the All Wales Convention*, p. 11.

cultivated in the administration of the process to the greatest extent possible.

3.iii The output phase: the consequences of citizen engagement and participation

3.iii.a What are the consequences of citizen engagement and participation for decision-making in relation to constitutional issues?

The question of what is politically or constitutionally done with the results of any process of citizen engagement and participation is a key dimension of the legitimacy of that process. In other words, to be consequential, citizen engagement and participation must somehow make a difference when it comes to determining or influencing collective political and/or constitutional outcomes.

In practice, it has rarely been the case that the outcomes of citizen-informed constitutional processes have been binding on political decision-makers. Instead, the outcomes are often recommendations and non-binding; this is the case, for example, for all of the initiatives listed in Table One. This leaves considerable scope for politicians to determine the extent to which citizen-informed opinions, recommendations or decisions actually have an impact on the decisions taken in relation to constitutional issues.

In reality, citizen involvement in constitutional processes has mostly *not* led to direct and significant constitutional change (see Table 1). For example, the citizens' assemblies on electoral reform in British Columbia and Ontario failed at the referendum stage; in the Netherlands, a change in government translated into a withdrawal of proposals for electoral system change. The constitutional process in Iceland eventually got bogged down in parliamentary wrangling and has yet to result in any constitutional reform, whilst the constitution developed through a similar crowd-sourcing approach in Egypt was ultimately revoked by the Egyptian army in 2013.⁶⁸

Ireland is an exception in this respect on the basis that Irish mini-publics saw some of their recommendations for constitutional change approved by referendums (on same-sex marriage, blasphemy and abortion).⁶⁹ In the case of the ICC, for example, the Irish Government had committed to giving parliamentary consideration to its recommendations within 4 months of receiving them. In the event, the fact that the ICC members voted so overwhelmingly in favour of these recommendations, and the intense media interest that surrounded the parliamentary debate of the issue of same-sex marriage in particular, forced the hand of the Irish Prime Minister to put the recommendations to a referendum.⁷⁰

With regard to the impact of national conversations on constitutional change, the AWC can be said to have played a role in persuading the Welsh Government to hold a referendum on further powers for the National Assembly for Wales, although it had limited influence on the timing of and question posed in that referendum.⁷¹ In both these examples, the impact of citizen engagement and participation can thus be seen in shaping the political agenda and the broader context in which constitutional decision-making takes place.

There has been some discussion amongst deliberative democracy scholars of how the design of citizen-engagement processes can impact on the political up-take of their recommendations/decisions. For example, whether or not politicians have been involved in the deliberation may matter in this respect. On the one hand, and as noted above, deliberative mini-publics have typically excluded politicians in order to isolate the process from party politics and to avoid any dilution of the citizen-only deliberative element. Doing so, however, can have consequences at the political decision-making stage. In the case of the British Columbia citizens' assembly, for example, the exclusion of politicians from the deliberative stage made it easier for political parties to criticise the recommendations

68 Bergmann, 'Participatory constitutional deliberation', p. 29; Maboudi, T. and Nadi, G. (2016), 'Crowdsourcing the Egyptian constitution: Social media, elites and the populace', *Political Research Quarterly*, 69: 4, p. 716).

69 Courant, D. (2021), 'Citizens' assemblies for referendums and constitutional reforms: Is there an "Irish model" for deliberative democracy?', *Frontiers in Political Science*, DOI: 10.3389/fpos.2020.591983.

70 Elkink, J., Farrell, D., Reidy, T. and Suiter, J. (2017), 'Understanding the 2015 marriage referendum in Ireland: Context, campaign, and conservative Ireland', *Irish Political Studies*, 32:3, pp. 361-381.

71 Stirbu and McAllister, An exercise in democratic deliberation, p. 226.

on electoral reform and refuse to campaign in the ensuing referendums: “in effect, the parties were able to kill off awkward electoral reform proposals by simply ignoring them”.⁷² Similarly, the Icelandic constitutional proposals ran into difficulties when it came to their consideration by the Icelandic parliament, by political representatives who were alienated from and hostile to the constitutional process.⁷³ In contrast, the politicians involved in the ICC helped to minimise the ‘disconnect’ between the deliberative process and the political class, and served as “cheerleaders” for its recommendations during parliamentary debate.⁷⁴ There is thus a trade-off here between excluding politicians from a deliberative process to protect its citizen-led nature, and involving politicians so that they can advocate for any deliberative recommendations/decisions in subsequent stages of decision-making.

Finally, some scholars have argued for a need to evaluate the broader impact of citizen engagement and participation initiatives on the political system more broadly: “democratic processes can fail in a narrower sense of failing to change the law, but succeed in a broader sense of setting the agenda or even establishing a new norm about who ought to be consulted and how”.⁷⁵ In this respect, to what extent is there evidence that citizen-informed constitutional processes have had a wider systemic effect in terms of how political (and constitutional) decisions are taken? The Irish case is again instructive here: the political elite judged the ICC to have been a successful model for delivering constitutional reform, as seen by the decision of a new Irish government (elected in 2016) to establish a new citizens assembly which operated between 2016 and 2018.⁷⁶ In Belgium, the G1000, a grass-roots process of citizen deliberation launched in June 2011 has driven a new interest in formalising citizen deliberation as part of political decision-making, including on issues of constitutional reform.⁷⁷

3.iii.b What are the consequences for citizen engagement and participation for society at large?

This question is of particular concern for deliberative mini-publics that have, by design, sought to engage a small proportion of citizens; the opinions or recommendations of these mini-publics typically have to be justified to, and often approved by, those citizens who did not directly participate. In practice, it is also an important consideration for larger-scale citizen engagement efforts given that (as noted above) the actual reach of such ‘national conversations’ is often limited. Often, such broader ratification comes via a referendum in which the mass public is asked to decide on constitutional propositions.

One issue is the extent to which citizen engagement and participation shapes the way in which broader society thinks about constitutional issues. The Irish case has shown that whilst citizens may follow the recommendations of deliberative mini-publics in some instances, this is not inevitably the case (for example, the ICC’s recommendation on lowering the age of eligibility for election to the position of Irish President was rejected in a referendum by 73% against to 27% in favour). There is growing evidence, however, that if citizens know about the existence of a citizens’ assembly, they will be more likely to support its recommendations.⁷⁸ On this basis, it has been argued that “integrating a deliberative democratic structure into a mandatory referendum process can enhance referendum outcomes” by making voters better informed.⁷⁹

72 Fournier et al., ‘Do citizens’ assemblies make reasoned choices?’, p.109.

73 Bergmann, ‘Participatory constitutional deliberation’, pp. 25-28.

74 Suiter et al., ‘The Irish Constitutional Convention’, p. 45.

75 Parkinson, J. (2016), ‘Ideas of constitutions and deliberative democracy: A conceptual conclusion’, in *Reuchamps and Suiter, Constitutional Deliberative Democracy in Europe*, p. 160.

76 Farrell et al., ‘“Systematizing” constitutional deliberation’.

77 Caluwaerts and Reuchamps, ‘Strengthening democracy through bottom-up deliberation’.

78 Fournier et al., ‘Do citizens’ assemblies make reasoned choices?’, p.131; et al., 2011, 132; Pilet, J.-B. (2016), ‘Les citoyens sont-ils prêts à accepter les décisions d’une assemblée tirée au sort? Retour sur quelques expériences d’assemblée citoyenne’. Paper presented at the workshop *Représentation et Tirage au Sort*. Louvain: Université Catholique de Louvain; Elkink et al., ‘Understanding the 2015 marriage referendum’, Courant, ‘Citizens’ assemblies’, p. 13.

79 Suiter, J. and Reidy, T. (2020), ‘Does deliberation help deliver informed electorates’: Evidence from

The challenge, however, is to ensure the public visibility of such democratic innovations. For example, it has been shown that a significant part of the Irish citizenry was unaware or weakly aware of the existence of the ICC at the time of the 2015 referendums.⁸⁰ This was in spite of a concerted effort via traditional and social media to raise public awareness of the ICC and its work throughout the process. Various studies have reported on the difficulty of ensuring such a visibility of citizen-focused constitutional processes in society more generally. It has been argued that the Icelandic media, for example, did not know how to report on various aspects of the constitutional process and therefore simply did not.⁸¹ In a similar vein, members of the AWC recalled difficulties of reaching out and communicating to and through the Welsh media, due to a perceived reluctance to publish political content that might not appeal to their readership.⁸²

Society may also, however, have been impacted in less direct ways. In the Icelandic case, for example, the constitutional process “served as a healing exercise for society after the crash” by stimulating “wide public discussion, in which ordinary citizens were able to contribute to the promise of a resurrected and reformed Iceland”.⁸³ A similar impact has been identified in Scotland: whilst the SNP’s national conversation did not lead to an increase in support for Scottish independence, it arguably ‘normalised’ the debate of Scotland’s constitutional relationship with the UK and contributed to more informed citizens ahead of the 2014 referendum on independence.⁸⁴ A similar claim has been made in relation to the AWC – to the effect that it contributed to a “maturing constitutional debate in Wales”.⁸⁵

Beyond this broader societal impact, there is also evidence of the impact that participating in discussions about constitutional change has a positive impact on citizens themselves. The evidence here again comes from constitutional deliberative mini-publics, in line with the broader interest amongst scholars of deliberative democracy in assessing the consequences of such interventions.⁸⁶ Firstly, such mini-publics have been shown to change participating citizens’ opinions on the issues under consideration; this comes about as a result of being given the opportunity to consider the evidence on an issue and deliberation amongst individuals with a range of different opinions.⁸⁷ Secondly, participation in deliberative mini-publics has been found to lead to higher levels of political efficacy (i.e. levels of trust in political institutions and politicians) and political interest.⁸⁸ In this respect, citizen engagement with, and participation in, processes of constitutional change has a clear impact on those citizens directly involved in the deliberative mini-public. The challenge is to extend these impacts to citizens more generally, so that any impact of engaging with a broader constitutional debate can be sought and evaluated.

Irish referendum votes’, *Representation*, 56: 4, p. 13.

80 Pilet, ‘Les citoyens sont-ils prêts à accepter les décisions d’une assemblée tirée au sort?’

81 Landmore, ‘Inclusive constitution-making’.

82 Stirbu and McAllister, ‘An exercise in democratic deliberation’, p. 74.

83 Bergmann, ‘Participatory constitutional deliberation’, p. 29.

84 Harvey, *Conversing with the Nation*, p. 175.

85 Stirbu and McAllister, ‘An exercise in democratic deliberation’, p. 78.

86 Jacquet, V. and Van der Does, R. (2021), ‘The consequences of deliberative mini-publics: Systematic overview, conceptual gaps, and new directions’, *Representation*, 57:1, pp. 131-141.

87 Blaise et al., ‘Do citizens’ assemblies make reasoned choices?’, pp. 130-1; Suiter et al., ‘The Irish Constitutional Convention’.

88 Farrell et al., ‘Deliberative democracy in action Irish style’; Suiter et al., ‘The Irish Constitutional Convention’.

3.iii.c Recommendations

Based on the evidence considered here, we make the following recommendations to ensure that citizen-informed recommendations have an impact:

Recommendation 15 - The Commission should urge the Welsh Government to be clear at an early stage how they will respond to the findings of its recommendations. This will encourage citizen participation by making people feel that their contribution matters, thus increasing the legitimacy of the Commission's work.

Recommendation 16 - The Commission should ensure the 'buy in' of politicians and political parties during all phases of its work, given the evidence that lack of support from government or during legislative processes is the main reason for citizen-informed constitutional recommendations failing to make a meaningful impact on the political process.

Recommendation 17 - A media communications strategy should be developed, including media training/briefing sessions, which can promote understanding and raise awareness of the Commission's work and support effective communication of it to the Welsh public.

Recommendation 18 - After completion of its work, the Commission should consider communicating its achievements and recommendations to the Welsh public in accessible ways, in order to maximise awareness of the citizen engagement process.

Recommendation 19 - The Commission should consider measuring the impact of citizen engagement with its work on i) citizens themselves (in terms of their view of the issues under consideration and their general attitudes towards politics), and ii) the Welsh public (in terms of its awareness of and evaluation of the Commission's work, views on constitutional issues, and general attitudes towards greater citizen engagement in politics). This should be done through regular data collection (e.g. surveys) tailored to different phases and methods of citizen engagement during and immediately after the Commission's work. Such data is essential for the Commission to evaluate the success of a national conversation on Wales's constitutional future.

Conclusions

This briefing paper has outlined the key challenges facing any effort to involve citizens in a debate about Wales's constitutional future and considered the different options and solutions for overcoming these. In doing so, our recommendations draw on a growing body of work by scholars and practitioners that has sought to map and evaluate efforts at securing citizen input into constitutional debates and processes. Drawing on these existing experiences can support the Commission to make informed choices about the design of any strategy aimed at delivering a meaningful national conversation on Wales's constitutional future.

Our recommendations encompass the general design of a strategy for engaging the Welsh public with the Commission's work, as well as specific processes relating to holding deliberative mini-publics and engaging with the Welsh public more broadly on constitutional issues. These are anchored in the core contention that the Commission should develop a plural approach, consisting of an array of different methods, in order to create the optimal conditions for an inclusive, representative, meaningful and consequential dialogue with the people of Wales on the future of Welsh democracy. Several of these recommendations, if taken forward, will require further consideration in terms of their development and implementation; in this respect, the recommendations provide a starting point for further reflection to be done in collaboration with a wider network of scholars and practitioners with more extensive experience of the different approaches to citizen engagement considered here. We look forward to supporting the Commission's work in this respect, and to contributing to an ambitious and innovative citizen engagement strategy that delivers on the goal of having a truly inclusive national conversation on Wales's constitutional future.



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