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Types and Trends in Deliberative Constitution-Making: An Analysis of the ConstDelib Country Reports

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Abstract

Deliberative democrats have not yet offered a comprehensive picture of deliberative constitution-making. I propose a typology of constitutional deliberative events by examining the country reports prepared for the COST Action “Constitution-making and deliberative democracy”. First, I discuss methods and the key variables conditioning how constitutional deliberative events emerge: the actor which convenes the event; the sequencing in the constitution-making time-frame; the anticipated output; the duty of constitution-making actors to respond to the event output. Second, I elaborate eight distinct manifestations of deliberative constitution-making and illustrate with twenty events from eleven countries: inside or outside constitutional convention; inside or outside quality control; inside or outside value mapping; inside or outside institutional experiment. Third, I describe broad trends from the perspectives of event function, provenance, and outcome. I conclude that more cross-country learning is needed and that deliberative democrats should continue exploring the landscape of events before converging on best practices.

Keywords

Deliberative constitution-making, typology, comparative study, country reports, Europe

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Introduction

The theory and practice of deliberative democracy now encompasses constitution-making and constitutionalism. Constitutional deliberative events have been organized in many countries by actors of various kinds targeting different levels of government. One goal of the COST Action “Constitution-making and deliberative democracy” is to provide a more systematic overview of these events. To that end, Action members prepared a “country report” including information about the constitution-making background and constitutional deliberative events in the country which they represent. Reports are currently available for 21 of the Action’s 43 member and observer countries. Analysis of the country reports may lead to a more comprehensive picture of deliberative constitution-making than that provided by any study to date. Certainly, other studies have developed a normative model for deliberative constitution-making (Fossum and Menéndez, 2005), offered in-depth analysis of individual events (Landemore, 2015; Gherghina and Mişcoiu, 2016; Reuchamps and Suiter, 2016; Farrell, Suiter and Harris, 2019), identified evaluative criteria for assessing an event’s democratic quality (Geissel and Gherghina, 2016; Welp and Soto, 2020), and proposed a typology of democratic innovations in approaches to constitutional reform (Levy, 2019).

Nevertheless, previous research has seldom undertaken the systematic, comparative work of describing a) the conditions which determine the form which constitutional deliberative events ultimately take (but see also Geissel and Gherghina, 2016) and b) the commonalities between those forms. The description of these conditions may help us to predict an event’s political trajectory and aftermath; the description of their commonalities may sharpen our understanding of why the trajectory and aftermath of structurally similar events vary between different social and political contexts. In short, the description of these conditions and commonalities makes explicit theoretical claims that can inform future studies and can, in turn, be the object of theoretical and empirical scrutiny. Accordingly, I use the country reports as a resource for systematically mapping the manifestations of deliberative constitution-making. By manifestation, I mean those events in which the abstract notion of deliberative constitution-making finds concrete expression in a political context. In what follows, I argue for a typology of manifestations which both foregrounds key determinants of the practice of deliberative constitution-making and suggests some provisional conclusions about its current and future direction.

I begin the argument by discussing my methodology for selecting cases and operationalizing the variables. I select 20 cases and suggest four key variables for a taxonomy of

constitutional deliberative events: the actor which convenes the event; the event's sequencing in a constitution-making time-frame; the event's anticipated output; constitutional actors' duty of response to the event output. Next, I elaborate a typology of eight manifestations of constitutional deliberative events: inside or outside constitutional convention; inside or outside quality control; inside or outside value mapping; inside or outside institutional experiment. This typology may help theorists and practitioners of deliberative constitution-making to reframe existing or future comparative work by selecting and examining cases on the basis of type, whether for purposes of validity, fairness or even maximal contrast. It also provides theorists and practitioners of deliberative constitution-making some initial resources for more fully assessing whether particular constitutional deliberative events are healthy or pathological, virtuous or vicious exercises. Certain event-types may be particularly susceptible to elite capture or, when hybridized, be a reliable vehicle for meaningful constituent activity. In all these respects, this typology of eight manifestations may serve as the beginnings of a critical theory of deliberative constitution-making. To illustrate these manifestations and their critical potential, I identify each case with a different type. Finally, I reexamine the selected cases from three angles – event function, event provenance, event outcome – and describe general trends in deliberative constitution-making. I conclude my survey with a brief summary, some remarks about the state of deliberative constitution-making, and a statement of possible directions for future research.

Methodology and case selection

In this section, I discuss the present study's methodology. I first restate the author guidelines for the country reports. Next, I discuss my case-selection criteria. I then address the issue of existing typologies. Finally, I summarize how the typology's key variables are operationalized.

Country report guidelines and provisional typology

Since the case selection was constrained by the author guidelines for the country reports, I first restate those guidelines. Each report should include four main sections: 1) background information on the country's regime and law type and its constitutional history; 2) information on any formal constitution-making mechanisms such as replacement and revision procedures and their effect on elite and maxi-public deliberation; 3) information on any incremental constitution-making through customary, judiciary-initiated or treaty-initiated constitutional change and its effect on elite and maxi-public deliberation; 4) any deliberative events involved in

formal or incremental constitutional change. Regarding 4), the guidelines provide criteria for determining a.) whether an event qualifies as genuinely deliberative and b.) whether a deliberative event qualifies as constitutionally relevant.

First, a deliberative event is an instance of collective deliberation leading to a collective output, which excludes merely participatory or informational events or instances of collective deliberation with only individual outputs. An event may therefore qualify as deliberative, irrespective of its degree of institutional embeddedness. I call this the “collective output” criterion. Second, the guidelines identify three kinds of instances as constitutionally relevant: 1.) “deliberative constitutional reforms” (i.e. constitutional replacement or revision initiated by deliberative instances); 2.) “constitutional minipublics” (micro-deliberative instances about constitutional articles or topics); 3.) what I call “foundational deliberative instances” (deliberative instances about such matters as the nature of democracy in a polity and existential or state-wide issues including institutional reform or climate action). Constitutional relevance also extends to events relating to subnational or regional constitutions (but no local or transnational constitutions). I call this the “constitutional relevance” criterion.

I note three points about the guidelines’ impact on the present case selection. First, I include in the study only those constitutional deliberative events which authors selected in accordance with their own research interests and expertise. Unsurprisingly, authors’ different interpretations of the guidelines make for significant variety in the quantity of events reported and the quality of their description. Some authors chose to include events which did not meet the guidelines’ criteria or to exclude events which would meet them. Second, the guidelines privilege a “micro” perspective over a systemic perspective (cf. García-Gutián et al, 2021). They direct authors to focus on events having some, if not all, of the following features: citizen participation, random selection, interactive discussion, a defined method, iterative processes, professional facilitation, political independence, etc. This may leave out events which contribute only indirectly to the deliberative quality of constitution-making processes. Third, the guidelines direct authors to focus on instances wherein constituent power is exercised deliberatively rather than on instances where constituted power is reorganized to be more deliberative. Thus, the reports may exclude formally institutionalized deliberative events such as the permanent Citizens’ Council and one-shot Citizens’ Assemblies in the German-speaking Community of East Belgium (Niessen and Reuchamps, 2022).

Case selection criteria

After reading each country report, I carefully highlighted and extracted any deliberative events which plausibly met the “collective output” and “constitutional relevance” criteria above. I ultimately identified thirteen cases which clearly satisfied both criteria and thirteen cases which, from the authors’ description, appeared to satisfy one or both criteria but required adjudication. Subject to availability and language constraints, I consulted primary and secondary sources for each of the thirteen ambiguous cases and recorded its key features: the constitution-making context and time-frame; the event’s convener, organizer, and agenda-setter; the event’s structure and outputs; the convener’s duty of response. Using these features, I then judged a.) whether the case in fact met the “collective output” and “constitutional relevance” criteria and, if so, b.) whether it qualified as deliberative constitutional reform, constitutional minipublic, or foundational deliberative instance.

Following adjudication, I retained seven cases and excluded six others. The retained cases were then added to the list of thirteen clear cases, for a working list of twenty constitutional deliberative events from eleven countries. Sometimes, the process of adjudication yielded a clear exclusion result. For instance, I excluded the Austrian Citizens’ Convention (*Bürger-Konvent*) because it was organized as a series of plenary sessions with no collective outputs and little citizen deliberation (Ehs et al., 2021). Other times, I chose to include events which mostly satisfied the criteria. The German Citizens’ Forums (*Bürgerforen*) in Hessen might qualify as a constitutional deliberative event (Kersting, 2021). The event series allowed citizens to exchange questions and arguments with members of the constitutional revision committee and the public in attendance, but it remains an open question whether these forums yielded genuinely collective outcomes.

Theoretical fit with existing typologies

Before elaborating my own typology of the manifestations of deliberative constitution-making, I attempted to map my selection of twenty cases onto existing typologies of constitutional deliberative events so that I did not merely reproduce existing work. To begin, I assessed whether there were relevant similarities between the cases grouped under the three provisional types specified in the country report guidelines (i.e. deliberative constitutional reforms, constitutional minipublics, foundational deliberative issues). I found that important divergences within these groupings meant that they did not clearly describe three types of constitutional deliberative events.

Next, I tried to fit the 20 cases into the typology of deliberative constituent events described in Welp and Soto (2020). I judged the result unsatisfactory for three reasons. First, certain types appeared rarely or not at all in the final assessment, meaning that only part of the typology was represented and that important differences between cases might be obscured by the narrowed range of types. Second, although I agree with the authors that the “incidence” variable (the discussion of event outputs) is important for understanding the character of constitutional deliberative events (Welp and Soto, 2020, p. 6), this variable could be operationalized as a series of finer-grade values regarding incidence or actors’ duty of response. Third, their typology was not designed for cases where outside actors initiate constituent processes or where the processes are constitutionally relevant but do not involve constitutional replacement. A focus on government may obscure the context wherein constitutional deliberative events emerge and may frustrate efforts to bring their constitutional and deliberative credentials into focus as distinct from their democratic credentials.

Operationalization of variables

For the purposes of identifying the conditions which determine the form which constitutional deliberative events ultimately take, I ended up focusing on four variables: 1.) the identity of the event’s convener (who authorized the constitutional deliberative event?); 2.) the deliberative sequencing in the constitution-making process (at what point does the event intervene in the constitution-making process?); 3.) the anticipated output (what content emerges from the event?); 4.) the duty of response from constitution-making actors (is uptake of the output required or expected?).

These variables were operationalized as follows. For event convener, I identified two broad categories of actors. In cases where the national government or parliament, i.e. the executive or legislative power, was responsible for convening the constitutional deliberative event, I coded this “government”. In cases where some non-state actor, such as academic research units, participation consultancies, or grassroots groups, was responsible for convening the event, I coded this “civil society”. In cases where several kinds of actors were responsible for jointly convening the event, I coded this as the actor having the greatest proximity to or control over constitution-making mechanisms.

For constitution-making time-frame, I identified three broad temporal categories. In cases where the constitutional deliberative event took place before a working draft replacement or revision document was prepared by constitution-making actors, I coded this “before drafting”.

In cases where the event took place after a working draft document was prepared, I coded this “after drafting”. Lastly, in cases where the event took place at a time when no draft document was envisaged by constitution-making actors, I coded this “null” or “not applicable”. While these categories might be further refined (cf. Fossum and Menéndez’s (2005) five phases), they were sufficient for the initial elaboration of a typology.

For anticipated output, I identified four broad categories of results. In cases where the constitutional deliberative event was tasked with drafting a new constitution to replace the old constitution, I coded this “draft constitution”. In cases where the event was tasked with reviewing and providing recommendations for new and existing articles, sub-articles, or clauses in the current constitution (up to and including the drafting of new articles), I coded this “revision recommendations”. In cases where the event was tasked with discussing and recommending political values or principles to guide drafters in the replacement or revision process, I coded this “normative recommendations”. In cases where the event was tasked with discussing and providing recommendations about issues such as the nature of democracy in the polity or existential state-wide issues such as institutional reform or climate action, I coded this “institutional and policy recommendations”. In cases where several kinds of results were expected or emerged from the event, I coded the outcome having the greatest proximity to a draft constitution.

For duty of response, I identified four broad categories of precommitment from constitution-making actors. The first two categories respond to more objective criteria. In cases where legislation, act of government, or official communiqué made explicit that a constitution-making actor would reply to each recommendation (or set of recommendations) and give some reason to support its decision, I coded this “motivated reply required”. In cases where legislation, act of government, or official communiqué made explicit that a constitution-making actor would discuss the recommendations at least once in open or closed session, I coded this “discussion required”. The last two categories respond to more subjective criteria. In cases where no statute, decree, or communiqué made explicit that a constitution-making actor would discuss the recommendations and where the event convener or participants had compelling reason to expect that a constitution-making actor would engage with the recommendations, I coded this “discussion expected”. In cases where no statute, decree, or communiqué made explicit that a constitution-making actor would discuss the recommendations and where the event convener or participants had little reason to expect that a constitution-making actor would engage with the recommendations in any form, I coded this “discussion not expected”.

In cases where I was unable to locate an official document stating the precise nature of a constitution-making actor's duty of response, I relied on that duty's characterization in the country reports and secondary literature.

Manifestations of deliberative constitution-making

I now present my analysis of the cases wherein I identified eight manifestations or more or less coherent groupings of constitutional deliberative events or variables.

Table 1: Eight manifestations of deliberative constitution-making

| Manifestation | Convener | Time-frame | Output | Response | Cases |
|-----------------------------------|---------------|-----------------|----------------------------------------------|-----------------------------------------------|----------------------------------------------------------------------------------|
| Inside constitutional convention | Government | Before drafting | Draft constitution, revision recommendations | Motivated reply required, discussion required | FR 19-20 IE 12-14 IE 16-18 IE 19-21 IS 10-13 LU 15-16 RO 13-14 |
| Outside constitutional convention | Civil society | Before drafting | Revision recommendations | Discussion expected | IE 11 |
| Inside quality control | Government | After drafting | Revision recommendations | Discussion expected | DE 16-18 LU 14 LU 16 |
| Outside quality control | Civil society | After drafting | Revision recommendations | Discussion expected, discussion not expected | - |
| Inside value mapping | Government | Before drafting | Normative recommendations | Discussion required, discussion expected | IS 10-13 TR 12-13 |
| Outside value mapping | Civil society | Before drafting | Normative recommendations | Discussion expected | IS 09 |
| Inside institutional experiment | Government | n/a | Institutional or policy recommendations | Discussion required | FR 14-16 FR 18-19 |
| Outside institutional experiment | Civil society | n/a | Institutional or policy recommendations | Discussion expected, discussion not expected | AT 20-22 BE 10-11 FR 19 PL 20-21 PT 17 |

I propose the following descriptive labels for the manifestations in Table 1: inside and outside constitutional convention; inside and outside quality control; inside and value mapping; inside and outside institutional experiment. Each manifestation captures a distinct function within the constitution-making process. Below, I devote a section to each manifestation and discuss any relevant cases from the country reports. These events are coded as follows: Democracy Forum (AT 20-22); Hessen Citizens' Forums (DE 16-18); Digital Ambition (FR 14-16); Great National Debate (FR 18-19); The Real Debate (FR 19); Citizens' Convention on Climate (FR 19-20); We the Citizens Pilot Citizens' Assembly (IE 11); Convention on the Constitution (IE 12-14); Ireland's Citizens' Assembly (IE 16-18); Citizens' Assembly on Gender Equality (IE 19-21); National Assembly (IS 09); National Forum & Constitutional Assembly/Council (IS 10-13); CIVILEX (LU 14); Your Recommendation (LU 15-16); CONSTITULUX (LU 16); Consultative Council of the All Poland Women's Strike (PL 20-21); Citizens' Forum (PT 17); Constitutional Forum (RO 13-14); Polling Conferences (TR 12-13).

Inside Constitutional Convention

When the constitutional deliberative event is convened by the government, tasked with producing a draft constitution or revision recommendations, and is guaranteed motivated reply or discussion, it manifests as an inside constitutional convention. The event resembles a constitutional convention because it plays a formal role as another constitution-making actor. This need not be a strictly equal role, nor need the event participants draft the constitutional text themselves. The content which they produce must, however, be of direct relevance for the draft document. Hence, the participants must also intervene in the constitution-making process before a formal draft document has been finalized. This label is only meant to reflect a function of constitution-making, not an argument for a specific constitution-making device or institution (see Arato, 2016: ch. 3). The inside constitutional convention manifests in institutionally embedded contexts of open constitutional replacement or revision. Given its formal role, the event's outputs will either be taken up with substantial engagement from other constitution-making actors or be sidelined by rival constitution-making or political actors when opportune. Included in this grouping are constitutional deliberative events from Iceland (2010-2013), France (2019-20), Ireland (2012-14, 2016-18, 2019-21), Luxembourg (2015-16) and Romania (2013-14).

The 2011 Icelandic "Constitutional Assembly/Council" (*Stjórnlagaráð*) was the third phase of the larger 2010-2013 constitutional reform (Bergmann, 2021). Since the Council produced a full

draft constitution, it presents the purest manifestation of the inside constitutional convention among the cases here. While Parliament was responsible for convening the Assembly, an appointed seven-member Constitutional Committee was responsible, along with Assembly members themselves, for organizing the event. As for the agenda, it was set in large part by Parliament with the option for Assembly members to expand the remit. The Assembly was the device for drafting the constitution to replace the 1944 document, which would then be subject to one consultative popular referendum and two votes in parliament (with general elections between the votes). The Assembly's 25 members were selected by single transferable vote in a November 2010 special election; the candidates (500+ in the end) were self-selected but could not be public officeholders. Following a legal challenge, Parliament appointed the 25 elected individuals to a homologous body known as the Constitutional Council. Procedurally, the Council operated as a species of constituent assembly, with similarities to well-known deliberative events: the Council received informational input in the form of the Constitutional Committee's report (which, following discord between Committee members, included two sets of propositions A and B) and punctual expert interventions; its members were assigned to one of three working groups defined in the constitutional act; participants presented and synthesized group work in plenary sessions; they published a series of twelve drafts to the Council's website along with (delayed) transcripts and minutes from public meetings and group sessions; they had the option of incorporating public submissions from social media and other correspondence into the draft documents. At the end of their four-month mandate, participants submitted a draft constitution to parliament for processing. Parliament subsequently called a consultative popular referendum to vote on six questions: one general question on whether the draft should form the basis of the new constitution and five specific questions on specific provisions which Parliament judged controversial. The referendum measures were approved before it was decided to leave a vote on the draft until after the next parliamentary elections (which the governing coalition ended up losing). Though Parliament's formal duty to "process" the Council's output did not yield a new constitution in the end (Alpingi, 2010), the Council's work sparked a larger, ongoing constitutional conversation among the public.

Under a broad remit to formulate objectives for climate action, the 2019-20 French "Citizens' Convention on Climate" (*Convention Citoyenne pour le Climat*) contemplated constitutional amendments along with institutional and policy changes (Courant and Wojcik, 2021). If the executive was responsible for convening the assembly, responsibilities for organizing the event and setting the agenda were given to the "Economic, Social, and

Environmental Council”, in collaboration with three participation consultancies. Although the assembly was unconnected with a constitution-making time-frame, it emerged in a period of political tumult following the Yellow Vest protests and contestation around the Great National Debate. The Convention was conceived as a follow-up to the Great National Debate and structured as a citizens’ assembly taking place over seven weekends and including plenary sessions, working groups, and small discussion groups. 150 participants were randomly selected along demographic standards and randomly assigned to one of five working groups (consumption, transport, housing, food, work) wherein, with guidance from facilitators and in-house experts, they exchanged ideas and elaborated proposals to reduce France’s greenhouse gas emissions by at least 40% by 2030. A summary report was prepared by participants and published online, complete with a list of 149 recommendations with indications as to whether they ought to be put to a vote in parliament, submitted for popular referendum, or given direct regulatory application. These recommendations notably included putting to a popular referendum two amendments to the French constitution’s preamble and first article. The former would now state that environmental preservation ought not be sacrificed for political freedoms, rights, and principles; the latter would state that the French republic guarantees environmental preservation and combats climate change (Convention Citoyenne pour le Climat, 2021). The executive undertook a formal duty to respond to each of the recommendations and to indicate a provisional calendar for implementation. Formal uptake has been uneven: all recommendations received a response, but approximately one in ten only were accepted as is or incorporated into the parliament’s draft climate legislation.

After the 2010-13 Icelandic case, the 2012-14, 2016-18, and 2019-21 Irish cases are likely the most significant examples of inside constitutional conventions (Harris et al, 2020). The 2012-14 Irish “Convention on the Constitution” was convened via parliamentary resolution, but its organization was entrusted to civil servants. Agenda-setting was largely in the hands of parliament, with some discretion for participants. The Convention was connected with a formal constitution-making time-frame: it took place during the early stages of constitutional revision before formal amendments had been drafted. The Convention was structured as a blended deliberative body comprising 66 randomly selected but demographically representative citizens, 33 members of parliament nominated by the four major political parties, and an independent chairperson. The Convention met over the course of eight weekends (with two additional weekends). The organizers produced a report for each of the eight constitutional aspects which

the Convention had been tasked to study, along with two aspects chosen by participants, for a total of ten reports and 38 recommendations.

The terms of the resolution stated a.) that the parliament had to refer the report for consideration to the relevant parliamentary committee which would introduce its conclusions in parliamentary debate and b.) that the government would provide a motivated response to each recommendation along with a timeline in case of a popular referendum. In reality, the response was often delayed beyond the planned four months. Ultimately, many of the recommendations were either accepted directly or scheduled for popular referendum, with several revisions approved by a majority of voters during special elections.

The 2016-18 “Ireland’s Citizens’ Assembly” followed the 2012-14 Convention’s footsteps. Parliament was again responsible for convening the Assembly and setting the agenda whereas civil servants were responsible for organization. The Assembly was connected with a formal constitution-making time-frame: as part of Ireland’s ongoing constitutional revision process, citizens were tasked with making recommendations before formal amendments had been drafted and before a popular referendum could be called on specific constitutional questions. The Assembly was structured as a citizens’ assembly of 99 randomly selected but demographically representative citizens and an independent chairperson. The Assembly convened for ten weekends over the course of several months. As for the Convention, organizers produced a report for each of the five constitutional aspects which the Assembly had been charged with studying. In total, the five reports yielded 57 recommendations, subject to the same parliamentary and governmental duty of response. Many were accepted by parliament or put to popular referendum before becoming law.

The 2019-21 Irish “Citizens’ Assembly on Gender Equality” was a direct follow-up to the 2016-18 Assembly. As before, parliament was responsible for convening the Assembly via resolution and setting the agenda (six aspects of gender inequality, albeit with additional input from advisory experts) whereas civil servants were responsible for its organization. This Assembly was connected with a formal constitution-making time-frame: as part of Ireland’s ongoing constitutional revision process and with special attention to gender issues such as the Irish constitution’s Article 41 on the family, citizens were tasked with making recommendations before formal amendments had been drafted and before a popular referendum could be called. The Assembly was once again structured as a citizens’ assembly of 99 randomly selected but demographically representative citizens and an independent chairperson. The group convened in-person and online for nine sessions of one or two days (originally six sessions) over sixteen

months (originally six months). Given the subject, a list of recommendations and a summary report were produced at the end of the process, along with regular press releases throughout. Participants made 45 recommendations, subject to the same parliamentary and governmental duty of response. Report and recommendations are currently being studied.

Part of the 2013-2014 constitutional revision process, the 2013 Romanian “Constitutional Forum” (*Forumul constituțional*) presents similarities and differences with the preceding cases (Mișcoiu and Pârvu, 2021). While Parliament was responsible for convening the event, civil society organizations were responsible for organizing and setting the agenda (with considerable input from citizen participants). The event was connected to an explicit constitution-making time-frame: the governing coalition had agreed to constitutional revision but had not yet drafted any amendments. The process unfolded over the course of ten weeks and was structured as a series of local, mixed-format Town Hall Meetings (with citizens, experts, and stakeholders in the presence of facilitators and officials) in combination with an online submission platform for citizen contributions. The meetings and platform were to provide a deliberative space for elaborating and evaluating amendment proposals. These meetings followed a similar structure: each amendment proposal was introduced for ten minutes, whereafter its proponent had three minutes to defend and other participants had, in one-minute allotments, ten minutes to discuss the proposal. Between the meetings and platforms, some 400 proposals were collected. Organizers incorporated all amendments, arguments, and counterarguments into a comprehensive report to inform the work of the parliamentary committee charged with the revision process. In sessions open to participants, the committee went through each proposal, adopting, modifying or rejecting it, in accordance with its formal duty to respond. While many proposals were incorporated in the first version of the committee’s draft amendments, these were comparatively lesser or considerably weakened in the later version which the committee adopted before the constitution-making process broke down amid tensions in the governing coalition.

Finally, the 2015-16 “Your recommendation” (*Är Virschléi*) public consultation on constitutional reform presents a flawed instance of an inside constitutional convention (Burks and Kies, 2021). Parliament and its constitutional revision committee were responsible for convening and organizing the consultation while the broad remit for the consultation – matters of constitutional concern – allowed members of the public to contribute to agenda-setting. The consultation figured as a prominent event in a constitutional replacement process going back to 2005. It was organized as a way to seek public input on the existing draft constitution and was

structured as a two-phase process combining an online submission platform for citizens and public hearing between citizens, civil society groups, and members of the parliamentary committee drafting the new constitution. Of the 139 contributors to the consultation's webpage, 36 were invited to a public hearing with the committee to present and debate their proposals. Following the hearing, the committee conducted a series of livestreamed public deliberations. There was deliberative uptake insofar as several citizen contributions were incorporated into the draft constitution as articles or clauses. While the public hearing and public deliberations created an informal expectation that the committee would respond to contributions, the latter was under no formal obligation to reply.

Outside Constitutional Convention

When the constitutional deliberative event is convened by civil society, tasked with producing a draft constitution or revision recommendations, and comes with only an expectation of discussion, it manifests as an outside constitutional convention. The event resembles a constitutional convention because event conveners and organizers claim an informal role as a partner in the constitution-making process. By presenting the trappings of inside constitutional conventions, conveners and organizers model a process whereof the democratic credentials warrant attention from constitutional actors and the content bears directly on constitutional matters or draft constitution. Consequently, outside constitutional conventions intervene in the constitution-making process before a formal draft has been finalized. The outside constitutional convention manifests in institutionally unembedded or disruptive contexts of political crisis or open constitutional replacement or revision. Given its informal role, the outputs of such events may carry little weight with constitution-making actors. This does not, however, mean that the event conveners and organizers are at the mercy of officeholders for uptake. With careful planning and concerted effort, the former can seek support from or pressure the latter to include new deliberative exercises in electoral platforms or programs of government. This was notably what happened in Ireland (2011).

Following a general election, the 2011 Irish “We the Citizens Pilot Citizens’ Assembly” served as proof-of-concept for citizen involvement in constitutional reform and assessed possible constitutional, institutional, and policy reforms (Harris et al, 2020). While academic organizations were responsible for convening and organizing the assembly, its agenda emerged from a public meeting series and remote participant input. Although the Assembly was unconnected with a formal constitution-making time-frame, it was convened at a time where

constitutional reform figured prominently in many party electoral platforms and was later part of the coalition program of government. The Assembly was structured in two phases: a series of public meetings throughout Ireland where the roughly 700 attendees proposed issues for the second phase; a weekend-long citizen's assembly of 100 randomly selected citizens stratified for demographic representativeness where participants separated into small working tables with facilitators and note-takers and discussed the political and economic issues on the agenda as well as issues which they introduced themselves.

Over the course of the assembly, participants voted on questions and took a survey on interest and opinion changes whereafter the organizers prepared for the government a report with findings and recommendations about implementation. These findings included several revision recommendations for the Irish constitution, with majorities or pluralities supporting a.) changes to the lower parliamentary chambers and to the selection of ministers and b.) retaining the upper parliamentary chamber and the present electoral system (We the Citizens, 2011). Despite only an informal expectation of response, the government came to regard the assembly's outcomes favorably and opted to incorporate similar events into its own constitutional revision process. Hence, there was indirect uptake of form if not direct uptake of content.

Inside Quality Control

When the constitutional deliberative event is convened by the government, the government tasks it with producing revision recommendations, and discussion is informally expected, the event manifests as inside quality control. It resembles quality control because it is given the formal role of double-checking the contents of the formal draft document already prepared by constitution-making actors. This role is necessarily of secondary importance: the event participants engage with all or some of the draft document and provide feedback on what the drafters have done well and what they could improve. Inside quality control manifests in institutionally controlled contexts of ongoing constitutional replacement or revision. Given its formal role, the event's outputs are often subject to partial or no uptake due to drafter and stakeholder lock-in. Included in this grouping are constitutional deliberative events from Luxembourg (2014, 2016) and the German state of Hessen (2016-18).

The 2014 Luxembourgish CIVILEX event is a rare constitutional minipublic. Parliament was responsible for convening the minipublic and setting the agenda, but it tasked a university research group with organizing the event (Burks and Kies, 2021). The minipublic was designed as

a test event for similar events leading up to the 2015 popular referendum and was charged with providing citizen input on four constitutional matters which the parliamentary committee responsible for drafting the new constitution had been unable to resolve internally. The CIVILEX minipublic was structured as a one-day 21st Century Town Hall Meeting with 35 residents of Luxembourg who were accompanied in their small-group discussions by facilitators, experts, and notetakers. The minipublic began with introductory and informational sessions, next divided participants into three groups for work at thematic tables between which they rotated, then brought participants back to their original table for synthesis, and finally gave participants the floor to present their synthesis and proposals at a plenary session with officials from the major political parties. Beyond synthesis and proposals, the minipublic's main outputs were findings from pre- and post-deliberation questionnaires and the research group's report with guidelines for successful citizen consultations. These outputs found little uptake from parliament as the leadup campaign to the referendum did not include deliberative exercises. Parliament had no formal duty to respond to the findings or report. At most, there may have been an informal expectation given the presence of party officials at the event's closing session.

A quasi-sequel to CIVILEX, the 2016 Luxembourgish CONSTITULUX event continued the decade-long replacement effort (Burks and Kies, 2021). Again, parliament was responsible for convening the minipublic, and the same university research group was responsible for organization and agenda-setting (with some participant input). Like CIVILEX, the minipublic was organized as proof-of-concept for the participatory component of the future popular referendum on the new constitution. Its mission was to gauge citizens' views on the draft, identify additional consensual proposals, and formulate participatory strategies for the referendum campaign. The CONSTITULUX minipublic was a two-day mixed-format micro-deliberative body with 60 Luxembourgish citizens assisted by facilitators and experts. Citizens were randomly selected but stratified and divided into five working groups to fit demographic categories. The first day consisted in a general session: expectations, civic education, reforms, core themes. The second day was a more focused session on specific questions around the draft constitution. It included a closing session where participants could select two constitutional issues to discuss. This minipublic's main output came in the form of a report which summarized questionnaire results, levels of participant knowledge and agreement, and guidelines for successful citizen consultations. Ultimately, these outputs found little uptake from parliament. As with CIVILEX, parliament had no formal duty to respond though its convening role may have generated an informal expectation.

The 2017 “Citizens’ Forums” (*Bürgerforen*) took place in the midst of the 2016-18 Hessen constitutional revision process (Kersting, 2021). Although the Forums present significant deliberative design flaws relative to other quality control events, they bear mentioning as a participatory constitutional experiment. The Hessen Parliament’s constitutional revision committee was responsible for convening the Forums and, with help from local media, for organizing and setting the agenda for the three-part event series. The forums figured in a larger public consultation phase. Hence, they were explicitly connected with a constitution-making time-frame, coming after parliamentary work on draft amendments and before a planned popular referendum on constitutional revision. The forums were structured as a public hearing with several stages: collection of audience questions and contributions; official welcome; short film on the constitution; short interview with the committee chairperson; thematic discussion between committee members with audience questions and contributions; free discussion period. Minutes from the forums were later published. While the forums did not produce any concrete results and committee members had no formal duty of response, the revision committee reviewed them favorably at later sessions, noted several areas of citizen concern, and suggested including broader participatory devices in future processes (Hessischer Landtag, 2018). Hence, it may be appropriate to speak of some uptake in a deliberative event which preceded the adoption of fifteen constitutional amendments by popular referendum.

Outside Quality Control

When civil society convenes the constitutional deliberative event and tasks it with producing revision recommendations amid some or no expectation of discussion from constitutional actors, the event manifests as outside quality control. Like its inside counterpart, outside quality control is structured by the role of evaluating the contents of a formal draft document prepared by constitution-making actors. Event participants engage with all or some of the draft and provide feedback on what the drafters have done well and could improve. Unlike its counterpart, outside quality control’s role is informal because it is not sanctioned by officeholders or constitutional actors. Hence, outside quality control manifests in institutionally unembedded or disruptive contexts around a formal constitution-making time-frame. The event’s lack of official sanction means that it should expect no more than informal discussion by constitution-making actors. This is the only manifestation whereof no concrete instances are found in the country reports. Although I include this manifestation for taxonomic completeness, its current non-

manifestation is also no indication of its feasibility or desirability. I therefore briefly describe what it might look like and why it may be unexploited.

It may happen that a draft constitution is produced in the absence of democratic control of the agenda-setting or deliberative phases of the revision process, such as consultative campaigns or participatory instruments. Alternatively, democratic control may be formally present but actually ineffective during those phases. In either case, civil society or broad-based citizens' organizations may seek some measure of retrospective control over the agenda-setting and deliberative phases by convening constitutional deliberative events. These events could be organized as deliberative polls, citizens' assemblies, etc. Whatever their form, they would operate as outside quality control of the draft document by allowing citizens to become better informed about the draft document and formulate collective judgments about its content. Following the event, conveners, organizers, and participants may author a report with recommendations for constitution-making actors and organize a public information campaign advertising the event's democratic credentials and political independence. If an outside quality control event generates enough attention or support, the event's conveners, organizers, and participants may generate an informal but widespread expectation of uptake from constitutional actors and impress upon the latter the need to revisit aspects of the draft. Thus, outside quality control may help the public exert retrospective democratic control over the agenda-setting and deliberative phases of constitutional reform even if decisional power remains with constitutional actors.

Inside Value Mapping

When the constitutional deliberative event is convened by the government, which tasks it with producing normative recommendations, and discussion is either formally required or informally expected, the event manifests as inside value mapping. The event resembles a value mapping exercise because it has the formal role of identifying values or principles of constitutional import and selecting an ordering or clustering of values or principles that should inform the spirit of the draft document which replaces or revises the previous constitution. The work of value mapping ordinarily takes place before the new constitutional document is drafted. This role is often of tertiary importance since the event participants do not directly engage with the draft itself but instead provide a list of open-texture values and principles informing the sense of individual articles or the whole constitution. Inside value mapping occurs in institutionally controlled contexts of ongoing constitutional replacement or revision with considerable discretion for

constitution-making actors. Given its formal role, the outputs of an inside value mapping event often receive partial or no uptake. The guidance of specific values does not require the incorporation of specific articles or provisions. Included in this grouping are constitutional deliberative events from Iceland (2010-13) and Turkey (2012-13).

The 2010 Icelandic “National Forum” (*Þjóðfundur*) was the first phase of the 2010-2013 constitutional reform (Bergmann, 2021). While Parliament was responsible for convening the Forum, an appointed seven-member Constitutional Committee was responsible, with assistance from a collection of grassroots organizations known as “Anthills” (*Maurapúfan*) and a crowdsourcing consultancy, for organizing the event and setting the agenda. Emerging amid crisis, the Forum belonged to a formal constitution-making time-frame and preceded the drafting of a new replacement constitution. It was structured as a Town Hall Meeting where facilitators and experts accompanied citizens. A one-day event, it divided 950 randomly selected citizens into eight-person working groups to inform the background of the drafting process. More specifically, the tables began by brainstorming values and principles for the new constitution, which were put to a table-only vote. Votes were next aggregated to yield eight themes. One person from each table collected the table’s contributions for one particular theme and joined a new table to which seven other people brought contributions for the same theme. These new tables then discussed the theme and contributions and rated them by vote before drafting summaries of their discussion and returning to their original tables to share their experience. Following this, each table drafted five recommendations for the new constitution and voted on three to submit to the organizers. With help from facilitators, the organizers then compiled these data (and further individual inputs) into a mindmap with aggregated suggestions for the second phase, the Constitutional Committee. A summary of this mindmap was made available on the Forum’s webpage. While there was no formal duty of response from parliament to the Forum, there was an informal expectation that the Forum’s output would indirectly receive a reply in the form of the draft constitution emerging from the third phase, the Constitutional Assembly. Still, it remains unclear just how directly aspects of the draft constitution can be tied to data from the Forum and how accurately the Forum can be described as a genuinely deliberative body rather than aggregative (cf. Landemore, 2015, pp. 175-176, 184-185).

The 2012 Turkish “Polling Conferences” (*Tarama Konferansı*) were convened by civil society organizations and a special parliamentary committee, with the former responsible for organizing and agenda-setting (with assistance from a participatory management consultancy)

(Zirh, Yegen and Gül, 2021; cf. Baburoglu and Goker, 2014). The event was connected with an explicit constitution-making time-frame: it came before parliamentary work on a new draft constitution. A day-long Polling Conference was organized in twelve Turkish cities and structured as a mixed-format, blended minipublic, combining elements of 21st Century Town Hall Meetings and Deliberative Polls. Each conference assembled 500-1000 people, with two-thirds randomly selected (without further stratification) and one-third invited from local non-governmental or civil society organizations. To elicit citizen positions on constitutional matters, the organizers implemented a carefully designed process. Before the conference, eleven issues and a series of four issue-specific questions (totaling 44 questions) were prepared by organizers and verified by the parliamentary committee. During the conference, participants were divided between tables of ten people (according to citizen-stakeholder quotas) and accompanied by experts and facilitators. Participants were then presented the issues one-by-one with four issue-specific questions, given time to discuss each question at their tables, and asked to communicate their preference via a remote polling device designed to pool votes in a central database. Participants also took part in a short survey at the end of the conference. Organizers later analyzed vote tallies and recorded table materials from each event and compared them with a “deliberative cycle” model to determine the next steps for each issue in function of the level of consensus: make it a constitutional provision; reinitiate public deliberation; submit it to parliamentary deliberation; make it a flexible constitutional principle. Organizers both submitted these findings to the parliamentary committee and prepared for a nationwide “reflection conference”. These outputs received little uptake from the committee as findings from the Conferences were not reflected in the developing draft constitution. There was only an informal expectation that the parliamentary committee would respond even if committee members observed the Conferences. The committee itself was indefinitely adjourned in late 2013 following a lack of consensus on 113 of the 172 proposed articles.

Outside Value Mapping

When civil society convenes the constitutional deliberative event and tasks it with producing normative recommendations and discussion by constitutional actors is at most informally expected, the event manifests as outside value mapping. Like its inside counterpart, outside value mapping is charged with identifying and ordering constitutional values and principles in a set of normative recommendations for the draft document. Outside value mapping occurs in institutionally unembedded or disruptive contexts of political crisis or anticipated constitutional

reform. Since participants' role is not officially sanctioned by constitutional actors, the latter are not formally bound by the list of open-texture values and principles and retain the same discretion over constitutional content. Exceptional circumstances of popular support or political unrest may, however, mean that they are materially bound by that list's content or informally bound to seek greater public input. Thus, even if the event precedes the drafting of the new constitutional document, its output of normative recommendations may receive little to no direct uptake from constitution-making actors. Included in this grouping is the constitutional deliberative event from Iceland (2009).

The 2009 Icelandic "National Assembly" (*þjóðfundur*) was convened and organized by the grassroots "Anthills"; its agenda was developed from organizer and collaborator input (Bergmann, 2021). Though the event did not coincide with a constitution-making time-frame, it followed the 2008-09 "Pots and Pans Revolution" and preceded the 2010-13 constitutional reform. The two-day event took elements from both Town Hall Meetings and Citizens' Assemblies. It brought together 1500 participants, including 1200 randomly selected citizens (without further stratification) and 300 selected representatives from civil society and stakeholder groups. These participants were first divided into nine working groups and then into roundtable groups of eight participants and one trained facilitator. During group work, participants discussed which values should define the nation and which policy issues were most significant for the country's future. Thereafter, organizers aggregated the results and selected frequently recurring values and issues. Four were labeled national values, and a further eight were elevated to the status of important values. These values informed the subsequent roundtable work during which participants deliberated on and formulated action statements for the nine most frequently mentioned themes. These statements were collated by organizers who produced a handbook mapping the discussions and offering general conclusions. Given its grassroots origins, the National Assembly had no right to a formal response from Parliament and had at most an informal expectation of uptake. Participants and organizers were, however, surprised by the lack of direct uptake since Parliament had provided funding for the event and was under pressure from popular movements (Participedia, 2010). All the same, the event generated political and social momentum for the 2010 National Forum.

Inside Institutional Experiment

When the constitutional deliberative event is convened by the government, the government tasks it with producing institutional or policy recommendations, and discussion is formally

required, the event manifests as inside institutional experiment. The event resembles an experiment because it is given the formal role of serving as proof-of-concept for some institutional innovation or public outreach and the material role of generating novel inputs for decision-making procedures. The inside institutional experiment typically unfolds in a political context with no ongoing constitutional replacement or revision. Because of this separation, it has only indirect importance for constitution-making mechanisms, and event participants provide recommendations for institutional reform or government policy on state-wide issues. Such events may generate partial or no uptake because their one-off status lowers the costs of subsequent non-engagement for constitutional and political actors. Included in this grouping are constitutional deliberative events from France (2014-16, 2018-19).

The 2014-16 French national consultation “Digital Ambition” (*Ambition numérique*) provided an online platform for deliberation on digital democracy and national technology policy (Courant and Wojcik, 2021). The executive was responsible for convening the consultation whereas its organization was left to an independent advisory commission, the National Digital Council, which also set the agenda of four themes about which citizens and public actors then submitted contributions. While the consultation was unconnected with a constitution-making time-frame, it was connected with the drafting of legislation regarding state capacity, domestic technology, and collective action in the digital transition. If the consultation centered on an online interactive platform where participants could make proposals, share arguments and sources, and vote on materials, it also hosted in 2014 and 2015 a series of in-person events including four one-day thematic conferences and 70 local workshops. After input from some 2000 contributors, the Council produced a synthesis report of proposals, arguments, sources, and votes, with annexes including the original contributions. Since the executive’s announcement letter committed political actors to discussing proposals from the consultation, the consultation enjoyed a formal right to discussion (Conseil National Numérique, 2015: 343-345). After the Council presented its report to the government, the parliament translated certain of the 70 recommendations into five new articles in the 2016 “Digital Republic” legislation.

The 2018-19 French “Great National Debate” (*Grand Débat National*) took place against the backdrop of the Yellow Vest popular movement (Courant and Wojcik, 2021). Though unconnected with a constitution-making time-frame, this large-scale project incorporated local public meetings, written submissions to rural town halls, an online consultation platform, thematic national conferences involving civil society and stakeholders, and, notably for present purposes, twenty-one regional citizens’ conferences on the nature of democracy and national

policy. For these regional conferences, the national executive was responsible, with support from an inter-ministerial committee and two participation consultancies, for convening, organizing, and setting the agenda of four themes. The conferences were structured as citizens' panels involving citizens, facilitators, and "fact-checkers" but no experts or stakeholders. A summary report was published for each conference, with a synthesis report of the twenty-one regional reports. The conference participants produced 230 proposals, including 58 on democracy and citizenship, for which the executive had accepted the formal duty of discussion (Res publica and Missions Publiques, 2019). Even if political actors had no formal duty to respond to proposals, general findings were presented during a half-day briefing for the executive, and both chambers of parliament held debates on the Debate's four themes. Ultimately, there was some political uptake of citizen proposals.

Outside Institutional Experiment

When the constitutional deliberative event is convened by civil society, a civil society organization tasks event participants with producing institutional or policy recommendations, and discussion is either expected informally or not at all from constitution-making actors, the event manifests as outside institutional experiment. The expression "outside institutional experiment" is appropriate because the event assigns itself the (primary) formal role of testing new participatory ideas of governance and illustrating how political actors could incorporate deliberative events and the (secondary) material role of changing the nature of democracy in the polity or resolving national policy issues. Outside institutional experiments emerge against a backdrop of democratic stagnation, with little prospect for constitutional revision. Hence, they remain unrecognized by constitution-making actors. If outside institutional experiments infrequently generate political uptake, civil society may improve the chances for uptake by partnering with esteemed collaborators or preparing an event of high democratic quality. This type includes constitutional deliberative events from Austria (2020-22), Belgium (2010-11), Portugal (2017), France (2019), and Poland (2020-21).

The 2020-22 Austrian "Democracy Forum" (*Demokratieforum*) focused on improving the democratic quality of political society (Ehs et al, 2021). The Oberösterreich regional parliament and the Initiative Wirtschaftsstandort Oberösterreich civil society organization were responsible, with logistical support from a consulting firm and online discussion platform, for convening, organizing, and setting the Forum's agenda. Although it was unconnected with a constitution-making time-frame, the event took place in a national context of increasing political

fragmentation. If the Forum was structured as a series of three online discussions, an online congress, and intermediate reports to which officials, experts, citizens, stakeholders, and civil society representatives all contributed, it is difficult to determine just how organizers conducted discussion and synthesized outputs. The Forum culminated in a summary report presenting political actors with observations regarding contemporary democratic trends and with four categories of action proposals (Osztovcics and Kovar, 2022). While it is premature to assess the event's political uptake, there is no formal duty of response from the regional or national parliament, despite the involvement of prominent regional officials.

The 2010-11 Belgian “G1000” was a large-scale deliberative instance about the nature of a democratic polity and national policy issues in Belgium (Vrydagh, 2021). It was convened by a grassroots group which was responsible, along with external consultants, volunteers, and the Foundation for Future Generations, for organization. The agenda was composed of themes derived from online proposals, from which participants then chose three themes. While the G1000 was not explicitly connected with a constitution-making time-frame, it occurred at a time of political crisis in the Belgian federal government. The event comprised three phases: Public Agenda Setting (a public online consultation), Citizens’ Summit (a Town Hall Meeting with 800 participants), and Citizens’ Panel (a consensus conference with 32 participants). In the Summit, participants in the ten-hour event had access to facilitators, experts, and stakeholders, as well as notetakers and interpreters. Experts briefly introduced one of the three themes whereafter a facilitator led discussion at each nine-participant table. Following discussion, organizers aggregated table outcomes, participants recorded their preferences via a voting device, and the Summit moved to the next theme. In the Panel, participants devoted one weekend to each of the three themes. With support from facilitators, experts, stakeholders, notetakers and interpreters, participants created a report with institutional and policy recommendations for political and social actors for each theme. These recommendations reappeared in organizers’ summary report addressed to political actors (Bell et al, 2012). The G1000’s political legacy was mixed. Although Belgium’s seven parliamentary chairpersons attended the Summit’s closing session, the process did not enjoy a formal duty of response from political actors and generated little concrete uptake. Nonetheless, it served as independent validation of popular policymaking and spawned a series of similarly designed events across Europe.

The 2017 “Citizens’ Forum” (*Fórum dos Cidadãos*) served as proof-of-concept for citizen involvement in politics and focused on the nature of democracy in the polity (Magalhães Silva et al, 2021). The civil society group *Fórum dos Cidadãos* (the event’s namesake) and a university

research group were responsible for convening, organizing, and setting the Forum's agenda which was unconnected with a constitution-making time-frame. It unfolded as a weekend-long citizens' panel: 15 randomly selected citizens formulated recommendations for improving political communication and democratic efficacy. The Forum incorporated discussion sessions with participants and facilitators and plenary sessions with experts, stakeholders, and public officials. The agenda was partly set by an online public consultation where citizens submitted proposals for panel consideration: 60 proposals total, with ten submitted by organizers to the Forum and five retained by Forum participants. The discussion sessions moved between three phases: diagnosing the problem; exploring solutions; finalizing solution proposals. The Forum concluded with several outcomes: three recommendations for improving political communication and democratic efficacy (an online consultation platform, a civic education program, an online verification platform) and a summary report for the Portuguese president's office (Fórum dos Cidadãos, 2017). Despite the involvement of several elected officials, there was at most an informal expectation of response, so the experiment and report found little uptake.

"The Real Debate" (*Le Vrai Débat*) unfolded on an online platform for deliberation about the nature of democracy and state-wide issues (Courant and Wojcik, 2021). The Yellow Vests social movement convened and, with a civic technology start-up, organized "The Real Debate". Movement members and unaffiliated participants set the agenda by populating the platform with proposals. If the debate was unconnected with a constitution-making time-frame, it was designed as a direct response to the "Great National Debate" and its perceived lack of uptake. The platform enabled participants to post contributions, amend others' contributions, present arguments for and against contributions, link to informational sources, and vote on contributions and amendments (for, against, mixed) and arguments (upvote). Additionally, the platform had an aggregative function which reduced repetition and increased visibility for popular contributions. After input from more than 40,000 users, the consultation ultimately yielded 59 proposals on four main themes. There was, however, no uptake by elected officials.

The efforts of the "Consultative Council" of the All-Poland Women's Strike (*Rada Konsultacyjna przy OSK*) to provide an online platform for citizen deliberation on various foundational issues in Poland may qualify as a flawed constitutional deliberative event (Kampka, 2021). The Council, composed of prominent activists in the social movement, was responsible for convening, organizing, and setting the agenda for deliberation, with upstream input from and downstream freedom for movement members. Technological support was provided by Loomio, an online collaborative workspace. According to the Council, the agenda for online discussion

emerged from the wide range of proposals defended by participants of the October 2020 protests. Though the movement was unconnected with an explicit constitution-making time-frame, it called for important action on foundational matters and articulated an alternative to the ruling coalition's policies. Unfortunately, there are few easily accessible details about the interactive platform and the ensuing deliberation between activists and participants. Nor is much information available about the deliberation's outputs after the platform's announced end-date of January 2021. Regardless, uptake from elected officials was always unlikely given the movement's strictly oppositional stance to the Polish government.

Trends in deliberative constitution-making

I have described so far the manifestations of deliberative constitution-making and their concrete expression in twenty events from eleven countries. I now consider what broader trends emerge from the cases as a whole. I examine them from three perspectives: event function; event provenance; event outcome.

Event function

The relative frequency of different manifestations can be viewed from two angles. On the one hand, they can be broken down along functional lines into three groupings of roughly equal magnitude. The first grouping, constitutional conventions, is the most common manifestation function of deliberative constitution-making at eight instances, representing nearly half the total cases (including the hybrid case IS 10-13). This function also manifests at regular intervals throughout the fourteen-year period studied (2009-22). Compare this with the second grouping which includes two manifestation functions but only six cases: quality control and value mapping. These functions progressively dwindle in the case selection, with only one instance after 2016. The third grouping, institutional experiments, accounts for seven cases which are unevenly distributed throughout the study period.

Consequently, it appears that familiar functions win out over unfamiliar functions, at least when it comes to events connected to a constitution-making time-frame. Deliberative constitution-making remains a constitution-making instance, with the result that conveners and organizers take inspiration from more traditional constitution-making bodies. Models like the constitutional convention or constituent assembly loom large in the minds of those designing constitutional deliberative events and may crowd out innovations like the quality control or value mapping manifestations which can seem, at best, merely ancillary to constitution-making or, at

worst, entirely superfluous. Perhaps there is some sense that, for popular involvement to count as both effective process and powerful symbol for constitutional actors and the public, it must figure in the constitution-making stages which formulate the draft document or inform its formulation.

Table 2: Function of constitutional deliberative events

| Manifestation function | Cases |
|-------------------------------|-----------------------------------------------------------------------------|
| Constitutional convention (8) | IS 10-13, IE 11, IE 12-14, RO 13-14, LU 15-16, IE 16-18, FR 19-20, IE 19-21 |
| Quality control (3) | LU 14, LU 16, DE 16-18 |
| Value mapping (3) | IS 09, IS 10-13, TR 12-13 |
| Institutional experiment (7) | BE 10-11, FR 14-16, PT 17, FR 18-19, FR 19, PL 20-21, AT 20-22 |

Event provenance

On the other hand, the relative frequency of different manifestations can be viewed through the lens of their provenance. Inside constitutional deliberative events make up approximately two-thirds of the cases studied. Thirteen of twenty instances were convened by government, with or without civil society partners. The remaining seven, outside constitutional deliberative events, were convened by civil society, without formal support from national governments. Inside events recur at more regular intervals during the study period whereas outside events are clustered towards the period's beginning or end. This may, however, owe more to differences in absolute magnitude and case selection than to differences in relative chronology and global patterns.

Table 3: Provenance of constitutional deliberative events

| Manifestation provenance | Cases |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------|
| Inside (13) | IS 10-13, TR 12-13, IE 12-14, RO 13-14, LU 14, FR 14-16, LU 15-16, LU 16, DE 16-18, IE 16-18, FR 18-19, FR 19-20, IE 19-21 |
| Outside (7) | IS 09, BE 10-11, IE 11, PT 17, FR 19, FR 20-21, AT 20-22 |

Nevertheless, one could advance two alternative interpretations of the data to explain the difference in relative frequency between inside and outside constitutional deliberative events.

First, inside events may more frequently be convened simply because government actors have greater capacity or bandwidth for organizing constitutional deliberative events. By dint of their affiliation with particular communities or interests, civil society organizations may find it more difficult to broaden their focus from specific groups or issues to the institutions and limits which govern political society as a whole. In contrast, government actors stand in greater proximity to the constitution since its institutions and limits define, to a certain degree, those actions which they may take in pursuing their political projects. Hence, the constitution may merely be a more direct object of concern for government actors than for civil society organizations.

Second, inside events may take place more frequently because government actors prefer to retain control of the constitution-making process and to preclude the emergence of informal constituent agents which could alter the balance of constitution-making power. By convening the event, government actors may decisively frame and influence the scope and exercise of popular agenda-setting, deliberative, and decisional power. Indeed, inside events may restrict the scope of constituent power or channel it towards specific ends. This seems particularly important for those contexts where political crises of various kinds make it difficult for government actors to ignore informal constituent agents which challenge the existing constitutional order. This may partly reflect why outside events like IS 09 and IE 11 were soon followed by a series of inside events, i.e. IS 10-13, IE 12-14, IE 16-18, and IE 19-21. Government actors were able to internalize popular constitution-making and to redirect its political momentum.

Event outcomes

Finally, one might consider manifestations with an eye to their outcomes. Although one could reasonably argue that a constitutional deliberative event's measure of success ought not be tied too closely to concrete constitutional changes, one should still ask what becomes of the event outputs (draft constitution, revision recommendations, normative recommendations, institutional or policy recommendations). A provisional answer is to divide events according to whether their outputs were partially enacted, temporarily sidelined, permanently abandoned, or effectively ignored. Outputs are partially enacted when some event recommendations become constitutional law or ordinary statute. Outputs are temporarily sidelined when some event recommendations may still become constitutional law or ordinary statute in their current form provided that the existing constitution-making landscape changes in composition. Outputs are permanently abandoned when event recommendations would not be reprised in their existing form by constitutional actors even if the constitution-making landscape changed in important

ways. Outputs are effectively ignored when event recommendations receive little engagement from key constitution-making actors.

Table 4: Outcomes of constitutional deliberative events

| Manifestation outcome | Cases |
|-----------------------|-------------------------------------------------------------------|
| Enacted (7) | IE 11, IE 12-14, FR 14-16, DE 16-18, IE 16-18, FR 18-19, FR 19-20 |
| Sidelined (1) | LU 15-16 |
| Abandoned (4) | IS 09, IS 10-13, TR 12-13, RO 13-14 |
| Ignored (6) | BE 10-11, LU 14, LU 16, PT 17, FR 19, PL 20-21 |
| To be determined (2) | IE 19-21, AT 20-22 |

It is striking that outputs in two-thirds of the present cases prompted no concrete changes in constitutional or ordinary law. Additionally, even when constitutional deliberative events were convened by governmental actors, these events were frequently sidelined, abandoned or ignored. Nevertheless, inside events fared better than outside events when it came to translating deliberative outputs into political change. One exception to this trend is IE 11 for which some outputs were indirectly enacted when later inside events found uptake for their own related recommendations.

Certainly, this classification requires greater nuance. Critically, one can contest whether an event's outcomes are enacted when, for instance, its recommendations of direct constitutional relevance are not ultimately adopted by constitution-making actors (e.g. FR 19-20). Likewise, one could note that distinguishing between sidelined and abandoned outcomes is a matter of subjective judgment, for a future constituent body might resurrect certain recommendations in a new constitution-making time-frame (e.g. IS 10-13). That said, considering the manifestations of deliberative constitution-making through the lens of outcomes defined here yields two provisional lessons for deliberative theorists and practitioners.

First, those constitutional deliberative events whose recommendations were at least partially enacted were not necessarily the most deliberative or the best designed events. Many such events were overly compressed or addressed more issues than typically recommended for the micro-deliberative model after which the event was designed (e.g. IE 11, IE 12-14, FR 18-19). Second, even inside events do not automatically translate into concrete outcomes, meaning that government backing or institutional embeddedness does not exclude failure. Overall, when viewed purely as an instrument for facilitating popular constitutional change, constitutional

deliberative events seem an unreliable tool or low-reward strategy for constitutional actors and civil society organizations alike.

Conclusions

I have argued that the theory and practice of deliberative constitution-making benefit from comparative, systematic study of deliberative constitutional events and that deliberative constitutionalists have neglected a.) the conditions which determine the form which constitutional deliberative events ultimately take and b.) the commonalities between those forms. The present typology advances the state of discussion on both counts and suggests possible directions for further comparative study. From the interaction between the variables of event convener, constitution-making time-frame, event output, and duty of response, there emerge eight manifestations of deliberative constitution-making: inside or outside constitutional convention; inside or outside quality control; inside or outside value mapping; inside or outside institutional experiment. Certainly, the case selection from which this typology emerges is incomplete insofar as some reports do not describe all relevant events from that country and some countries with a history of relevant events still lack a report, but this incompleteness may also be viewed as an advantage in one respect. By analyzing different events for fit with this typology, future studies may assess its external validity in conditions which better control for selection bias than the present study's analysis of the country reports and their sometimes idiosyncratic content. Otherwise, after illustrating these manifestations with a selection of twenty cases, I described broad trends in deliberative constitution-making from three perspectives (event function, provenance, outcome). These trends may also inform future research regarding the degree to which different manifestations are productive or unproductive of constitutional and political change and the range of constitutional and political futures to which those manifestations might ultimately lead.

Moreover, the trends described above may warrant two broader remarks about the current state of deliberative constitution-making in Europe. First, deliberative constitution-making continues apace in Europe, but it is unclear whether enough genuine cross-country learning has taken place. While all politics is local (as the saying goes in the United States), the politics of deliberative constitution-making may be too local as key constitution-making actors reinvent the wheel rather than internalize lessons from other polities. Even supposing that constitutional deliberative events and the choices of constitution-making actors are highly context-sensitive and unique to a polity, those events and choices provide at least some

information which may orient events and choices in other polities. Although it is wrongheaded to treat all events as fundamentally the same, it is no less wrongheaded to treat them as fundamentally incomparable.

Second, one might invoke the metaphor of an explore/exploit algorithm to characterize the current state of deliberative constitution-making in Europe. If one imagines that the manifestations of deliberative constitution-making constitute a possibility space of institutions and practices, one might engage with that landscape in two ways. One might explore the landscape in search of the best institutions and practices for effective constitution-making. Alternatively, one might exploit already discovered features of that landscape, i.e. institutions and practices for which there is a more or less known value, in order to bring about constitutional change. On this metaphor, the possibility space of deliberative constitution-making might presently appear underexplored, with the exploited features being clustered in the same parts of that landscape. Consequently, proponents of deliberative constitution-making would do well to reexamine where they are in the process of exploring and exploiting that possibility space and how they might better understand what they have and have not yet explored so that they might better exploit that landscape. Only then might proponents see more clearly what political futures deliberative constitution-making opens up or closes off.

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