

Revus

Journal for Constitutional Theory and Philosophy of Law / Revija za ustavno teorijo in filozofijo prava

47 | 2022

Varia

Visions of constitutionalism: Institutions

From “democratic erosion” to “a conversation among equals”

ROBERTO GARGARELLA

<https://doi.org/10.4000/revus.8079>

Abstracts

English Slovenščina

In recent years, legal and political doctrinaires have been confusing the democratic crisis that is affecting most of our countries with a mere crisis of constitutionalism (i.e., a crisis in the way our system of “checks and balances” works). Expectedly, the result of this “diagnostic error” is that legal and political doctrinaires began to propose the wrong remedies for the democratic crisis. Usually, they began advocating for the “restoration” of the old system of “internal controls” or “checks and balances”, without paying attention to the democratic aspects of the crisis that would require, instead, the strengthening of “popular” controls and participatory mechanisms that favored the gradual emergence of a “conversation among equals”. In this work, I focus my attention on certain institutional alternatives - citizens’ assemblies and the like- that may help us overcome the present democratic crisis. In particular, I examine the recent practice of citizens’ assemblies and evaluate their functioning.

Od »demokratske erozije« do »pogovora med enakimi«. V zadnjih letih pravni in politični dogmatiki zamenjujejo demokratsko krizo, ki je prizadela večino naših držav, zgolj s krizo ustavnosti (tj. s krizo v načinu delovanja našega sistema »zavor in ravnovesij«). Rezultat te »napake v diagnozi« je pričakovano ta, da so pravni in politični dogmatiki za demokratsko krizo začeli predpisovati napačna zdravila. Običajno so se zavzemali za »obnovo« starega sistema »notranjih kontrol« ali »zavor in ravnovesij«, ne da bi se ozirali na demokratske vidike krize, ki bi namesto tega zahtevali krepitev »ljudskih« kontrol in participativnih mehanizmov, ki so spodbujali postopni nastanek »pogovora med enakimi«. Avtor se osredinja na nekatere institucionalne alternative – zbornice državljanov in podobno, ki nam lahko pomagajo premagati sedanjo demokratsko krizo. Posebej preučuje nedavno prakso zborov občanov in ocenjuje njihovo delovanje.

Index terms



Keywords: democratic erosion, checks and balances, popular controls, democratic assemblies

Ključne besede (sl): demokratična erozija, zavore in ravnovesja, ljudski nadzor, demokratične skupščine

Full text

1 "Democratic erosion": A previously unidentified species?

1 It was not that long ago that prominent social scientists were expressing renewed hope—even a certain optimism—for the prospects of improved democratic participation. Benjamin Barber published a book on "strong" democracies that found immediate success;¹ Jane Mansbridge had published another the year before that also praised participatory democracies.² In recent years, however, the mood seems to be trending in the opposite direction: book upon book, article after article now address the democratic crisis. The literature draws attention to the phenomenon of "democratic erosion": *democracies that no longer die in one fell swoop, but rather slowly, bit by bit*. Instead of succumbing from one day to the next to massive riots or a military coup, democracies nowadays are dismantled piece by piece from within. Through small, outwardly legal moves, democracies are emptied of their representational legitimacy and turn into their opposite. From the government "of the people, by the people, and for the people," we find ourselves with a government "of a few, managed by a minority, and for the privileged."

2 Indeed, in recent years, the entire front line of political scientists and many of the best constitutional scholars have begun writing about the same subject: democracy is going through its darkest hours; democracies are failing; democracies are not immortal. Here are a few illustrative examples:

3 (i) Noted political scientist Adam Przeworski wrote on the subject for several years. He published a book on the issue entitled *The Crisis of Democracies* that speaks of "eroded" democracies dismantled gradually from within. He referred to the phenomenon as democratic backsliding.³

4 (ii) Constitutional law scholar Cass Sunstein published a book on the fall of democracy in 2018, wondering if the phenomenon—generally associated with exotic or far away countries—could also occur in the United States, the cradle of constitutional democracy: "Could it happen here too?", he asked.⁴

5 (iii) Another renowned constitutional scholar, Mark Tushnet, along with other colleagues, edited a work on "constitutional democracies in crisis".⁵

6 (iv) David Van Reybrouck advocated for more direct forms of democracy in addition to the traditional form of elections, and famously spoke of "democratic fatigue".⁶

7 (v) The comparative legal scholar Tom Ginsburg, together with his colleague Aziz Huq, published one of the most notable and informed books of the period, entitled *How to Save a Constitutional Democracy*. (The book's original title was *How Constitutional Democracies Die*, but, on the advice of Supreme Court Justice Judge Ruth Bader Ginsburg, he gave it a more optimistic touch).⁷

8 (vi) Another author working in comparative law, David Landau, wrote about rising "abusive constitutionalism".⁸

9 (vii) Together with Daniel Ziblatt, the political scientist Steven Levitsky published one of the most successful books written in the period, on the question: *How Democracies Die*.⁹

10 What explains the sudden appearance of so many works on the democratic crisis—its erosion, its regression, its abuses, its dismantling, its fall, its death, its fatigue—in such a short period, from so many of the best scholars of our time? I would like to reflect a little on the significance of the phenomenon. To do so, I proceed as follows. First, I characterize the kind of "democratic crisis" that we are presently facing and distinguish

it from the “crisis of rights” that followed the end of the Second World War. Second, I highlight the presence of a “diagnostic error” in the analysis of the “democratic crisis” or “democratic erosion” that we presently face. I suggest, in this respect, that legal and political doctrinaires have been confusing what we have, namely, a crisis that affects our self-governing capacities, with a (mere) crisis of constitutionalism (i.e., a crisis in the way our system of “checks and balances” works). Expectedly, the result of this “diagnostic error” is that legal and political doctrinaires began proposing the wrong remedies for the democratic crisis. Usually, I claim, they advocated for the “restoration” of the old system of “internal controls” or “checks and balances”, without paying attention to the democratic aspects of the crisis that would require, instead, the strengthening of “popular” controls and participatory mechanisms that favored the gradual emergence of a “conversation among equals”. Third, I focus on certain institutional alternatives - citizens’ assemblies and the like- that may help us overcome the present democratic crisis. In particular, I examine the recent practice of citizens’ assemblies and evaluate their functioning. At the end of the paper, after having presented the many virtues that distinguish the recent practice of citizens’ assemblies, I present some critical reflections, which suggest that we be more cautious in terms of the optimism that citizen assemblies can generate.

2 Too slow a death: From the crisis of rights to the crisis of democracy

11 *From the crisis of rights ...* A first comment on the growing thematization of the “slow death” of democracy, one that does not question the central essence of the arguments advanced in that body of literature, relates to the shift in the literature’s focus. Until a few years ago, the dominant paradigm was distinct in that it focused on what we could call the “crisis of rights.” Think of the events that led to the Second World War, the unexpected rise of fascism and Nazism, and the ensuing genocide. Since then, much legal reflection has revolved around protecting rights as a means to prevent another tragedy like the one that affected such a large part of humanity: atrocious political regimes, war, massacres, death on a scale never seen before. As I stated above, a good deal of legal energy has understandably been devoted, for decades now, to the protection of rights, including how to assign them legal protection, how to litigate for them, and deciding how courts should respond to their violations. Many of the best authors of the time—such as Ronald Dworkin in the Anglo-Saxon sphere and Luigi Ferrajoli in the continental European and Latin American spheres—provided expressions of that moment: their theories revolved around the perceived need for the protection of rights. Another way to characterize their reflections would be as efforts at preventing genocide with the law’s help. Law, as we know, has always played a part in with the worst dramas suffered by society. Humanity confronted the problem of genocide through conventions and international treaties establishing new rights and new local, national, regional, and international human rights courts to enforce them. The Universal Declaration of Human Rights was adopted by the UN in 1948; The American Declaration on the Rights and Duties of Man (which preceded the Universal Declaration and constitutes the first international agreement on human rights) was also approved in 1948 (the American Convention on Human Rights, or Pact of San José de Costa Rica, meanwhile, was signed in 1969); and the European Court of Human Rights was established in 1959.

12 In the 1970s, Latin America was gripped by the tragedy of violent dictatorships that regularly carried out “disappearances” and massive rights violations. This led to a powerful resurgence of the human rights movement, one that inspired many countries in the region to incorporate international law into their domestic order, usually assigning it a privileged status. In some countries, such as Argentina and Bolivia, human rights treaties were explicitly incorporated as constitutional norms. In other

countries, such as Costa Rica and El Salvador, the treaties were conferred supra-legal hierarchy.¹⁰ Some Constitutions, such as those of Peru and Colombia, included interpretative clauses in their texts that made explicit reference to international law. Others, such as Brazil's, referenced the existence of rights not listed, among which are the treaties to which Brazil is a party. Chile established special duties in the area of human rights and required all state organs to comply with them.

13 The rebirth of the human rights movement was of such magnitude that activists and militants from the left—the ideological descendants of Marx who had historically repudiated the rights discourse for more than a century—ended up jumping on the human rights boat too. It was a time marked by the drama of massive rights violations and the subsequent constitutionalizing of the human rights paradigm.

14 ... *To the crisis of democracy.* That we spent a couple generations immersed in the paradigm of rights is not bad in itself, but it is a historical fact. It is a fact that had a significant impact on preventing violations of basic human interests that, at the time, seemed to be the rule or normal state of affairs. We had become used to it but we are not any longer.

15 Today, a different paradigm seems to prevail, that of the democratic crisis. As I understand it, there is widespread recognition that we are going through a new, very serious situation, which we have not thought about enough. This does not mean that the rights crisis is over: rights continue to be seriously violated in a wide range of contexts. However, the rights crisis no longer seems to be the most pressing crisis. *The perceived urgency is related instead to widespread estrangement from our political systems; distrust in politicians; institutions that either do not deliver what they promise or provide just the opposite; and public organs whose function appears to be the creation and consolidation of new privileges.* These are the days of the "Arab Spring"; of the Argentine "May they all leave!" ("*iQue se vayan todos!*"); of "Occupy Wall Street" in the United States; of *Syriza* in Greece and of *Podemos* in Spain (two anti-party-political parties); the "yellow vests" (*gilets jaunes*) in France; the young pro-democracy activists in Hong Kong risking their lives; of bitter complaints against the political "caste" that has taken over our governments.

16 What I would like to add to the discussion of this "new" problem, the problem of democracy decomposing from within until it is too weak to stand, is also very much an "old" problem. Without going into detail, I will just recall the great political scientist Guillermo O'Donnell who spoke of the "slow death of democracy" for many years before studies of "democratic erosion" became fashionable,¹¹ and who wrote extensively about the "brown areas" of democracy and related issues starting in the late 1980s and early 1990s.¹²

17 Personally, I am tempted to go much further back than O'Donnell. The particular nature of problem about which we are thinking started much longer ago. To be clear, we are talking about the situation of democracies that do not crumble all at once but fall apart piece by piece while they are dismantled from within. I am interested in showing that the path that leads directly to our current "ills" starts at the very "origin" of our constitutional tradition. In fact, the Latin American hyper-powerful president habitually sought to undermine the controls on his own office. Coups d'état (the "sudden death") tended to occur when the institutional attrition (the "slow death") reached a point where faith in the virtues of institutions to express and channel citizens' demands was completely lost. Just because this "slow death" phenomenon is especially visible in many countries today (or that the tendency for regime change through coup d'état in Latin America appears to have "stopped"), or that in the United States we seem to be witnessing the development of "imperial presidencies", which began emerging decades ago, oriented towards throwing off the balance of the entire system of institutional control from within, does not mean that we are facing a new phenomenon. If anything, we are faced with a long-standing phenomenon that has taken on particular salience in the current circumstances, perhaps because the consequences are so serious and foreseeable.

3 Repairing a ship at sea: restoring democratic controls

- 18 Faced with the current crisis and the phenomenon (recent or not, but in any case, now especially salient) of "democratic erosion," it is essential to carefully situate ourselves theoretically to properly recognize what is at stake and determine which adequate responses are available. My impression, however, is that while much of the dominant literature on the subject has the enormous merit of having identified the problem of our time—a problem directly related to democracy—it has been successful in terms of diagnosis and remedy. In what follows, I would like to focus on possible remedies.
- 19 An important branch of literature argues that the recent problem of democratic erosion originated in the gradual increase in the power of the executive branch, which led to the gradual dismantling of the system's internal control, and that it was helped along by a general lack of political commitment and participation by citizens. This perspective suggests the recovery of *internal controls* (through a more active and vigilant citizenry) as a way of responding and, most of all, the strengthening *external controls*, that is to say, the restoration of the democratic controls occasioned by the strong executive branches.
- 20 The refined and empirically supported work of Ginsburg and Huq argues along these lines. As we saw earlier, Tom Ginsburg and Aziz Huq argued that "the most formidable engine of erosion [of the entire institutional system] would be the presidency, which over time has acquired a plethora of more institutional, political and rhetorical powers beyond [those assigned by the Constitution]".¹³ They also emphasized that democracy demands from its members "a certain political morality".¹⁴ They explicitly maintained that "*in the absence of that political morality, nothing in the toolkit of constitutional designers will save constitutional democracy. Design, in short, can go only so far without decency*" (ibid., italics added).¹⁵ I want to emphasize that notable point: without a certain political morality, no tool will enable us to save these constitutional democracies.
- 21 Even more radically, Ginsburg and Huq argue that the essential change needed in terms of political morality does not have to do with "incentives or stratagems," but rather "with beliefs and preferences," which are transmitted within "families, schools, churches, mosques, synagogues, workplaces, and social media networks".¹⁶ They conclude: "Without those beliefs, without a simple desire for democracy on the part of the many, the best institutional and constitutional design in the world will likely be for naught" (ibid.). But this kind of position has very serious problems, regardless of the important contributions that Ginsburg and Huq may have brought to the discussion.
- 22 I have already referred to the error of considering as new a problem that, in truth, is not (similarly, there is also something problematic about thinking about the question in the light of political evolution in the United States, despite Ginsburg and Huq's explicit effort to avoid all manner of parochialism). There is, however, another significant problem with focusing on "political morality" and the terms with which they do it. The idea that the problem has more to do with "beliefs and preferences" than "incentives or stratagems" seems seriously wrong, especially since it ignores *the "endogenous formation" of character*. More specifically, the authors do not seem to appreciate the relationship between the alleged political apathy of the citizenry and a constitutional system with markedly elitist features, seeming to attribute the indifference instead to some choice or preference on the part of common people. Beyond the diagnostic error that this vision implies, I believe the approach ends up pointing us in the wrong direction by attributing to the citizens something for which the counter-majoritarian institutional system is originally responsible. Without intending to free anyone from their responsibilities (particularly citizens for greater or lesser degrees of "civic virtue," political participation, and respect for rights), I believe it is a serious mistake not to put

the main focus of the analysis on the scheme built around principles of democratic mistrust, treating as "personal" a problem that is fundamentally "structural."

23 In this sense, it seems that citizens might rationally and sensibly choose to shun public affairs, tactically or temporarily withdrawing to a more private sphere, if what they encounter in the public sphere is neglect or aggression by those in government. If, as has happened so many times, active, constant public pressure, (such as the 2001 demonstrations in Argentina that went on for months in the aftermath of the sovereign debt crisis demanding "May they all leave!") does not translate into meaningful change in the political system (again, in 2001, "everyone stayed"), citizens may well decide not to return to the streets except when the circumstances become truly unbearable, extreme. Why mobilize if such pressure commonly turns out to be institutionally useless despite the extraordinary effort? Similarly, if political activism is systematically and historically translated into severe violence (as happened in Colombia where for decades publicly assuming a leftist political position seemed to make you a target for assassination), it makes sense for citizens to be extremely cautious before entering the public sphere. Politics cannot just be for martyrs. Likewise, considering situations more similar to the United States, the institutional situation seems markedly unfriendly to popular participation. In the United States, there are very few incentives (and disincentives!) to vote; the political influence of wealth is overwhelming; matters of collective interest are systematically decided by courts; civic activism is forcefully deterred (through, for example, "strong-arm" security policies that (boastfully) criminalize minor misdemeanors); and so on. In short, the view that Ginsburg and Huq present seems to take the results of an institutional decision to penalize or render civic activism more difficult, as a question of (bad) "attitude" or (poor) "character"—ultimately, of personal morality—, rather than encouraging or facilitating it.

24 Returning to Ginsburg and Huq, the political proposal for the restoration of "internal controls" ("checks and balances"), also rests on problematic assumptions in at least three ways. The first is the serious diagnostic error that arises *when the problems of democracy and the problems of constitutionalism are superimposed, as if identical*. To understand what I am saying, imagine that one day, miraculously, we managed to restore the old machinery of "checks and balances," thereby putting an end to the widespread abusive practices of the executive, blocking it from future dismantling of control mechanisms, and so on. Even if we magically achieved those ambitious goals, a central part of our problem of "democratic erosion" would remain fundamentally intact. On the one hand, people would continue to feel alienated from power and disconnected from democracy. This is because the problems posed by the crisis of constitutionalism differ significantly from those posed by the crisis of democracy. In other words, people do not feel politically alienated because, for example, judges have lost control of the executive or legislators are too deferential to it, or because there are too few limits on presidential power. *We the People* feel removed from politics because we have very few opportunities to meaningfully participate in the political life of our communities. Others take control over our affairs, telling us which direction the policies that matter most to us will take.

25 Second Ginsburg and Huq's work involves *a minimalist vision of democracy*. In this minimalist vision, the relevant decision-making power—control of the levers in the Constitution's "engine room"—ought to remain in the hands of a few, while the citizens ought to content themselves with the role of a distant and passive "monitor" of their rulers. As the authors explicitly state, citizen intervention in politics is basically limited to periodic voting.¹⁷ Against this vision, as I understand it, a different vision with Jeffersonian roots deserves to be defended (as I have tried to do). In this vision, citizens must recover not only the power to limit what others do in their name, but above all, recover decision-making power over their affairs ("a government is republican in proportion as every member composing it has his equal voice in the direction of its concerns").¹⁸

26 However, Ginsburg and Huq (as Robert Dahl or Adam Przeworski would, for different reasons) tend to subscribe to a thin Schumpeterian conception of democracy,

according to which democracy is “an institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote”¹⁹. They may subscribe to such a view, above all, for descriptive reasons (to enable comparison of as many political systems as possible). However, in this way too, they naturalize and end up taking as their parameter a model of institutional arrangement that, as I understand it, is a central part of the problem: a “minimalist” vision that contributes to political apathy and aggravates “democratic erosion” (given the “disengagement” that it promotes, or the “commitment” that it does not encourage, in terms of the relationship between citizens and their representatives).

27 The third criticism that I want to make of Ginsburg and Huq’s approach is related to the fact that it seeks—to use Fernando Atria’s phrase—to *revive dead ideas*, and in this case “dead institutions” as well.²⁰ I mean that the institutional system as we know it presents irreparable structural deficiencies related to many issues but, in particular, to the system’s incapacity or inability to represent and express the relevant points of view, demands, and needs of an extraordinary number of diverse groups. In this sense, even were the institutional system entirely populated by decent, competent, and “angelic” officials, it would be incapable of satisfying the basic functions expected of it. For proof, look at the enormous dissatisfaction and detachment from politics and sentiment of alienation and disenfranchisement in the most dissimilar of societies. Attempts like Ginsburg and Huq’s are laudable and well-intentioned, but the attractive objectives they set seem to close our eyes to the fact that rebuilding a better system of checks and balances basically means “reviving dead ideas.” The problem with their solution is not that it is impossible, rather it is futile. We might perhaps, with effort and enormous difficulty, restore the machinery of mutual controls between government branches, but this would not repair the most important breakdown: citizen disaffection, fatigue, and widespread certainty that the institutional system will not help or represent us, that it does not respond to our demands, and that it will continue, primarily, to benefit only a few. All this is also due—in a very central way—to deeper structural problems related, for instance, to the extraordinary difficulty of the existing representative structure to deliver on its original promise. The system was originally devised to represent us all, to serve as a “mirror” of society, to account for the enormous multicultural diversity of our societies. If the stated objective (restoring the old system of controls) is the main remedy offered in response to the problem of “erosion,” then the “democratic objection” remains intact.

4 There are alternatives, and they are worth trying

28 In recent years, we have seen evidence of the exceptional value and, above all, efficacy of concrete experiences of “deliberative assemblies” or “inclusive deliberation”. The crisis unleashed by “democratic erosion” has led to the creation of problem-solving alternatives that involve much more inclusive public discussion in places like Australia, Canada, Iceland, and Ireland, among several others. I will specifically address and analyze these experiences in the next section. Here, I will only add that these experiences show in practice what we have already intuited from our theoretical discussion. If the procedure is organized properly, even in the context of extremely numerous, plural, complex, multicultural, diverse, and conflictive societies, inclusive debate is possible and, above all, worthwhile.

29 The following overview of just a few examples will support my affirmation while demonstrating their rich and extraordinary variety.

30 *The Australian Constitutional Convention (1998)*. A first important precedent for the emergence of these new assemblies occurred at the 1998 Constitutional Convention in Australia, convened by the government of John Howard (1996-2007). Its mission was deciding whether Australia should become a republic, a decision that would then be put

a popular vote. The Assembly included, for the first time, and notably, "common citizens" as active delegates of the convention (which is why some referred to it as a "People's Convention").

31 The Convention was composed of 152 delegates from all the different states and territories of Australia. Half of the members were appointed by the federal government (36 Commonwealth government appointed delegates and 40 members from the Australian parliaments) and the other half were elected by voluntary mail-in votes.²¹ Here, unlike several of the cases that we will examine later, the designated citizens were chosen, not selected at random, and the proceedings were organized following the model of traditional parliamentary debates, rather than the model of deliberative mini-publics. The Convention ran from February 2nd to 13th, 1998, and was considered a great success in many ways because of, first of all, the significant public interest it generated, but also because of the involvement of ordinary citizens throughout the process. Numerous groups that had been completely excluded from the original 1890 constitutional discussions were thus able to participate in a crucial constitutional debate. In the end, a national referendum rejected the Convention's proposal that Australia convert to a republic.

32 *British Columbia Citizens' Assembly on Election Reform (2005)*. The Citizens' Assembly of British Columbia, Canada, had its origins, like many of the experiences that we are going to review here, in political crisis. It was spearheaded by a group of political leaders determined to change an imperfect electoral system, but who found themselves unable to overcome the resistance of established political authorities. The solution they found for this tense political situation was creating a Congress of Citizens, whose members would be chosen at random from the voter rolls. One man and one woman were chosen from each electoral district and the proposals formulated by the Congress would be subsequently put to a popular vote. After an initial "training" phase, the Assembly held more than 50 public hearings and received more than 1,000 written submissions, after which its members deliberated on the proposals. In October 2004, the Assembly recommended that the existing "first past the post" electoral system be replaced by a "single transferable vote" system. The proposal received broad support, but not enough to meet the supermajority required to pass.²²

33 *Ontario Citizens Assembly on Election Reform (2006)*. Shortly after British Columbia's remarkable example, the Canadian province of Ontario launched a similar proposal. In March 2006, a Citizens' Assembly on Electoral Reform was formed to review the existing electoral system used to choose the members of the Ontario Legislature. The Assembly met twice a month for 6 weekends in 2006. It also held numerous public meetings throughout the province and then took an additional 6 weekends to deliberate on the information gathered and to elaborate its final proposal. In May 2007, the Assembly issued its recommendation that the province adopt a "mixed proportional" representation system (like the system in New Zealand). The recommendation was defeated by a higher margin than the British Columbia initiative (In Ontario, 63% of the voters were against changing electoral systems).

34 *The Dutch Citizen Forum (2006)*. The Burgerforum Kiesstelsel offers another interesting example of a citizen assembly. The Dutch Forum was created by the Ministry of the Interior and Kingdom Relations and charged with examining options for electoral reform in the Netherlands. To choose the 143 citizens who eventually participated, an initial pool was randomly selected from the country's electoral rolls. Of this initial sample, 1732 citizens volunteered to serve on the Forum. The final 143 were randomly selected from this pool.²³

35 The Forum was innovative both in its composition (only ordinary citizens were eligible) and in the lottery process used to select its members, and differed significantly from the Canadian examples. Above all, the Forum had a national rather than a local (or provincial, in the Canadian context) dimension. Furthermore, in the Dutch example, the recommendations were presented to parliament, rather than put to a popular referendum. It must also be said that the discussions organized by the Forum did not attract significant general attention.²⁴

- 36 *The “crowdsourced” constitutional reform of Iceland (2009-2013)*. In the context of the crisis described at the beginning of this chapter, a process of constitutional reform was initiated in Iceland, driven “from below” by citizen grassroots organizations. The process began with a “National Assembly” formed to function as a representative “mini-public” composed of 950 citizens. Its purpose was to discuss the issues and values that should guide the reorganization of national institutions over the course of a single day.²⁵
- 37 A Constitutional Assembly later chose its members from a group of more than 500 citizen volunteers, among whom professional politicians were ineligible. The final composition of the Assembly was made up of 25 directly elected delegates. The delegates were required to meet for three months (with an additional month if necessary) to discuss and then present a report on constitutional amendments. Among their first measures, the 25 delegates elected as representatives took made the decision to open the constituent discussion to the rest of the citizenry by accepting their input: anyone so interested could send their ideas or opinion to the representatives through social media and follow all the discussions from their home. The assembly’s open sessions (they also held some closed ones) were filmed, recorded, and made available to the public.²⁶ The input gathered ended up totaling around 360 proposals and more than 3,600 comments on the different available platforms.²⁷
- 38 The draft of the Constitution was finalized on July 29, 2011. On October 20, 2012 a non-binding constitutional referendum was held. The proposals were approved by two thirds of the voters (with around a 50% voter turnout). The proposals then moved to the Icelandic Parliament for ratification. The 2013 election, however, was won by opponents of the new Constitution, who ended up suspending the reform project.
- 39 *The Irish Constitutional Convention (2012)*. Despite the rich comparative experience we have in popular and mini-public consultations, it is only in Ireland that we find an example involving two broad deliberative processes, one after the other. The first involves the Constitutional Convention of 2012-14, which became the main antecedent for the Irish referendum on gay marriage (2015). This first process was soon followed by another Citizens Assembly (2016-2018), which became the main antecedent of the 2018 abortion referendum.²⁸
- 40 As in other instances of deliberative assemblies, the Irish Constitutional Convention grew out of crisis—in this case, the Great Recession of 2010. The Irish government organized the Convention with the intent of reforming its rigid 1937 Constitution. Although the Convention was inspired by the experiences of British Columbia, Ontario, and the Netherlands, it differed from those in composition, as it combined ordinary citizens and elected politicians. As in those examples, however, the citizens were randomly selected. The ordinary citizens comprised two thirds of the Convention, while the remaining third were elected members of parliament.
- 41 The Convention was meant to deliberate on several specific issues, including the overhaul of the electoral system and lowering of the voting age, the limitation of the presidential term to five years, gay marriage, and two proposals aimed at increasing the participation of women in politics and public life. These topics were discussed over seven meetings during 2013. The Convention carried on for fourteen months, meeting on average once a month. The recommendations of the Convention were advisory rather than declarative. However, the recommendation presented in the July 2013 report, to hold a popular referendum on gay marriage, acquired special relevance. That referendum was eventually carried out, resulting in the first popular consultation in the history of the country resulting from a process of public deliberation. The referendum to legalize same-sex marriage was approved in May 2015 with the support of 62% of the voters.
- 42 *The Assembly of Ireland (2016)*. The 2016 Assembly was composed, as its direct antecedent had been, of 99 randomly selected members along with 99 substitutes. The selection process was coordinated by a market research company and a Supreme Court Justice, and looked at four demographic variants: sex, age, social class, and region of residence.²⁹ The Assembly functioned as a deliberative mini-public. It generally met all

day Saturday and Sunday morning once a month. The members were divided into 7- or 8-people groups who sat around a circular table with two other people: the facilitator who was in charge of ensuring the progression of the discussions as well as civil and inclusive conduct, and an assistant who took notes.³⁰ The assembly was, in general, very successful, and in the end resulted in a referendum held in 2018 that legalized abortion in the country.

43 *The Constituent Assembly in Chile (2015)*. In 2011, extended student protests in Chile exposed the weak democratic legitimacy of the political class: the social discontent revealed itself to be extremely deep and unrelated to unfortunate circumstances. As a result of the social unrest, a “mark your vote” campaign was started in advance of the 2013 elections. It encouraged voters to mark their ballots if they were in favor of convening a Constituent Assembly to modify the Constitution, which after decades still carried deep imprints of the dictatorship that promulgated it in 1980. Surprisingly, more than 400,000 voters did just that. In response, shortly after being elected, President Michelle Bachelet announced in April 2015 that she was going to start a constituent process to replace the 1980 Constitution. The process began with an initial “pedagogical” phase to disseminate basic information to the public that lasted from November 2015 until May 2016. Then the most important “dialogue” phase began, involving discussions of reform proposals in citizen assemblies that were organized throughout the country. At the end of the process, more than 200,000 people had taken part in these very rich discussions. Following this stage, a group of experts was charged with “translating” the results of the public discussions into a formal constitutional project. The interesting, although ever conflictive process, was bogged down when it made it to the Congress, whose responsibility was determining when it would be put on the congressional agenda for debates and how those debates would be structured. At this point, a lethal combination of deadlines established by the 1980 Constitution itself, along with waning political will on the eve of elections that the opposition was poised to win, caused the reform project and everything that had led up to it to dissolve—including the citizen interest that the initiative had originally awakened.

5 The era of assemblies: A short initial balance sheet

44 The preceding overview was only meant to illustrate an ongoing, evolving phenomenon that does not end with the experiences cited. It does, however, cover the cases most commonly cited as the most notable instances in this “early stage” of deliberative assemblies. Be that as it may, and despite the limited scope, the sampled experiences can help us to better think about the phenomenon. In particular, the overview is useful because it provides a body of information that is not limited to the single case of Iceland. As I mentioned, the Icelandic experience may appear too exotic for us to make any relevant generalized inferences. With a broader panorama, the dimensions of the phenomenon can be better gauged, leaving us in a better position to evaluate it. From it, I propose the following initial assessment of deliberative assemblies:

5.1 Dismissing prejudices

45 First, the cases mentioned help us to dispel a long series of prejudices usually associated with new assembly initiatives. For example, a) the assemblies were not exclusively held in small, homogeneous countries like Iceland, but also in expansive, more populated and multicultural countries like Australia and Canada. Further, b) nor did the assemblies deal exclusively with abstract issues that were removed from most citizens’ interests (think of the monarchy vs. republic question in Australia). They also

addressed some of the most conflictive and socially divisive issues (leading to the referendums on abortion and gay marriage in Ireland). Furthermore, c) the debates were not limited to technicians, experts, and professionals. For the most part, they also included many participants without advanced degrees or professional qualifications.

5.2 Rethinking assumptions and concepts

- 46 Relatedly, I would like to highlight the relevance of these inclusive discussion processes to certain assumptions common in the social sciences regarding the limits of participation and collective deliberation, many of which were challenged to varying degrees. I would also like to draw attention to some of the established notions that these experiences invite us to revisit (many of which were also evident in our examination of the debate over abortion in Argentina).

5.2.1 Rationality and technical knowledge

- 47 One of the most extraordinary achievements of these processes involved public education. *Ordinary people quickly became experts on issues of public relevance through the deliberative assemblies.* After a simple process of information and collective discussion, the participants were often able to master complex technical content. The learning that occurs during these practices is very important, especially in an institutional context that often hinders or even actively restricts the participation of the electorate in the discussion of public affairs, alleging (for example) their *rational ignorance*.³¹ The proponents of the public choice school of political theory build their theory by appealing to citizen's lack of information and ("rational") knowledge, which they argue is based on their ("rational") lack of interest in and motivation to tackle complex issues, defined as issues not of their immediate and direct interest (a subject to which I will return). The truth is that the deliberative experiences examined helped to demonstrate the obvious fallacy of the public-choice school's surprisingly resilient assumptions: even in the absence of crucial interest in the subject matter, people can be motivated to participate and learn about complex and divisive issues, and even become, without major difficulty and years of training, "experts." The example of the Canadian Deliberative Assemblies is quite extraordinary in this regard: they dealt with nothing more and nothing less than "electoral systems"—perhaps the most unattractive, technical, and complex field within political science. And yet through the experience, ordinary people who did not have any strong interest at stake or technical training, became experts. All that was necessary was for the process to be well organized in an open, deliberative, and inclusive way.

5.2.2 Motivation

- 48 In addition, the Assemblies helped to disprove the widespread assumption in contemporary social science that most people are apathetic and poorly motivated to engage with complex political issues. On the contrary, I argue that people distrust party politics and resist actively participating in politics when they realize that their voices or contributions will not be taken seriously, or that their contributions will be considered only when they can be used to support what has already been decided by others. However, *when citizens recognize that their input will or might be seriously considered, they become motivated to play an active part in collective deliberation and make themselves heard in the interest of finding the best decision possible.*

5.2.3 Deliberation and the transformation of preferences

49 The Assemblies also confirmed the value of collective deliberation. To begin with, a significant number of social scientists have been skeptical of the value of collective deliberation for years: "Why invite people to argue"—the reasoning goes—"if no one changes their mind?" These scholars looked at public life from the point of view of established *interests*, and from there they minimized the role and nature of open deliberation and therefore resisted the idea vindicated by so many other authors that *deliberation is an appropriate means to favor changing preferences*.³²

50 Second, and even more importantly, inclusive deliberation processes such as those examined proved untrue that *when faced with issues that involve one's self-identity or deep beliefs, or where changing one's opinion implies turning on powerful institutions (like the Church), people are unable to change their opinions, even after exchanging them with others*'. The evidence before us shows that even in countries with strong religious convictions, where the Church and other "traditional" institutions have enormous weight, countries with a significant rural population and medium to low levels of education, many people changed their position or qualified their initial positions without major difficulty after processes of broad public debate. We saw this, for example, in the case of two very Catholic countries, Ireland and Argentina, in the discussion over abortion.

51 Moreover, deliberative processes have also enabled us to appreciate that even—if not especially—in situations of economic crisis or deep, bitter rifts between political factions, it makes sense to continue discussing and investing in the exchange of perspectives, arguments, and reasons.

5.3 Participation and dialogue

52 At this point, I would like to highlight another relevant fact regarding deliberative assemblies. The organization and results of the deliberative assemblies discussed contrasts starkly with the two most common models of collective decision-making in our countries: *the model of elitist deliberation*, wherein the grand social "experts"—judges, scientists, or whatever their roles are—decide on behalf of everyone and without consulting the public; and *the model of participation without dialogue*—an increasingly common model in Latin America—where citizens are called to decide, abruptly, either yes or no, on issues of public interest, completely neglecting the entire process of discussion and mutual clarification.

5.4 Democracy and rights

53 There is another fundamental lesson to be learned from these assemblies. Specifically, the way in which they invite us *to critically rethink the relationship between democracy and rights*. I am thinking of the separation between the "sphere of rights" and the "sphere of democracy," which some academics and jurists propose as if they were two distant and untouched realms.³³ As we saw, a good part of contemporary legal doctrine, very particularly in the wake of the trauma and atrocities of World War II (Nazism, fascism, genocides, etc.), began to distinguish between both "spheres" in an effort to "shield" rights from majority interference, which it left under the strict control of experts or judges.³⁴ Discussions such as those around abortion and gay marriage in Ireland put these issues in a different light that, again, seriously challenges many dogmatic, premature, or unduly conservative statements on the matter. The fact is that *citizens are perfectly capable of respectfully, thoughtfully, and meaningfully discussing basic issues of fundamental rights without jeopardizing the legal construction of rights*. Not only can common citizens do it (again, the process—open, inclusive, without stark power asymmetries—of discussion and its organization is critical), but even more, common citizens have the right to discuss and make decisions

on issues that involve rights. Rights are not pre-existing, alien “planets” in a distant orbit that need to be discovered by and entrusted to the “experts” (i.e., the judges).

5.5 Some remarks on institutional design

54 As a supplementary observation relevant to institutional design, assemblies like the ones reviewed offer some important suggestions and clues about how to avoid some of the major institutional problems of our time. I will point out three very interesting proposals that derive from what we have examined in the previous pages.

55 First, taking the Canadian assemblies as an example, I would like to call attention to the problem that was decisively recognized: the problem that arises when the officials ultimately in charge of deciding public issues are the people with the most personal interest invested in them.³⁵ In other words, we have a problem when we give elected officials interested in winning re-election, or extending their mandates, or reinforcing or expanding their competencies, the responsibility (with few or limited controls over them) to set the rules for elections. Hence the wisdom of encouraging—as was done in Ontario and British Columbia—citizens themselves to take part in the decision-making process.

56 Second, inclusive assemblies teach us about another important topic, namely, the politics of *presence*. In this regard, the experiences described above reaffirm a postulate that came up in a previous section: even though the real, effective “presence” of certain groups in an assembly—as we now know—may not guarantee adequate representation of the demands of the “represented” groups, it is also true, or it seems very clear, that the “absence” of certain points of view greatly increases the chances that the interests at stake (those of women or indigenous communities, for example) will be neglected, misunderstood, or misrepresented.³⁶ In my opinion, the inclusion of “ordinary citizens” in the debates made it possible to publicly discuss issues that traditional political authorities (for example, predominantly conservative, Catholic, male legislators) wanted to exclude from public debate (i.e., abortion and gay marriage).

57 Third, I would especially like to highlight the value of random selection as a means of selecting representatives for political decisions. In my opinion, doing so has been enormously successful on many different levels. In general, neither the public authorities nor the public found the use of lotteries in constitutional matters unfair or inefficient. In fact, in the evaluation phase after the experience, some of the processes reviewed received significant criticism regarding their design and operation (excessively crowded assemblies, for example, or too short a duration), but this was not the case in the use of lotteries. In particular, when lottery mechanisms were refined to make them more sensitive to geographic, gender, or racial distribution, they were largely deemed fair and efficient systems for the selection of representatives.

6 The problem of “capture”: When the past holds back the present, and the old will not let in the new

58 Before closing this review of promising and hopeful experiences, I would like to address a “realistic” note that contrasts with the optimism of the last few pages. The main point is that my emphasis on the potential of “inclusive assemblies” is warranted *despite the clear fact that many (certainly not all) of the experiences were eventually blocked* from achieving their highest goals: the Icelandic Congress, after regaining democratic legitimacy through a recent election, blocked the citizen project for constitutional reform (which also, in a very different framework, occurred in Chile); the Assemblies of Ontario and British Columbia produced remarkable results, in terms of

both their technical quality and efficiency, but the referendums to put them into effect were not passed (largely by virtue, of course, of the super-majority requirements established by the government); the Dutch Forum was also "closed from above"; and the debate over abortion in Argentina fizzled after the bill under discussion was rejected by a few votes of senators from the most conservative or "feudal" provinces of the country.

59 All this reaffirms the concerns expressed centuries ago by the 19th Century constitutional thinker Juan Bautista Alberdi. Alberdi believed that special attention should be paid to the limitations that the prevailing legal context (and I would add, the distribution of power) tended to impose on the introduction and development of new reforms.³⁷ This dynamic is perhaps the most worrying element when creating or reforming constitutions in times of crisis. In many of the cases examined, in fact, we have found experiences where: i) a profound institutional crisis breaks out; ii) the crisis triggers initiatives favorable to the adoption of ambitious reforms; iii) the ambitious reforms are launched; iv) the crisis is slowly brought back under control; v) the established authorities (including many of those considered responsible for the crisis) reassert themselves and begin to obstruct or undermine the reforms that had been implemented in response to the crisis.

60 Additionally, in certain countries (such as in Latin America), where the institutional frameworks tend to be fragile and the structure of controls less powerful than in more "legally developed" countries, government authorities have tended to benefit from those changing circumstances. On certain occasions, they have taken advantage of opportunities to make sure that the reforms are unattainable (for example, by preventing—through the legislative regulations that implement them—the effective application of any new constitutional clauses favorable to popular participation that come out of "inclusive" constituent assemblies), and in others they have used the support for reforms for their own benefit (for example, by expanding the powers of the executive, adding elements to allow their reelection, and so on).

61 Before concluding this study, I would like to draw attention to a crucial problem that is still pending, one obviously related to the potential of deliberative assemblies. I am referring to the fact that, even if a citizen assembly is convened in the place of the traditional decision-making bodies; even if its deliberations are fruitful; and even if—against the efforts of the established power—the reforms are actually passed (that is, they are not "vetoed," or rendered null by a lack of legislative implementation, or by any other traditional method for blocking them), the proposed reforms of the inclusive assembly—however powerful and promising—may still be frustrated, in practice, by the old powers. *This is because, alongside the "veto points" controlled by the political branches, lies the possibility of "invalidation" by the traditional judiciary.*

62 Let me offer a dramatic example of the problem. The widely participatory (and highly conflictive) constituent process that took place in Ecuador at the beginning of the 21st century ended with the promulgation of the 2008 Constitution. That Constitution became known worldwide for its "sumak kawsay" clause. The "sumak kawsay" principle of "good living" is taken from ancestral Quechua knowledge, which "establishes a vision of the cosmos different from the western vision, and that arises from communal, non-capitalist roots".³⁸ This principle was incorporated into the Constitution on the initiative of indigenous groups and advocates (like, for example, the prominent environmentalist Alberto Acosta, who presided over the Assembly sessions for most of their duration). If the adoption of this principle meant anything, it represented a firm decision to protect nature against the risks of capitalist devastation. Shortly after the Constitution's promulgation, however, both the National Congress and the Constitutional Court transformed these radical principles into empty principles by privileging alternative constitutional interpretations, which allowed the government to carry out natural resource extraction activities with absolute impunity. In other words, the most "revolutionary" clause of all those incorporated into the Constitution as a result of the direct demand of the most disadvantaged groups in the community, was completely subverted as soon as the new Constitution was put into effect. In the end, we

are facing the latest manifestation of old problems that worried Alberdi: how is the "past" able to hold back the "present"? how can the old block the "new"?

Bibliography

Alberdi, J.B. (1981). *Bases y puntos de partida para la organización política de la República Argentina*. Plus Ultra.

Atria, F. (2016). *La forma del derecho*. Marcial Pons.

Barber, B. (1984). *Strong Democracy*. University of California Press.

De Jongh, M. (2013). *Group dynamics in the Citizens' Assembly on Electoral Reform*. Toptryk Grafisk.

Elster, J. (1983). *Sour Grapes*. Cambridge University Press.

DOI : 10.1017/CBO9781139171694

Elster, J. (1986). "The market and the forum: three varieties of political theory". In Elster, & Hylland (Eds.), *Foundations of Social Choice Theory* (pp. 104-132). Cambridge University Press.

Farrell, D., Suiter, J., & Harris, C. (2019). Systematizing constitutional deliberation: the 2016-18 citizens' assembly in Ireland. *Irish Political Studies*, 34(1), 113-123.

Ferejohn, J. (2008). Conclusion: The Citizens' Assembly Model. In M. Warren & H. Pearse (Eds.), *Designing Deliberative Democracy: The British Columbia Citizens' Assembly*. Cambridge University Press.

Ferrajoli, L. (2008). La esfera de lo indecible y la división de poderes. *Estudios constitucionales*, 6(1), 337-343.

Gargarella, R. (1998). Full representation, deliberation, and impartiality. In J. Elster (Ed.), *Deliberative Democracy* (pp. 260-280). Cambridge University Press.

Ginsburg, T. & Huq, A. (2019). *How to Save a Constitutional Democracy*. The University of Chicago Press.

DOI : 10.7208/chicago/9780226564418.001.0001

Graber, M., Levison, S., Tushnet, M. (Eds.) (2018). *Constitutional Democracy in Crisis?* Oxford University Press.

Jefferson, T. (1816, July 12). Proposals to Revise the Virginia Constitution: I. [Letter to "Henry Tompkinson" (Samuel Kercheval)]. *Founders Online*.
<https://founders.archives.gov/documents/Jefferson/03-10-02-0128-0002>.

Kymlicka, W. (1995). *Multicultural Citizenship*. Clarendon Press.

DOI : 10.1093/0198290918.001.0001

Landau, D. (2013). *Abusive Constitutionalism*. University of California Davis Law Review, 47, 189-260.

Landemore, H. (2014, July 31). We, all of the People. Five lessons from Iceland's failed experiment in creating a crowdsourced Constitution. *Slate*.
<https://slate.com/technology/2014/07/five-lessons-from-icelands-failed-crowdsourced-constitution-experiment.html>

Landemore, H. (2015). Inclusive Constitution-Making, The Icelandic Example. *Journal of Political Philosophy*, 23(2), 166-191.

Landemore, H. (2020). *Open Democracy. Reinventing popular rule for the Twenty-first century*. Princeton University Press.

DOI : 10.23943/princeton/9780691181998.001.0001

Levitsky, S., Ziblatt, D. (2018). *How Democracies Die*. Crown.

Mansbridge, J. (1983). *Beyond Adversary Democracy*. The University of Chicago Press.

O'Donnell, G. (2007). *Disonancias: críticas democráticas a la democracia*. Prometeo.

O'Donnell, G. (2010). *Democracia, agencia y Estado*. Prometeo.

Pincioni, G., Tesón, F. (2006). *Rational Choice and Democratic Deliberation*. Cambridge University Press.

DOI : 10.1017/CBO9780511720178

Phillips, A. (1995). *The Politics of Presence*. Oxford University Press.

DOI : 10.1093/0198294158.001.0001

Przeworski, A. (2019). *Crises of Democracy*. Cambridge University Press.

DOI : 10.1017/9781108671019

Rossi, J., Filippini, L. (2010). El derecho internacional en la justiciabilidad de los derechos sociales El caso de Latinoamérica. In Arcidiácono, P. et al (Eds.), *Derechos sociales: justicia,*

política y economía en América Latina. Siglo del Hombre.

Salazar, D. (2015, June 11-14). My Power in the Constitution: The Perversion of the Rule of Law in Ecuador. SELA 2015: Inequality, Rio de Janeiro, Brazil. https://www.law.yale.edu/sites/default/files/documents/pdf/SELA15_Salazar_CV_Eng.pdf

Sunstein, C. (2019). *Could it Happen Here? Authoritarianism in America*. Dey Street.

Suteu, S. (2015). Constitutional Conventions in the Digital Era: Lessons from Iceland and Ireland. *Boston College International and Comparative Law Review*, 38(2), 251-276.

Suteu, S. & Tierney, S. (2018). Squaring the Circle? Bringing Deliberation and Participation Together in Processes of Constitution-Making. In R. Levy et al, (Eds.), *The Cambridge Handbook of Deliberative Constitutionalism*. Cambridge University Press.

Tullock, G., Seldon, A., Brady, G., (2000). *Government Failure: A Primer in Public Choice*. Cato Institute.

Van Reybrouck, D. (2017). *Against Elections: The Case for Democracy*. The Bodley Head.

Winterton, G. (1998). Australia's Constitutional Convention 1998. *Agenda*, 5(1), 97-109.

Notes

1 Barber 1984.

2 Mansbridge 1983.

3 Przeworski 2019.

4 Sunstein 2019.

5 Graber, Levinson & Tushnet 2018.

6 Reybrouck 2017.

7 Ginsburg & Huq 2019.

8 Landau 2013.

9 Levitsky & Ziblatt 2018.

10 Rossi & Filippini 2010.

11 O'Donnell 2007.

12 O'Donnell 2010.

13 Ginsburg & Huq 2019: 141. Emphasis added.

14 Ginsburg & Huq 2019: 173.

15 Ginsburg & Huq 2019: 141.

16 Ginsburg & Huq 2019: 245.

17 Ginsburg & Huq 2019: 244.

18 Jefferson, 1816.

19 Ginsburg & Huq 2019: 8.

20 Atria 2016.

21 Winterton 1998.

22 The recommendation had to be approved by a 60% majority of voters and simple majorities in 60% of the existing 79 districts. The latter requirement was met, but the general vote only obtained 57.7% of the required 60%.

23 However, to guarantee the representative character of the group, some additional characteristics were considered: the final composition had to reflect proportionally the inhabitants by province, there had to be an equal representation between men and women, and the group had to be representative of the country in terms of age (de Jongh 2013, 196).

24 On December 14, 2006, the Burgerforum presented its final report to an outgoing People's Party (VVD) minister, recommending some minor changes to the electoral system. The Forum proposed a proportional representation system, in which voters would cast a vote, either for the party of their choice or for the candidate of their choice. In April 2008, however, the proposal was rejected by the ruling coalition that controlled the parliament.

25 They discussed issues such as democracy, human rights, transparency, public ownership of natural resources, more rigorous control over the financial system, etc.

26 Landemore 2014, 2020.

27 Landemore 2015; Landemore 2020; Suteu 2015, Suteu & Tierney 2018.

28 Farrell et al 2019.

29 The Assembly was originally going to consider five topics, but it ultimately focused its energies on two of them, namely, abortion and climate change. These were the issues where the national government was facing the most intense international pressure.

30 Farrell et al 2019: 116. A typical session consisted of, first, expert presentations (whose main ideas had been provided to the assembly members in advance); then presentations by civic organization; then a question and answer period and small group discussions; and finally individual reflection time when each participant wrote down their thoughts.

31 With the support of the public choice school of political theory. See, Pincione & Tesón 2006; Tullock et al 2002.

32 Elster 1983; 1986.

33 Ferrajoli 2008.

34 The philosopher Ernesto Garzón Valdés wrote a beautiful and controversial text at the time, in which he alludes to this question, under the title "Don't put your dirty hands on Mozart" (Garzón Valdés 1992).

35 Ferejohn 2008.

36 Phillips 1995; Kymlicka 1995.

37 Alberdi 1981.

38 Salazar 2015: 26.

References

Electronic reference

Roberto Gargarella, “From “democratic erosion” to “a conversation among equals””, *Revus* [Online], 47 | 2022, Online since 22 March 2022, connection on 08 February 2023. URL: <http://journals.openedition.org/revus/8079>; DOI: <https://doi.org/10.4000/revus.8079>

About the author

Roberto Gargarella

Universidad Torcuato di Tella. Universidad de Buenos Aires. Senior Researcher at CONICET (Argentina).

Address: Torcuato di Tella University – Sáenz Valiente 1010 (1428) CABA – Argentina

E-mail: roberto.gargarella [at] gmail.com

By this author

Constituent power in a “community of equals” [Full text]

Published in *Revus*, 41 | 2020

Copyright

All rights reserved