Explanatory Memorandum

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Background

Ireland is in a period of profound economic crisis for the third time in modern history. The emergence of the economic crisis in 2008 - culminating in the arrival of the IMF and the state’s entry into the EU Stabilisation Fund in December 2010 - have resulted in an intense focus on the nature of political decision making in the Irish Republic. Concerns about secrecy, cronyism and sub optimal decision-making are now centre stage. Indeed, the arrival of international and multinational agencies into economic decision making underlines the importance of reforming domestic political institutions in a bid to ensure that another crisis does not emerge again in another 20 years.

While some political scientists may have believed there were sound reasons for reform in the past this has now translated into a public recognition. For the first time in the history of the state the public are engaged with the importance of reform, the parties themselves broadly agree that reform is a necessity while civil society and business are also waking up to its importance. The combination means the time is now right to engage in a period of intense rethinking of all Irish political institutions. Simply put, political reform is wanted by the people and may now be a salient issue for the upcoming election - and in the upcoming election may be one of the issues on which voters will judge parties. In order to facilitate voters making a judgement on the extent of commitment by parties to a reform process we have created a scorecard by which we can evaluate the proposals for political reform of the different parties.

There are of course difficulties with such an endeavour. For one thing, there is no ideal political system and debate. Debate rages around the world about what constitutes best practice. Nevertheless, much has been written over the past 30 years and more on the deficiencies of the Irish system. From reports from the All Party Committee on the Constitution, to assessments from the OECD and numerous academic books and papers there is some consensus on some of the areas which need to be examined.

We recognise that there are an infinite number of possible political systems, and it is possible that a party would propose a political system that has not
been considered by the political science literature or any panel of political scientists. Therefore the methodology we use here is flexible, allowing for a panel of political scientists to assess whether a number of basic principles of good government are considered by the parties in their manifestos, the level of detail they go into, the logic of their positions and the priority they devote to the issue. This leaves room for new and radical ideas and a variety of emphasis. In addition, we stress that this is neither a blueprint for reform, nor an exhaustive list of possible reforms. Rather it identifies areas for reform which have been broadly agreed as necessary by an academic panel of independent political scientists.

What is important is that reforms are considered in the context of the system as a whole rather than as piecemeal changes.

It is assumed that all areas are of equal importance for the moment, but in stage 2 of the project (after the programme for government 2011 has been agreed), we will adjust the scoring system according to the votes of the public on what is important to them. The scorecard will of course generate much debate and there will be disagreement over what will best produce more democracy, accountability, effectiveness, legitimacy, and what the relative phasing should look like.

The panel have reached some consensus over what the scope of widespread reform may look like. This is based on a number of political science and public policy, as well as electoral systems and local government literatures. Indicators in each of the five areas have been chosen based on analysis of the literature, and a scoring system has been devised which assesses the strength of political commitment to tackle each area. Other areas which many might hope to see included were not as no consensus could be reached. This is particularly the case for electoral systems and some of the arguments are set out below.

In addition, there is likely to be some debate about producing a scorecard, after all does this risk rewarding words over action? However, the panel believes that for the reforms to be implemented they will need to appear in the various party manifestos before finding their way to the Programme for Government. We know that much of what is promised in the Programme for Government is implemented and indeed little is introduced that is not there. Another problem is that political reforms don’t get enacted. Parties anxious to see the Dáil made a more effective and powerful overseer of government can lose their enthusiasm when reform entails a greater oversight of their own
behaviour. Using this methodology we can track whether commitments in manifestos make it into the programme for government and whether they are then implemented.

The tool will therefore also be used to monitor ongoing implementation of election promises. This is not a call, therefore, for more reports. We have had many in all these areas over the years. Rather now is a time for action.

We have selected five priority areas for reform and will attempt to measure the strength of political commitment to reforms in these areas, as articulated in the party’s election manifesto document, which is prioritised in the scoring system, and other relevant background documents, without necessarily judging between proposed solutions in all cases. The five areas are:

- Legislative;
- Electoral System;
- Open Government;
- Local Government; and
- Public Sector Reform.
Areas of reform

Legislative

One of the main problems with the Irish political system that has been exposed in the current economic crisis is the dominance the government holds over the Dáil as well as the competence of the executive itself. The dominance of the Cabinet means that crucial decisions made by a minority of ministers could not be subjected to full scrutiny by the Dáil and the actions of the ministers who made decisions were neither transparent nor accountable. In short executive dominance means that there is Cabinet domination of policy making and the legislative agenda. Research has shown that Ireland has one of the more executively dominant systems in Europe. In addition there is almost complete fusion between the legislature and the executive. In practice all Cabinet ministers are drawn from the ranks of Dáil deputies. Reforms which could be considered in this space would be to move towards a more European model where countries Ministers are often required to resign constituency seats upon promotion to the executive or indeed cabinet ministers can be appointed form outside the legislature.

However, no matter whether the executive is appointed from the current system, policy making is not open to real scrutiny by the Dáil. Decisions made in secret were not and cannot be scrutinised and subjected to debates that could have improved the proposals. There is a clear demand on all sides in Ireland for a reformed Dáil. Measures which could go some way to rebalancing power relations between the Cabinet and the Oireachtas would result in a greater role for TDs. Such reforms could include reversing the so-called Abbeylara decision (which restricted the scope of Oireachtas inquiries) and insisting on an absolute right of the Dáil to inquire into matters of public interest. Other changes which would empower the Dáil include restrictions around the use of the guillotine (which can be used to prevent full debate on issues) and changes in the standing orders to allow more debate around current issues.
The Senate as currently constituted is also a weak institution. There have been many calls for its abolition, although there is an argument that in the environment where we need more rather than less scrutiny that could be a mistake. Nonetheless, if other reforms are implemented this could be a valid choice. However, if the Senate is not abolished it does require radical reform - particularly in the election of its members.

The legislative process also facilitates a dominant executive with the whip system ensuing that many important decisions are not subject to adequate scrutiny. Reforms which could be implemented here include reordering the process and placing legislation with the relevant committee for pre-legislative consultation with a view to reaching some consensus. A strengthened committee system, which can call witnesses and demand answers, would also enable backbench TDs to have a greater input as would the election of committee chairs through the D'Hondt system and indeed the election of the Ceann Comhairle by secret ballot.

The executive also operates at a very considerable advantage to the opposition, with the entire civil service at the former’s disposal. If research and other policy advice were more available to Opposition parties they could do more to hold the government to account.

Electoral System

The electoral system receives more attention than perhaps any other aspect of the Irish institutional architecture. Many practitioners and other venerable commentators complain that the intra-party competition which the electoral system motivates TDs to compete with one another on the provision of local services. Thus for many the blame for localism and clientalism within the Irish system can be laid at the door of PR-STV. For many of these reformers a move towards a German-style mixed system which includes elements of a list system as well as constituency MPs may be an answer. However, different electoral systems also have representatives with a strong constituency focus, while other countries which operate the same electoral system as Ireland have legislators with far less constituency focus. It is impossible to achieve consensus on this. Many scholars and others argue that clientalism is a
function of Irish political culture and that the close ties between TDs and their constituents is a strength of the system and in any case no one system is ideal. All involve tradeoffs of various kinds.

However, there is near consensus which includes the All Party Committee on the Constitution, that reform of the current system is needed and in particular that an independent electoral commission is crucial in bringing together the fragmented electoral law. There are also concerns around growing distance between the public and politicians and politics. Ireland also has one of the lowest rates of female participation in Europe and measures to tackle this could be placed with the Electoral Commission. There is also consensus around the importance of tackling relatively low turnout among all groups and particularly among young people. There are a number of initiatives which could help this including educative policies, postal voting and so on. As Ireland returns again to a period of high emigration there are also increasing calls to allow recently emigrated citizens to vote, while there are parallel demands to encourage integration of non-citizens allowing those from other countries to vote in general elections. In addition, it is argued that the traditional institutions of democratic decision-making are less and less successful in involving citizens in political processes, despite higher levels of education. Deliberative democratic innovations can provide answers to some of the most perennial problems of democratic theory, such as informing and educating the public, creating opportunities for citizens to shape policy and the restoration of citizen trust and engagement in politics. For example, citizens’ assemblies have been used very successfully to resolve contentious policy issues such as electoral reform.

Open Government

Increasingly there are moves throughout the world for governments to move towards open government. It is progressively more acknowledged that open data brings efficiency savings as well as enabling the people to hold the government to account. Any democratic state should have as one of its aims that citizens should know as much as possible about their state. Given the acknowledged role that transparency has in preventing corruption, it is surprising that the Irish Government has curtailed access to official
information. Increasingly among developed democracies there are moves to publish all information on an open government website.\(^1\)

The following proposals are offered as a way of ensuring that citizens can have confidence in how the state is managing its affairs. The areas that are chosen for the scorecard include restoring **Freedom of Information** to its original version, cutting charges and extending its scope. However, the international debate has now moved beyond FoI and in order to build transparency and openness all **government data** should be published in an open standard format with an open licence. Furthermore, to rebuild trust between the public and political parties it is necessary to implement the **GRECO (Group of States against corruption) recommendation** from the EU Council of Ministers on party and election funding. There is also much argument about a need to introduce legislation to **protect whistleblowers** and **regulate lobbyists**. In this context Ireland has an opportunity now to lead the way in pursuing such an open government agenda.

**Public sector reform**

Governments’ approaches to policy making and implementation depends not only on the preferences of the party or parties in power, but also on the institutional capacity of the state to formulate and deliver policy and to do so effectively. Concerns have been raised about the policy capacity of Irish institutions and in particular the interaction between policymakers and organised interests. There are strands of concerns relating to policy effectiveness and in particular the output side of policy making and implementation, while political legitimacy and political accountability are crucial.

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1. In the United States, the lead agency responsible for the federal government’s information strategy is the Office of Management and Budget (OMB) (see [http://www.whitehouse.gov/omb/](http://www.whitehouse.gov/omb/)), while in the United Kingdom the lead agency is the Office of Public Sector Information (see [http://www.opsi.gov.uk](http://www.opsi.gov.uk)).

Though the detail of this is still contested, there is broad agreement that there is an excessive accountancy focus on inputs or on accounting for the spending of money. However, there is insufficient focus on the outcomes and outputs of policy as well as the traditional focus on inputs and ensuing that programmes work towards policy goals.

There are problems in terms of accountability for decision making with it often being unclear to what extent the civil service advised on a particular course of action. Measures which ensure accountability for advice and action particularly to the relevant Dáil committee could address this, as would a reorganisation of the budget process to ensure it is more transparent and accountable.

However, in order to drive change in the civil and public service political leadership will be needed. Many reports are gathering dust and a ministry for public service reform may be needed in order to drive the necessary change.

A further important change will be the need to recruit from outside the current bounds of the civil service in order to broaden the breadth and depth of experience of policy advice. The Department of Finance has been criticised on several levels for its performance up to and since the financial crisis. Decision making within the department is shrouded in secrecy and it exerts a controlling influence over all other departments. The Irish budgetary process is not fit for purpose. It has onerous and unnecessary secrecy conditions; it lacks a long term perspective and is not subject to appropriate levels of parliamentary scrutiny. An independent fiscal council should be established to guide improvement in the budget process. Much greater interaction with the monetary affairs committee and greater public consultation on budgeting are starting points for reform.

In general policy making in Ireland is both short-term and incrementalist. Policy can be based on hunch and anecdotal evidence and based on local clientalsim short term electoral concerns. To combat this focus on long term forward policy making separate from the electoral cycle and not in thrall to the demands of individual constituencies may be important. A separate long term policy making unit in the civil service is one reform which may tackle this.
Local Government

Local government in Ireland has long suffered from the centralisation of the Irish state. If the national political institutions are to be reformed to better address national issues it is imperative that local politics is reformed. Irish local authorities suffer from enjoying little fiscal autonomy a situation that needs to be remedied if the centre/local power imbalance is to be remedied. In other jurisdictions property taxes or water charges can be utilised as funding streams for local authorities. Irish local authorities also suffer simultaneously from a high degree of dispersion. There are some 114 local councils with some 1,627 councillors with 883 at county and city level and 775 at town and borough level. There have been numerous reports into a structural reorganisation including options such as regional authorities. But local authorities also suffer from a high degree of centre control. The elected council is formally the policy making division of the local council yet they have a very narrow range of functions compared with local councils across Europe. A Green paper introduced by John Gormley in 2008 focussed on the development of strategic functioning, including a reorganisation. However, if local authorities are to be given revenue raising powers and more autonomy accountability also needs to be increased, perhaps through reporting to Dáil committees. In addition if national civil servants and policy makers are to be held accountable for outcomes of decision making this should also hold true for locally elected politicians.

Deliberative democracy also has a role to play in local government. Deliberative and consultative processes can be used to inform and educate the public, and to create opportunities for citizens to shape policy at the level of democracy closest to them. Mechanisms such as citizens’ assemblies, citizens’ juries, and deliberative polls, can bring affected citizens into partnership as decision-makers through dialogue-based processes of policy-development that include agenda setting, policy design, and implementation.
Readings

Legislative


Electoral


Open government


Public Sector


Local government


Quinlivan, A. (2008), 'Reconsidering Directly Elected Mayors in Ireland: Experiences from the United Kingdom and America', Local Government Studies, 34(5)
