

Conflicts of Legitimacies in Representative Institutions: The Case of the French Citizen Convention for Climate¹

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Representation has traditionally been associated with elections, and sortition with direct democracy (Manin 1997). In recent years, however, as experiences with deliberative mini-publics have mushroomed around the world (Grönlund, Bächtiger & Setälä 2014), more and more scholars are considering sortition as an alternative form of representation (Warren 2008; Farrell & Stone 2020; Landemore 2020). Citizens' assemblies or mini-publics, in their contemporary uses, are not meant to allow all citizens to participate simultaneously, and maybe not even to rule and be ruled in turn as was the case in Athens. They are rather meant to offer the insight of a more or less representative sample of the population placed in conditions conducive to deliberation. Hence, there are strong reasons to consider sortition as a competing method for selecting representatives of the people – whether or not we see it as a legitimate form of representation.

Once we accept to see citizens' assemblies as bodies making a representative claim², possible tensions with the classical form of representation – through elections – appear more clearly. What is wrong with elections? Why would we need another form of representation? What is the normative status of a citizens' assembly compared to an assembly of elected representatives? These questions are a matter of theoretical controversy. Yet they are also at the heart of democratic *practices*, as we shall see in this article.

In previous work, we developed the theoretical hypothesis of an overlooked tension between representation through sortition and through elections which may manifest itself through hostile and irritated reactions from the political class to the introduction of a competing mode of representation, especially when the citizens' assembly steps on the prerogatives of elected representatives (Vandamme 2018; Vandamme et al. 2018). In this article, we use the case of the Citizen Convention for Climate (hereafter CCC) held in France between October 2019 and June 2020 as a sort of 'natural experiment' to see if this hypothesis has some empirical grounding. The CCC brought on the front stage a body which could claim to be representative, although in a different sense than the French Parliament. It is therefore interesting to see how political actors positioned themselves vis-à-vis this new and potentially rival form of representation. Through the analysis of public discourses, parliamentary hearings and questions, we highlight several indications of a potential conflict of legitimacies even though the Convention was designed as a *consultative* body³ and in spite of many randomly selected citizens' reluctance to picture themselves as representatives of the people. As we shall explain,

¹ The authors warmly thank Etienne Ollion and Sacha Rangoni for their comments on earlier drafts of this article.

² More precisely, it is the conveners that are making the representative claim. See Gül 2019.

³ Although, as we shall see, the mandate given to the CCC – drafting legislation – could be interpreted as more than purely consultative, in contrast with more traditional forms of consultative mini-publics.

this does not allow us to firmly validate our hypothesis of a legitimacy conflict (and invalidate alternative hypotheses). Nevertheless, we believe that it shows the interest of studying this hypothesis deeper, opening avenues for future research.

We start by explaining the reasons to expect a tension between the two forms of representation (section 1), and then test our hypothesis on the CCC case. We first explain the mandate that was conferred to the CCC (section 2). Then, we introduce the material that we are drawing on (section 3). The next section highlights the fact that both the government, the organisers and the members of the CCC all envisioned a complementary (not competing) form of legitimacy (section 4). Then, we consider different signs of competing legitimacies, drawing on interactions between randomly selected citizens and elected representatives in parliamentary hearings, and public reactions to the CCC by elected representatives (section 5). And in the last section, we highlight the main contributions of our study while recognizing some of its limitations and open avenues for future research (section 6).

1. Two potentially competing forms of representation

The idea that elections and sortition potentially generate competing forms of representation, based on competing sources of legitimacy has not attracted a lot of scholarly attention so far, although it might seem intuitive. In his seminal contribution, Bernard Manin (1997) showed that the choice for elections as the core democratic mechanism was not obvious at all when modern representative governments were created. Yet, writing some years before the massive return of sortition in politics⁴, he compared elections with ancient practices of sortition, in Athens, where it looked more like a form of direct rule by the people – everyone being ruler and ruled in turn. Since then, there has been a revival of scholarly attention to sortition in politics, most contributions highlighting the benefits of sortition (Sintomer 2011, Landemore 2013; Guerrero 2014) and its limits (Delannoi, Dowlen & Stone 2013; Lafont 2015; Landa & Pevnick 2020), or the complementarity between the two forms of representation (Kuyper & Wolkenstein 2018; Gastil & Wright 2019; Abizadeh 2021), but not so much the tension between them.

In previous work, we considered both the complementarity and possible tensions between the two forms of representation from a theoretical perspective (Vandamme 2018). Our aim is now to assess whether these theoretical hypotheses hold in practice. This contributes to filling a gap in the existing literature. The issue of a competition or conflict between different forms of political participation has been examined in the case of direct democracy mechanisms (Dyck 2009; Peters 2016), but not for what regards representation by lot, although recent research reveals that some citizens do see this form of representation as a genuine alternative to elections (Bedock & Pilet 2020). Several contributions have studied the different ways in which citizens' assemblies or mini-publics could be articulated with traditional representative institutions (Kuyper & Wolkenstein 2018; Setälä 2021), yet overlooking the fundamental tension between the two forms of representation.

Our main theoretical claim is that representation through election and sortition are partly based on competing and mutually undermining logics. On the one hand, we have a procedure

⁴ Deliberative polls and citizen juries were already practiced, at the time, but what would later be called mini-publics or citizens' assemblies were much more marginal than they are now.

meant to allow citizens to select the best among themselves. As highlighted by Manin (1997), voters are free to decide on which criteria they base their choice. However, we can safely expect most of them to select people that they see (for reasons of their own) as the best candidates – or, in their eyes, the least repelling among the options offered. In the expectation that voters will select those who seem the best, candidates compete with one another and try to distinguish themselves in some respects from the others. Whether or not elections actually result in selecting the best is not relevant here. What matters is that the selection process usually⁵ has a *competitive structure*, which is premised on the assumption that some would be better representatives than others.

On the other hand, selection by lot is premised on a totally different assumption. Either, it is assumed that all citizens are equally competent to make political decisions (Rancière 2014), or that all are sufficiently competent, at least taken together in a large assembly. The first assumption is stronger, yet not necessary to defend the use of sortition. If all citizens are sufficiently competent, it means that we *could* prefer a competitive selection method, yet that we do not necessarily *need* it. If electoral competition is associated with perverse effects (such as a selection bias or the influence of money), we might want to use a non-competitive selection procedure, without assuming that all are equally competent on all matters of public policy.

It is tempting to see elections and sortition as complementary forms of representation. While electoral representation is supposed to reflect citizens' preferences over competing political projects, representation through sortition is usually meant to offer an insight into the considered opinion of a body broadly reflecting the diversity of social perspectives. Hence, their claim to legitimacy is based on different properties. For elections, it is mainly based on the authorisation to represent conferred through the vote and on the responsiveness to citizens' demands fostered by electoral selection and accountability (Pitkin 1967). For sortition, it is usually based on features such as descriptive representativeness, independence from parties and lobbies, and the benefits of inclusive deliberations (see Courant 2019). And some have convincingly argued that the two forms of representation offer distinct benefits, such as citizen agency and the minimization of political violence for elections; equality, impartiality and satisfactory responsiveness for sortition (Abizadeh 2021; see also Gastil & Wright 2018; Malleson 2018). Nevertheless, the fact that the two methods of selection are grounded in different sources of legitimacy and provide distinct benefits does not by itself make them fundamentally compatible. It just provides reasons to try to combine – and carefully couple (Hendriks 2016) – them in the most fruitful way⁶.

Our further claim, therefore, is that depending on the mission conferred to the citizens' assembly, the two forms of representation might either complement each other or compete. If sortition is used with a distinct purpose from the use of elections, complementarity seems more

⁵ This does not mean, however, that elections are always competitive (see Przeworski 2018). For an account of non-competitive uses of elections in early English Parliaments, see Kishlansky 2009.

⁶ The issue is worth looking at from a systemic perspective. As proponents of a systemic approach to deliberation (see Parkinson & Mansbridge 2012) have highlighted, some components of a deliberative system may have very different features and still contribute, taken together, to the good quality of the system. But the harmony between the different parts of a system is not preestablished. If one valuable part of the system undermines another valuable part, the system will be unstable. The conflict of legitimacies *may* end up being beneficial for the whole system, but our claim is simply that this is not guaranteed and should be further investigated.

likely. This can be the case, for example, if the aim is to give an idea of what citizens might think if they could all deliberate together, as in Fishkin's (2009) deliberative polls; or to improve the information available to voters in a referendum, as in the *Citizens' Initiative Review* (Gastil & Knobloch 2019); or to produce impartial recommendations on an issue where elected actors are too biased, like electoral rules (Fournier et al. 2011) or politicians' remuneration.

Yet if sortition is used to participate in a function previously performed only by electoral bodies (for example, elaborating the law), without a clear and widely acceptable reason to prefer sortition⁷, we can expect a conflict of legitimacies. The reason is firstly that, in those cases, sortition challenges the quasi-monopoly over representation and decision-making previously enjoyed by elected representatives. Secondly, the very logic of sortition undermines one of the bases on which the legitimacy of elections rests: the superior political competence of elected representatives. This, as mentioned above, is not the only source of electoral legitimacy – and maybe not the most plausible one, normatively speaking. Nevertheless, one could expect elected representatives to feel attacked by the assumption that everyone is good enough to be a representative. If we accept sortition as a plausible method for selecting representatives, what value remains for elections?

Recent empirical evidence provides preliminary support to the hypothesis of a legitimacy conflict: elitist MPs who see themselves as more competent than ordinary citizens tend to consider that all democratic legitimacy emanates from elections, are particularly critical about deliberative mini-publics and reject the very idea of representation through sortition (Rangoni, Bedock & Talukder 2021), especially when it goes beyond consultation (Niessen 2019; Garry et al. 2021). In this article, we look for further evidence of a legitimacy conflict in practice. Our hypothesis might turn out not to be valid for several reasons. First, elected actors might only authorise uses of sortition that do not challenge their own legitimacy. Then, the conflict would never occur, or only with not very challenging bottom-up initiatives enjoying low public visibility. Second, we could imagine that elected actors are willing to give up their quasi-monopoly and open up the representative process to new forms. Third, they might have electoral reasons to display a positive attitude towards sortition if the latter mode of selection enjoys an important support from the population⁸. Fourth, they might be unimpressed by sortition initiatives and fail to see them as a threat to their own legitimacy. Hence, the question is worth asking. In the case of the French CCC, was there evidence of a conflict of legitimacies? In order to answer this question properly, we need first to recall some central features of the CCC, starting with the mandate it received, i.e. the function it was called to perform, and to present the empirical material used in this study.

⁷ For example, the fact that political actors will be too biased on some issues, such as electoral rules or their remuneration.

⁸ Shugart (2008), for examples, distinguishes between outcome-contingent and act-contingent motivations for reforms of electoral systems – a distinction that can apply to reforms of institutions in general. In the former case, incumbents make a reform because “they believe they will be better off under new rules”; in the latter, because they “expect to benefit from the very act of voting for reform, whether or not they sincerely prefer an alternative [decision-making] system” (p. 14-15), because they expect a gain of popularity.

2. The form and mandate of the CCC

The CCC was called by President Macron during his speech closing the Great national debate (*Grand Débat national*), a large-sized participatory experiment designed to respond to the Yellow vests' crisis in the Spring 2019 (see Buge & Morio 2019). He then announced the gathering of a citizens' assembly to deliberate and recommend policies to tackle climate change 'in a spirit of social justice', the very issue that had triggered the Yellow vests' movement⁹.

The assembly was composed of 150 citizens, randomly selected from the general population by a polling institute. To increase the representativeness of the sample, it was stratified according to six variables: gender, age, academic diploma, socio-professional categories, residency and geographical area (urban, rural, etc.). Its mandate, defined by a letter of the Prime Minister, was to propose a series of measures '*that will allow to achieve a reduction of at least 40% in greenhouse gas emissions by 2030 (compared to 1990) in a spirit of social justice.*' The Convention was supposed to work between October 2019 and January 2020, but the end of its term was extended to June 2020 given the circumstances (social movements in December and the pandemic since February) to be able to hold the nine weekends of meetings. The final report of the CCC contains 149 proposals concerning five main areas: mobility, food and farming, consumption, housing and production (CCC 2020).

One of the very specific features of the CCC was the commitment that the President made when he decided to gather the Convention. In his press conference of April 25th, 2019, he declared: 'What emerges from this Convention, I promise, will be submitted without filter either to a vote in Parliament, or to a referendum, or to direct regulatory application'. This expression 'no filter', although not crystal-clear, was interpreted as a strong commitment: even if it had no legal value (it was a mere promise), the President engaged his political credibility on the fact that his government would not transform the outcome of the Convention before implementing it or submitting it to a vote in Parliament (or by referendum), and that he would not cherry-pick proposals as often happens with advisory mini-publics (Setälä 2021). Of course, he could not guarantee that the Parliament would adopt the Convention's proposals as they were, but his promise could be interpreted as guaranteeing that, on behalf of the executive, there would not be any modification before the transmission to the Parliament or before a referendum.

President Macron was questioned about this promise when he met the CCC in January 2020. He then specified his commitment: 'if at the end of your work, you give legal texts, specific things, then I commit that they will be given either to Parliament, or to the French people as you propose them, if they conform to our constitution.' He avoided to mention a scenario where he would not agree with some proposals, but he promised to come back to explain his choices to the CCC and invited the participants to make suggestions about whether to submit the proposals to referendum or Parliament. Therefore, apart from the implicit right to disagree and explain his choices, this presidential commitment loaded the future proposals of the CCC with a significant weight.

Of course, the President could not take a commitment on behalf of the Parliament. To transform the proposals of the CCC into law, the Parliament would have to endorse them, but

⁹ The movement started as a reaction to the introduction of a carbon tax rising fuel prices.

the ‘*no filter*’ commitment blurred the lines. Even if parliamentarians were not bound by the presidential speech and if they retained, from a legal point of view, all their constitutional prerogatives, the presidential pledge made the CCC one part of the pre-legislative process. With his strong commitment, one could have the impression that Emmanuel Macron made the CCC participate in the writing of the law and hence in the enunciation of the ‘general will’¹⁰. The President seemed to promise to take up the Convention’s proposals and to treat them as if they were coming from the government. Therefore, he made the CCC participate in the determination of the general will, before the parliamentary steps.

As a result, according to its specific mission, the CCC decided not only to issue proposals, but also to translate them into a bill. Several lawyers, forming the ‘legislative committee’ (*comité légistique*) were tasked by the CCC to express its proposals in legal language. This translation was then approved by the citizens¹¹. The goal of this translation into a bill was to restrict the government’s ability to transform the proposals of the CCC via their legislative translation. To our knowledge, such an achievement was an unprecedented process in recent experiences with mini-publics.

With the presidential pledge, we had a very special situation where a consultative citizens’ assembly was, in fact, in charge of drafting a bill that would then be discussed by the Parliament. Therefore, the CCC performed a quasi-legislative or a pre-legislative mission, assuming the first step of the legislative process. This context makes it particularly interesting to study the relations between the CCC and the Parliament¹².

3. Data and methods

To carry out this study, we analyse the exchanges that took place during four parliamentary hearings, analysed in Table 1, dedicated to the CCC. Those hearings which took place between the beginning of the Convention and its end¹³, provide a good opportunity to observe MPs’ reactions, both positive and negative, to the convention¹⁴. We complete those data with three other sources of information on the positions of MPs with respect to the Convention: MPs’ posts on social media, interviews of MPs in the press and other parliamentary discourses about the CCC, especially during question times.

¹⁰ Article 6 of the Declaration of human and civic rights of 26 August 1789, inspired by Rousseau’s *Social Contract*, states that ‘The Law is the expression of the general will.’

¹¹ The approbation took place at the end of the Convention, during the 7th session.

¹² It may also make the CCC case particular and limit generalisations from this experience – a question to which we come back in the concluding section.

¹³ Many others have taken place since the end of the CCC but are not included in this article, except for a couple of quotations, since they mainly deal with the proposals of the Convention, not its broader legitimacy.

¹⁴ Three hearings resulted in a written transcription available on the website of each assembly. The last one can be consulted on the video platform of the National Assembly (see Appendix for the links).

Table 1: Hearings in Parliament

Date	Assembly	Committee	Number of questioning MPs	People interviewed
25 th September 2019	National Assembly (first chamber)	Economic Affairs and Sustainable Development	Around 50	Thierry Pech* Julien Blanchet*
11 th December 2019	Senate (second chamber)	Sustainable Development	Around 20	Julien Blanchet*
8 th January 2020	National Assembly	Laws	Around 40	Thierry Pech* Laurence Tubiana* Julien Blanchet* + three scholars
25 th June 2020	National Assembly	Economic Affairs and Sustainable Development	Around 50	Laurence Tubiana* Julien Blanchet* Amandine Roggeman** Jean-Pierre Cabrol**

* Governance committee member **Citizen, member of the CCC

The three people interviewed during parliamentary hearings were the three heads of the Governance Committee, the body of the Convention which organised the CCC's work. Two members of the CCC participated in the last hearing. These four auditions are the main material used in this article. They were organised by parliamentary committees, each of them composed of 49 to 72 members, and took place over the course of the CCC (before its beginning, after a couple of sessions and after the last session). These hearings were public, meaning that they were livestreamed on the chambers' website and that minutes were later published. They were occasions to express and sometimes to confront visions about the place of elected representatives and randomly selected citizens in the elaboration of public policies and of the law. This primary material is completed with an analysis of the parliamentary questions dealing with the CCC and by materials coming from the Convention (especially answers of citizens to surveys¹⁵ and direct observation of the meetings by one of us¹⁶).

The choice was made to publicise the convention's work. Therefore, given the circumstances of its creation, the fact that it was initiated by the President, and the commitment he took with regards to its proposals (see below), the CCC received an exceptional attention from the media, the general public and the Parliament. In Parliament, the convention was mentioned in 215 amendments, 151 meeting reports, 45 information reports, 31 questions, 8 Private Members' bills and 2 Government bills between its creation and the 10th November 2020 – when the Parliamentary work on the CCC's recommendations began. Contrary to some

¹⁵ For complete results, see Apouey, B., Fourniau, J.-M., Tournus, S. (2020).

¹⁶ We observed every session of the CCC (except the third one), following both the plenary meetings and one of the five working groups (about food and farming).

experiences with mini-publics that sometimes lack public visibility, in this case, MPs could not ignore the Convention, which invited them to think about its nature, to question its legitimacy and hence, their own legitimacy.

4. The discourse of complementarity

Several elements may give the first impression of a clear division of roles and complementarity between elected officials and the citizens' assembly. First, representation was always seen as a specific attribution of MPs and was never claimed by members of the CCC themselves. For example, a senator said during a hearing: 'they do not have the legitimacy of elected representatives of the Nation to make decisions on behalf of the people'¹⁷ A lot of other quotations could support this affirmation: many MPs seemed to consider elected officials as the only representatives of the people. One of the randomly selected citizens expressed a similar view during a hearing after the end of the Convention: 'I fully agree that we should work with parliamentarians (to implement our proposals), since you are the representatives.'¹⁸ This view was widely shared among the citizens of the CCC. During the last session, they were asked questions about this, and their answers show that most of the participants did not feel like they could claim to be representing the public at large. This attitude of humility seems to be quite common in experiences of this sort (see Courant 2021) and may derive from the fact that participants, in contrast with elected officials, have not received an explicit authorisation *from their fellow citizens* to represent them or speak in their name.

Table 2: In whose name did the citizens speak? (n=60¹⁹)

	Number	Percentage
"I was speaking on my own behalf"	20	33,3%
"I was speaking on my own behalf and on behalf of other people"	16	26,7%
"I was speaking on behalf of the causes that are dear to me"	10	16,6%
"I was speaking on behalf of the public at large"	11	18,3%
"I was speaking on behalf of other groups and special interests"	3	5%

The question was: "Which of the following best describes your role in the deliberations?" (for complete results, see Apouey, Fourniau, Tournus, (2020)). Even if the number of answers to the survey was low (40 %), the resulting tendency is confirmed by positions taken by the citizens during the hearings.

Consistently with the fact that citizens were not considered as representatives, a direct decision-making role was never officially granted to the CCC. Its mandate was only to deliver proposals – although drafted as laws. This appeared very clearly during the question time of 3rd July 2019 when the Prime Minister described the goal of the CCC as follows: 'We will ask

¹⁷ Jean-Marc Boyer (II, Right, opposition). This number refers to the hearing involved (here, second hearing of 19th December 2019).

¹⁸ Muriel Raulic, hearing in the National Assembly, 2nd February 2021. This view was common in the Convention.

¹⁹ It seems that towards the end of the Convention, participants were a bit tired with questionnaires.

concrete questions to the Convention and it will make concrete proposals'. The fact that the CCC was a consultative body was never challenged during the whole process. Besides, this is the reason why the opposition from the Left as from the Right mocked the Convention as a 'do-nothing committee' or as a 'gadget' (Question time, 1st May 2019). Hence, the first challenge of the CCC was not to establish its legitimacy as an alternative representative body; it was rather to prove its usefulness.

In accordance with this division of roles, the legitimacies of the Parliament and of the CCC were claimed, both by politicians and by the participants in the CCC, as being complementary. For example, the Prime minister stated, on 3rd July 2019: 'We have everything to gain, not by opposing the legitimacy of this citizens' convention to that of Parliament or that of the people, but to innovate in the way of involving our fellow citizens.' At the end of the process, Emmanuel Macron insisted on this point: the CCC was motivated by the willingness to 'build a deliberative democracy which, of course, is not opposed to parliamentary democracy, but which complements and enriches it.' This was also a leitmotiv of the CCC organisers. A randomly selected citizen declared in front of MPs at the end of the process: 'From the outset, we wanted complementary work, and we are part of this dynamic of constructive exchanges'²⁰.

Another aspect reinforcing the impression of a clear division of roles is that the qualities of parliamentarian and of citizen were seen as incompatible – one is either a representative or a citizen –, as if parliamentarians ceased to be citizens once elected. From a legal point of view, this is obviously not true. But the feeling of such a separation between a former status of citizen and a new status of parliamentarian was expressed with a great clarity by one of the deputies of the majority:

'On June 19, 2017 at 11:59 p.m. and 59 seconds, I was an ordinary citizen. A second later, I lost that citizenship status - which I hadn't envisioned - by being elected by universal suffrage. (*protests from other MPs*) (...). No matter how much I told them that I was a simple citizen like them, the fact that I had become elected made me feel like I was losing that status.'²¹

The same assumption seemed to have existed within the Convention. As was the case in other similar processes, the Governance Committee chose to exclude from the selection pool all elected officials at the national, regional and departmental level. At municipal level, elected officials of big cities (more than 10 000 inhabitants) were also excluded. One might then conclude that the roles were clearly separated, but the quote from the MP cynically noting that she is not a citizen anymore reveals some irritation and possibly some scepticism about the added value of a 'citizens' assembly', considering that the Assemblée nationale is already, in a sense, an assembly of citizens – yet citizens chosen by their peers to legislate.

Possibly anticipating a risk of conflict between two forms of representation, Julien Blanchet, one of the leading figures of the Governance Committee made an attempt to distinguish the descriptive representativeness often associated with sortition from a claim to be rightful representatives of the people: 'The citizens do not represent France, but they describe France in its plurality'²². However, as we shall see in the next section, it is not clear that this

²⁰ Amandine Roggeman, IV.

²¹ Frédérique Lardet, majority, III.

²² Julien Blanchet, I.

nice distinction or the government's insistence on complementarity managed to convince the sceptics that the CCC should not be seen as a rival form of representation.

5. Competing legitimacies

Despite the envisioned complementarity, tensions quickly appeared during the hearings and at other occasions, revealing a form of competition between the CCC and the Parliament.

First, some MPs contested that the proposals formulated by amateurs should have more weight than their own proposals had in previous debates. Some proposals that they had made in the past months and years and that had been rejected as unrealistic or inappropriate would now turn out to be adopted because they had meanwhile received the seal of approval of the CCC and the blank check of the President. This would exacerbate the potential rivalry between parliamentarians and citizens. One senator stated:

‘I want to share your optimism, believe that you will find all the solutions that have eluded us all for years, but how will you get your proposals adopted? Should we give 150 brilliant citizens who met four weekends the priority, accept for them what we refuse in Parliament?’²³

Under this statement, one may see not only a criticism of the ‘no filter’, but also a questioning of the citizens’ competence and legitimacy. A related criticism was issued: far from being competent themselves, the citizens were said to be manipulated by invited experts. A paroxysmal expression of this criticism was formulated by a centrist MP²⁴, Charles de Courson, during the discussion of the Finance bill for 2021, about an amendment inspired by the proposals of the CCC concerning taxes on vehicles:

‘It drives me crazy that the Citizens' Convention, made up of people without any competence, drawn by lot, has made a whole series of proposals that come out of where? Experts. (...) These pseudo-experts who strung the pearls at the Citizens' Convention, it is an insult to democracy, it is an insult to the representatives of the people that we are all here. Stop talking about the Citizens' Convention!’²⁵

This was perceived in two ways by parliamentarians. Some, as discussed before, opposed this transfer of political power to citizens, criticizing their amateurism or their capture by experts, and fearing that this direct connection between the President and the selected citizens would bypass the Parliament in the construction of law, thereby challenging its very necessity. Paul Molac, a former ecologist MP, wondered: ‘Are we not recycling a technocratic Bonapartism that would crush all the intermediary bodies? (...) Won't the CCC strengthen the executive and make it even more deaf?’ (III). This view seems to have been predominant when the issue was put on the table during the hearings. However, it was not the only point of view expressed. On the CCC's side, organisers tried to argue that the Convention could lead to a rehabilitation of the Parliament among the political institutions. For example, Julien Blanchet suggested that parliamentarians could lean on the CCC's proposals to gain strength in their

²³ Jérôme Bignon, independent, II.

²⁴ The fact that the strongest criticism was expressed by a centrist could be explained by his typical profile of political professional, having been first elected as early as 1993.

²⁵ Charles de Courson, Center-Right, opposition, 7th October 2020

negotiations with the government (III). And some MPs hoped that the CCC could be a way to give back power to the Parliament²⁶.

Whoever ends up being right in this debate, it seems clear that the CCC was met with antagonism by many elected officials, and that at least one dimension of this resistance can be interpreted as the result of a challenge of elected representatives' legitimacy. Obviously, this is not the only explanatory factor. A resistance from part of the political class to such a devolution of power (or even to any form of innovation) was to be expected. And it is hard to disentangle genuine ideological opposition to the logic of the CCC from a classical oppositional logic. As could be expected in a country with a rather strong party discipline, the worries about issues of legitimacy have been expressed especially by the opposition. And within the opposition, the Right was more hostile to the CCC, while the Left was more open to this new form of consultation, confirming a trend already observed in other contexts (Junius et al. 2020). These results may be seen in Table 3: the majority was more sympathetic with the Convention, while the Senate (controlled by the Right) was mainly sceptical or hostile.

Table 3: Tone of parliamentarians' interventions

	Sympathetic		Neutral		Skeptical or hostile	
	Majority	Opposition	Majority	Opposition	Majority	Opposition
I (National Assembly)	7	2	3	3	0	2
	53 %		35 %		12 %	
II (Senate)	1	3	0	7	1	10
	18 %		32 %		50 %	
III (National Assembly)	1	1	5	1	1	6
	13 %		40 %		47 %	
IV (National Assembly)	3	2	5	4	1	4
	26,5 %		47 %		26,5 %	
Total	12	8	13	14	3	22
	28 %		37,5 %		34,5 %	

Each question of the parliamentarians was coded using the minutes of the hearings. Total number of questions analysed: 72.

The tension between parliamentarians and the CCC emerged in its most open form after the publication of the proposals of the Convention. Some of the ideas put forward by the CCC had already been studied, discussed and rejected by the Parliament before. Therefore, why would they be discussed again? This point of view was expressed by a MP: 'I do not see how

²⁶ For example, D. Potier, Left, opposition, I.

we could hope to have measures adopted in a few months which have already, for many of them, been repeatedly rejected in our hemicycle'²⁷. More generally, the parliamentarians were doubtful about the willingness of the President and of the majority to implement proposals which did not fit into their legislative agenda and their political platform. For example, a senator wondered: 'You have certainly recalled the commitments of the President of the Republic, but what if the solutions recommended by the members of the Convention are very far from government policy?'²⁸. It is this possible dissonance between the CCC and the Parliament that inevitably brings in the issue of legitimacy. If a proposal has been repeatedly defeated in Parliament, but is advocated by the Citizen Convention, who should have the last word?

Therefore, we have clues that despite the official discourse insisting on the complementarity between the CCC and the Parliament, some tensions emerged, especially grounded on the fact that the CCC had, in fact, been granted a pre-legislative role. The present analysis could be complemented with interviews with relevant actors to better understand the logic of their hostility towards representation through sortition. This goes beyond the scope of this article. Yet, what seems already clear is that there was a tension between the prerogatives of the Parliament and the role of this new 'representative' body which could be seen by some as a "Citizen Parliament"²⁹.

President Emmanuel Macron himself seemed to realise later that he had been too far with his commitment or had been misunderstood. It seems that he never had the intention to consider the CCC's conclusions as an expression of the general will or as authoritative. Slightly irritated, it seems, by the pressure to take up the CCC's proposals, he declared on the 4th of December 2020: '*I don't want to say that just because the 150 citizens wrote something, it's the Bible or the Koran*'. He might as well have said 'the general will', but the exaggeration probably plays a role in his statement: he may have wanted to weaken the legitimacy associated to these proposals without entirely delegitimizing the deliberative process that he had initiated. Hence, he suggested that the CCC's recommendations should not be taken as sacred, yet leaving open the question of their exact status. Are they a rival expression of the general will or public opinion? Are they merely a counterfactual picture of what French people might think if they could deliberate under appropriate conditions? We believe that it is precisely because these important questions have not been dealt with properly in public debates before the start of the CCC that this democratic experience has been surrounded by a partly latent, partly open conflict of legitimacies.

6. Discussion: Some lessons from the French experience

In this article, we wanted to assess whether our prediction of a legitimacy conflict had occurred in the case of the French Citizen Convention for Climate (CCC). Our hypothesis was that if sortition is used to take over or participate in a function previously exclusively exercised by an electoral body, without a clear and widely acceptable argument for using sortition, we could

²⁷ Guy Bricout, Centre-Right, opposition, IV.

²⁸ Nelly de Tocqueville, Left, opposition, II.

²⁹ This is indeed the title of the recent book written about the CCC by the former President of its Governance Committee, Thierry Pech (2021).

expect a conflict of legitimacies, which would manifest itself in elected representatives feeling attacked, publicly objecting against such use of sortition, or even discrediting the randomly selected body. With the CCC case, it was not obvious that such reactions would prevail because sortition was not conceived as a substitute for elections. The CCC was rather meant as an add-on, complementing representative institutions. However, President Macron's ambiguous commitment to take up the proposals of the Convention 'without filter' could give the impression that the CCC was endowed with a quasi-legislative role.

What we found in the analysis of Parliamentary hearings and questions about the CCC is some clues of a possible conflict of legitimacies, manifesting itself in offended reactions and criticisms of the Convention by elected officials. A genuine indignation could be felt in some MPs' reactions as they realised that random citizens would play a (seemingly) quasi-legislative role without having been electorally authorised, and without being able to claim a special competence based on political experience. Although we lack evidence to assert it with more confidence (see below), this may have been interpreted as undermining the very bases on which elected officials build their own feeling of legitimacy – which is what we mean by a conflict of legitimacies.

The clues (rather than strong evidence) of a legitimacy conflict that we identified are consistent with previous findings. Thus, Jacquet, Niessen and Reuchamps (2020), surveying attitudes towards sortition among Belgian MPs, found a strong opposition across the political spectrum (Greens being the exception) to the introduction of a randomly selected chamber of Parliament. In comparison, the idea of a mixed chamber, where randomly selected citizens would be seen to *collaborate* with elected MPs (rather than being rival representatives in separate chambers) was slightly less negatively perceived. Enquiring into the reasons for this general hostility towards sortition, Rangoni, Bedock and Talukder (2021) found that MPs considering that all democratic legitimacy stems from elections are particularly critical about citizens' assemblies and reject the legitimacy of sortition. They seem to 'see themselves as the only competent political actors able to consider the general interest' – which resonates with some of the quotes we made in this article.

Further research would be required, however, to validate the hypothesis, as the material we used in this article does not allow us to know whether elected representatives felt genuinely challenged in their legitimacy, were just reluctant to democratic innovation, or playing the oppositional game. Reactions in Parliament may not reflect MPs' actual perception of sortition. Members of the opposition may exaggerate their hostility towards sortition. Hence, anonymous interviews might be a useful complement to our analysis (see Niessen 2019; Rangoni, Bedock & Talukder 2021; Garry et al. 2021). Another limitation of our study is the lack of quantitative insight. There were signs of a conflict of legitimacies, but our data does not allow to assess with accuracy the salience of this issue, the degree of hostility of the political class and its likely consequences. Additionally, the analysis should be completed with data on the public's perception of such a conflict of legitimacies. Do non-participating citizens perceive citizens' assemblies as a form of representation? How do they assess its legitimacy, compared to the legitimacy of their Parliament? Bedock and Pilet (2020: 16) found that 'supporting sortition requires citizens to consider not only that politicians cannot be trusted, but also that election as an institutional mechanism is unable to produce meaningful change'. This seems to confirm at

least a tension between the two modes of representation, which should be confirmed by more research on citizens' perception of different forms of citizens' assemblies.

In light of these limitations, the main contribution of our article is probably to highlight the interest of this question and the plausibility of the hypothesis, while opening up avenues for future research on legitimacy conflicts.

Another contribution of this article is to show that there can be a conflict of legitimacies even if randomly selected citizens have a humble understanding of their own legitimacy³⁰, because elected representatives can feel threatened in their legitimacy by the mandate conferred to the citizens' assembly if it (seems to) step(s) on their prerogatives. On the randomly selected citizens' side, there were no explicit representative claims issued. Most did not seem to picture themselves as rightful representatives of the French people. However, by later constituting an association putting pressure on the President to take up their proposals, they did seem to assume some degree of authority for these proposals, possibly inspired by the presidential commitment. Indeed, they pressed the President to honour his promise, and they interpreted his 'no filter' commitment as meaning that *all* their propositions should be submitted³¹, *without reformulation*. Hence, they seemed to consider their recommendations as legitimate law proposals not because they saw themselves as representative of the French population, but because they were invited and authorised by the President to do so.

This suggests that the representative claim associated with the creation of a citizens' assembly does not only depend on the selection method and its alleged capacity to offer a reliable descriptive representation of the people at large. It also largely depends on the task that the citizens' assembly is called to perform. A consultative body does not need to be considered as representative, as elected representatives are free to take input from all sorts of sources, representative or not. Yet the closer a selected body gets to legislative power, the more it will be associated with a *representative* body (whether or not participants themselves claim to be representatives) and the more the legitimacy of its representative claim will be questioned.

Two main lessons can be drawn from this French democratic experience. The first one is that a potential tension between two competing forms of representation should be more widely acknowledged and anticipated. It would probably be useful to acknowledge that sortition is not just another mechanism of participation or consultation. At least in its contemporary uses and when given attention by the general public, it is inhabited by a representative logic. Whether or not citizens' assemblies aim at offering an exact mirror of the society at large is not the key here. What matters is to recognise the aim to offer a new channel for public opinion or for the construction of the general will, which relies not on widespread participation, but on a different method for selecting representatives of the people.

The second lesson is that the issue of the uptake of the recommendations of a citizens' assembly might gain from being settled more clearly from the start. Although Emmanuel

³⁰ Apart from the fact that they did not see themselves as representative of the population, it seems that they have tried to strengthen their legitimacy by opening their work to external inputs (against the recommendations of the organisers). See Landemore, 2020, p. 21, fn. 35. However, the fact that they were reluctant to submit most of their recommendations to a national referendum also shows that they ended up assuming a better insight on the issue than average citizens.

³¹ They decided to recommend 147 out of their 149 propositions for adoption by the Parliament, and 2 for approval by referendum.

Macron made things apparently quite clear, with three possible destinations for the recommendations depending on their status (direct regulatory application or law proposal) and on the preferences of the Convention (Parliament or referendum), things were clear neither for the participants nor for the general public. Members of the CCC pressed the President to clarify his commitment, but he did not make clear that he was keeping a veto right. And among the broader public, it seems that the status of the CCC's future recommendations was not clear either. Yet transparency on such issue matters for the process to be successful. If the aim is to generate strong public support for some controversial policies, as was probably the case with the CCC, it may be wise to avoid the risk of the process being perceived as manipulated at will by the President. The process is likely to gain independence-based legitimacy (one of the possible sources of legitimacy for citizens' assemblies discussed earlier) if the treatment of its outcomes does not depend on the good will of the government. This independence-based legitimacy is probably what President Macron wanted to secure with his 'no filter' commitment. Yet the way the process was set, without any institutional mechanism making the President's commitment binding, *de facto* allowed the government to cherry-pick among the proposals. Maybe the CCC did not have enough legitimacy to claim a bigger influence than that, but in that case, it should have been acknowledged from the start. Hence, the lesson for future experimentations of the sort is that the issue of uptake should be openly discussed beforehand, and a very clear mandate should be given to the citizens' assembly (see also Pech 2021: 167).

Let us finally say a word about the exportability of our findings. One thing that was peculiar to the French experience was the central role played by the President, initiating the process and ultimately deciding what to do with its outcomes. This is likely to be different in other political contexts. It should not make the conflict of legitimacies disappear, however, because it is more deeply grounded in the tension between two very different logics of representation, as we argued in the first section. Nevertheless, the conflict might take another form in other contexts. Here, to some extent, we had a President playing the legitimacy of his CCC against the legitimacy of the Parliament, thereby irritating some MPs. In other contexts, the stress might be placed on inter-party dispute about the opportunity to introduce a potentially challenging form of representation. Other factors that might influence the salience of the conflict of legitimacies are the degree of consensus among parties about the need for political innovation, and the degree of openness of a given political system to citizens' input. To take one example, given their acquaintance with mechanisms of direct democracy, Swiss people and politicians are likely to be less exercised by the plurality of expressions of the 'general will' than was the case in the French context.

Another aspect that was arguably peculiar to this experience was the invitation made to the citizens' assembly to draft legislation – and not simply to make general recommendations. This contributed to the uncertainty surrounding the status of a body that was meant to be consultative but actually played a pre-legislative role. The legitimacy conflict might be less salient in contexts where the citizens' assembly is more clearly consultative. However, this scenario is likely to resurface in other contexts, because many advocates of sortition are legitimately concerned with the low macro-political impact of purely advisory citizens' assemblies, and because politicians initiating such reforms will be tempted to give at least the illusion of a genuine devolution of power.

As democratic experimentations with sortition increase across the world, at a time where traditional representative institutions are under stress, this article showed why more research is necessary to examine further whether these two modes of representation are essentially complementary or competing, and under what conditions one or the other of these effects is likely to dominate. In particular, it would be interesting to know whether citizens perceive these two forms of representation as competing, and whether their support for electoral representation varies (or is likely to vary) depending on different uses of sortition.

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Appendix

Primary documents

Date	Assembly	Committee	Link
25 th September 2019	National Assembly	Economic Affairs and Sustainable Development	Transcript: https://www.assemblee-nationale.fr/dyn/15/comptes-rendus/cion-eco/115cion-eco1819070_compte-rendu#
11 th December 2019	Senate	Sustainable Development	Transcript: http://www.senat.fr/compte-rendu-commissions/20191209/devdur.html
8 th January 2020	National Assembly	Laws	Video: https://www.assemblee-nationale.fr/dyn/actualites-accueil-hub/convention-citoyenne-pour-le-climat-et-nouvelles-formes-de-participation
25 th June 2020	National Assembly	Economic Affairs and Sustainable Development	Transcript: https://www.assemblee-nationale.fr/dyn/15/comptes-rendus/cion-eco/115cion-eco1920059_compte-rendu#