

Crowdsourcing democracy: the case of Icelandic social constitutionalism

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Abstract The explosion of social media has fundamentally changed every aspect of daily life: relationships with people, businesses and even institutions. More and more politicians are exploiting social media to get closer to their citizens and make their operations more transparent and open, while the more established democracies show a distinct lack of political participation by citizens, manifested in the collapse of turnout in elections, a decline of community life and the growing cynicism and distrust of political parties and institutions. However, the public agents who have enabled real participatory tools designed to share the production of public policies are rare, mostly covering an urban context. Although, there are those who used the Internet and social media even for drafting a new constitution. It is the case of Iceland, who faced a deep financial crisis that has led to the failure of the three largest banks in the country and the ensuing economic collapse. Provided that Iceland has decided to rewrite its constitution, in order to avoid previous mistakes and restore hope to the new political order in acute deficit of trust as a result of faulty behaviors and misconducts. The element that makes the whole process unique is the way about the new constitution was drafted: a grassroots participation, which means a non structured, non hierarchical involvement of ordinary citizens, with a strong use of web 2.0 tools to promote participation and transparency. It is possible to determine that process *social constitutionalism*, which has reported the new social dynamics generated by social media exploded into the creation of the document that should ensure the political unity of a nation: the Constitution.

1. Introduction

Contemporary democracies are suffering a lack of political participation by citizens, manifested in the collapse of turnout in elections, a decline of community life and the growing cynicism and distrust of political parties and institutions. The notion of popular empowerment, the “core of democracy”, has been diluted to the point that most citizens exercise their putative sovereignty only through periodic elections of representatives and thus have extremely limited input into political processes. This deficit is further exacerbated by the fact that elected representatives encompass a range of competing “interests” - party, ideological, corporate - which may not be consistent with those of the voter.

Opportunities for participation of citizens are reducing in favor of other agents: bureaucracies, technocrats, intergovernmental bodies, lobby groups, commercial enterprises and the media. As Colin Crouch argues,

“even if elections take place and continue to influence governments, the electoral debate is a tightly controlled show, rival groups led by experienced professionals in the techniques of persuasion practice on a limited number of questions selected from these groups. The majority of citizens plays a passive, acquiescent, even apathetic role, merely reacting to the signals it receives. Apart from the spectacle of the election campaign, policy is in private by the integration between elected governments and elites that are almost exclusively economic interests” (Crouch 2004).

2. Social Interaction and Democratic Values: New Forms of Participation Using New Technologies

New ways of democratic participation, pressures for new institutional structures, new processes and frameworks that lead to a more open and transparent government may come from social media, as the constitutional process made by the Icelandic government, as shown below.

Social media refer to a set of online tools that are designed for and centered around social interaction (Bertot 2011). In practice, social media serve as a catchall phrase for a conglomeration of web-based technologies and services such as blogs, microblogs, social sharing services, text messaging, discussion forums, collaborative editing tools, virtual worlds and social networking services (Hansen et al. 2011). Social media technologies demolish the traditional boundaries of time and space for government and other political processes, which have traditionally involved physical attendance or slow input-seeking procedures. Social media technologies, each one with its unique architecture that shapes the types of interactions that can occur (Lessig 2010), could help to reduce the barrier of representative democracy, empowering the citizen, fostering an interactive dialog and a sharing framework between governments, people, and communities. Social media are also challenging political stakeholders (parties, institutions and civil society), who

have to redraw the relationship between governments and communities, being the crossing line between them become less clear (Bertot 2011).

The use of social media, like Twitter and Facebook, is often used in Western democracies as evidence that the rulers and politicians have joined the network, even if for most of the time they just talk to their constituents rather than with them, avoiding to make any dynamics of participation. What is being offered by public institutions is just a glimpse into the places of power, where the private mingles with the public: a new political “voyeurism”, where the gossip is stronger than democracy. This enlarging interaction pumped by social media allows large groups of geographically dispersed users to produce valuable information resources that could lead to new ways to foster a social, transparent, nonhierarchical, system of governance that exploits new technologies to restore a more satisfying democracy that feeds interaction, participation, accountability. Fostering democratic participation and engagement using social media technologies as tools to encourage a dialogue between the public and the government, to add different voices in the public discussions and make possible the co-production and the implementation of shared policies in order to improve quality, delivery and responsiveness of services.

2.1 The Many Uses and Benefits of Crowdsourcing

The rise of participatory tools and ease of communication increases the pressure on government structures to bring more transparency and openness, which in turn requires a more active involvement, with the release of public, open and searchable data (Brito 2007), but also the strong participation of the main agents of democracy: the people, the citizens, who can exploit new *crowdsourcing* practices. The term *crowdsourcing*, also called collaborative knowledge production, is defined as “the act of taking a job traditionally performed by a designated agent and outsourcing it to an undefined, generally large group of people in the form of an open call” (Howe 2008). *Crowdsourcing* enables a community to aggregate and produce something together. Expanding the concept to politics, *crowdsourcing* (we can also talk of *citizensourcing* when the community coincides with citizens) could lead to proper “cultivation of public consensus to address governance issues, strengthen communities, empower marginalized groups, and foster civic participation” (Bott et al. 2012).

Using *crowdsourcing* for civic reason, seeking innovation through public knowledge and anyone talent, foster a thriving development of innovative and unthinkable solutions, from the smallest to the largest issue. To facilitate *crowdsourcing*, the government shares data and other inputs, enabling the public and ordinary citizens to be a significant part of democratic processes. The right combination of social networking tools and an active audience allows any individual to inspire and coordinate collective action outside a formal hierarchy (Bott et al. 2012).

2.2 The Use of *Crowdsourcing* to Reshape Participation

The personalization of politics, also defined by Manin the “audience democracy” (Manin 1997), experiences a heavy concentration of attention on the personal figure of politicians, which tends to an overexploitation of the role of leaders and a lack of citizen participation. This is also due to the role of media that push an excessive personalization of politics, which is easier to describe, even if it makes harder for citizens to find relevant information to participate in public debate, even if “political participation is the lifeblood of democratic regimes” (Pasquino 2008). Again, if journalists or politicians are not going to make information and policies more transparent, it is time for citizens to be actively engaged (Graber 1998).

The new media are a way of building a transparent society in which, by multiplying the number of opinions and voices (Bimber 2003), the excluded from the public debate for various reasons are allowed to participate actively, providing the best conditions of freedom and of social justice that are too often lacking in traditional media. This new pluralism can lead to an excessive fragmentation and polarization of political views, which reflects the current complex society, fragmented into a myriad of interests and identities (Campus 2007). The real challenge of contemporary democracy is, therefore, to be able to coordinate these different voices in order to reach collective decisions that are an expression of general interest. (Cain et al. 2003). Given such premises, the question is: may transparency and increased participation offered by social media give an answer to the request for a better and more responsive understanding of what is called the general will, the common interest?

Iceland thought that possible, building a new constitution through the participation of all citizens using the Internet and social media as an interface between the Constituent Assembly and the people of Iceland, marking the birth of a possible new paradigm for transparency, participation and something that can be termed *social constitutionalism*.

3. Constitutionalism 2.0: Towards a *Social Constitutionalism*

Constitutionalism is a movement of thought which from its origins is directed to pursue concrete political objectives, mainly consisting in limiting the powers of public spheres and in the assertion of spheres of autonomy guaranteed by law (Fioravanti 2009). Constitutionalism over centuries also saw a strong incentive to active participation, to give more support in the representation of common political existence. The Leviathan of Thomas Hobbes spoke of the need to reconstruct the constitution when it is necessary to reestablish a political order, but we had a first hint of *social constitutionalism* with Jean-Jacques Rousseau. In his Social Contract, he explained how the general will carried out by legislators must always be under the control of the person who set it up: the sovereign people.

Rousseau, regarding Hobbes, introduced a new element: the suspicion of the rulers and the consequent need for active people and their power to revise permanently terms and conditions of the constitutional pact. No constitution could be opposed to the sovereign people. What was missing in the two visions was the balance of power, which is highlighted by Locke and Kant and their assertions of the principle of equality against despotism.

Constitutionalism of the 19th century followed both directions, leading to a compromise that is based on the political unity of a sovereign state: constitution is incorporated and absorbed into the body who is representing the principle of sovereignty. Another step to social constitutionalism arrived with Kelsen in the first half of the XX century, who argued regarding the constitution as the place where social and political pluralism lives, the pillar of democracy. Nevertheless constitution of individual states, created in a situation where the national boundaries of a State determined the national sovereignty of a people, are no longer able to support the development of a political scenario that sees much of the power evaporated from the nation-state into the supranational, global space governed by entities such as markets, while politics remains mainly local, confined to the boundaries of the state's territorial sovereignty. Hence the result is a perpetual deficit of power of elected parliaments and governments. As the sociologist Bauman says¹: "the era of trust in the acting capacity of the nation-state institutions is giving way to the era of institutional non-confidence and popular mistrust in the governments' ability to act". Therefore, we are facing a new tension between constitutions and democracy, civic participation and politics.

Steps towards a new constitutionalism that can interpret the changes of time have been undertaken by James Tully, who endorses what he calls "democratic constitutionalism" (Tully 2001): a form of constitutionalism which foster "the freedom of the members of an open society to change the constitutional rules of mutual recognition and association from time to time as their identities change". Although, the idea of democratic constitutionalism, with some rare experiences in Latin America (Klein 1966) did not have practical importance in recent decades. Now we are seeing a solid support and new developments of democratic processes through new technologies, especially thanks to social media. Although no one had ever thought to use digital technologies to create or modify a constitution.

Iceland developed a social and inclusive approach to rewrite the founding document of a community that can help overcome the current problems of representative endemic in nowadays liberal democracies, trying to interpret in a better way the general will of people, giving them a proper set of tools to express their values and beliefs at best. Never before² we have seen such participation in a con-

¹See <http://www.social-europe.eu/2012/05/politics-the-good-society-and-westphalian-sovereignty>.

²We have some examples of historical constitutional assemblies which tried to include the biggest number of citizens: the US Constitutional Convention of 1787 in Philadelphia, the Assemblée nationale constituante in France 1789-1791 and the constitutional review in Italy, 1946.

stitutionalism process, making it part of a vast social process, so that we can fairly speak of social constitutionalism. Why did it happen in Iceland?

4. The Falling of Iceland: Rebuilding Political Trust

Iceland is the least populated country in Europe (excluding microstates). It counts about 320 thousand inhabitants, roughly the same as a typical European city (Bari, Bilbao or Nice). The average density is among the lowest in the world. More than a third of Icelanders (40%, 118,898 inhabitants) lives in Reykjavik, the political and administrative capital and the main industrial center. The quality of life is quite high, as well as income per capita³, which is certainly among the highest in the world. The other main cities, all with populations of less than 30 thousand inhabitants, are located primarily along the coast. In 2007, Iceland has experienced a strong economic growth, to the point that it ranked at the top of the Human Development Index (HDI)⁴ and pro capita GDP⁵. This was possible because of an extensive deregulation of the financial sector (Bagus 2010), which, since 2001, allowed the country's three main banks, Kaupthing, Glitnir and Landsbanki, to inflate their capital, granting easy credit and thus stimulate domestic demand. While these banks were offering extremely high interest (in March 2008 Kaupthing and Landsbanki lavished an interest of about 6-8%) to get fast credit, they were accumulating debt towards foreign investors (in the last quarter of 2008 there were 50 billion euro in Icelandic banks, faced with a GDP of only 8.5 billion⁶). When, in the summer of 2007, the subprime mortgage crisis gave birth to the financial turmoil, the entire global financial system suffered a strong backlash that led to a sharp contraction of credit, especially after the collapse of the investment bank Lehman Brothers in September 2008. Icelandic banks proved to be insolvent, facing the impossibility to pay debts. The three main Icelandic banks mentioned above went bankrupt and were nationalized. The total debt to return was an equivalent of 1.173 trillion kronur (around €350 billion)⁷, over 90% of Iceland's GDP in 2007⁸. Therefore, Iceland was the first Western nation to get a loan by the International Monetary Fund (IMF) since 1976, to be able to handle

³See statice.is. In 2010 the pro capita GDP was 39,606\$ (according to March 2012 currency exchange), around the 20th position in the world rank.

⁴The HDI is a comparative measure of life expectancy, literacy, education, and standards of living, for the 177 U.N. member countries.

⁵See data.worldbank.org. In 2007 Iceland ranked 3rd after Norway and Qatar, if we omit the states with a favorable tax regime (Liechtenstein, Monaco, Bermuda).

⁶See <http://www.sedlabanki.is/>.

⁷According to the statement made the 14th November of 2008 by the Financial Supervisory Authority (FME). See <http://www.fme.is>

⁸The Icelandic GDP in 2007 amounted to \$ 20,428,232,684 (according to March 2012 currency exchange). See data.worldbank.org.

the economic default (Benediktsdottir 2011). The 20th of November the IMF approved⁹ a loan¹⁰ of \$2,1 billion for Iceland. What has brought Iceland to the economic collapse?

During December 2008, Althingi, the Icelandic Parliament, with the Act number 142/2008, established a special commission of investigation, to analyze in deep the process that led to the collapse of the three banks. The committee gave the final report in April 2010¹¹, indicating guilty of insider trading and negligence members of the government who denied to the last the precariousness of the Icelandic banking system, making propaganda campaign against the warnings of the IMF, which in 2005 had moved doubts about stability and financial fragility of banks to Reykjavik¹². The Prime Minister Geir Harde is currently (April 2012) on trial, accused of failing to provide critical information at the time of the failure of three banks and of having not shared pertinent data in order to understand the Icelandic financial status in order to take appropriate countermeasures. Surely there was not a severe corruption at the time of collapse, even because as measured by Transparency International (TI) since 2001 (the oldest records available) Iceland it has always ranked among the top seven regards Corruption Perceptions Index. Moreover, between 1997 and 2007 there was only one case of bribery leading to conviction (Council of Europe 2008). What happened in Iceland goes beyond the concept of corruption as a wrong conduct by public officials to obtain a tangible personal benefit (OECD 2008).

The collapse of the country has revealed that there was a different and perhaps more dangerous form of corruption, due to systemic negligence, ignorance and confusion, rather than direct abuse: an acceptance of misbehaviors (multiple case of concealed ownership, cross ownership, close managerial relationships, elusive leveraged buyouts) which led to the impossibility for public officials to monitor compliance with law and ethics, offering a complete transparency of the overall context. A high level of corruption that transpired not so much in direct benefits to the parties involved but rather as an attitude that allowed a weak business culture and unethical business behavior to flourish (Vaiman et al. 2010). This was also caused by the small size of Iceland that formed a “strong web of alliances and personal networks” (Benediktsdottir et al. 2011), where professional conduct entwined private social relationship. The political opposition had representatives on the banks boards and therefore had no interest in exposing the facts as they were. The media were generally linked to political parties. There was a systemic lack of a culture of accountability and checks and balance (Gylfason 2010). None-

⁹See Press Release No.08/296 November 19, 2008 IMF.
<http://www.imf.org/external/np/sec/pr/2008/pr08296.htm>

¹⁰The loan procedure was the Stand-By Arrangements (SBA), a loan that usually lasts from 12 up to 24 months, with a payback in 3-5 years.

¹¹The complete report can be found on the Special Commission website. See <http://sic.althingi.is/>.

¹²International Monetary Fund-Iceland-2005 Article IV Consultation Concluding Statement for June 13, 2005. See <http://www.imf.org/external/np/ms/2005/061305.htm>.

theless there is also “strong evidence to the effect that the prevalence of clientelism has been high in Iceland” (Indridason 2005).

The result was the dramatic escalation of deregulation and lack of transparency, a misguided social consensus driven by the ruling party (Special Investigation Commission 2010) that led to the economic and moral default, and the consequent political need to develop new values in order to correct a complete system that has brought to the collapse of a nation, and to discuss how to make democracy more effective.

While the Icelandic government’s faults were increasingly being provided, which allowed the growth of this new type of corruption, in January 2009 street demonstrations became more frequent and numerous, to the point that Geirr Harde, the Icelandic prime minister, resigned at the end of the month after the call for elections at the end of April, which saw for the first time in Icelandic history the success of the leftist coalition led by Social Democratic Alliance of Jóhanna Sigurðardóttir, which has always advocated a constitutional amendment.

5. The New Icelandic Constitution: a Grassroots Participatory Approach

The Icelandic Constitution is borrowed from the Danish one, written in 1848, just replacing the terms related to the monarchy with those of the Republic, ordering that the Icelanders have chosen in the year of independence (1944). The current version of the constitution has 80 articles, and it has amended seven times¹³, mainly for institutional changes: in the 1991, when the bicameral system was canceled and in the 1995, after an extensive review of the section regarding Human Rights.

Moreover, the Icelandic Constitution was born during the Second World War, a situation that has prevented a more consistent and detailed discussion that would lead to the writing of a document no longer borrowed from other constitutions, but the result of a process shared by Icelanders. The recent economic crisis and its harmful effects have led many to ask for anything more than minor adjustments; a reformulation of the whole constitution, a new document where would likely rise new political and moral values, in order to avoid another disaster. As a matter of fact, one of the consequences of the crisis was an exceptional lack of confidence in both political parties and the elected representatives of the nation in the Althingi to make decisions on vital public affairs, and finding a way to restore this confidence is in itself a separate matter for concern (Thorarensen 2011).

On the 16th of June 2010, the Parliament (Althingi), approved a bill: the Act 90/2010 on a Constitutional Assembly¹⁴ that delegates the review of the con-

¹³See <http://www.althingi.is/lagas/nuna/1944033.html>.

¹⁴A translation in English of the Act is available here: http://thjodfundur2010.is/other_files/2010/doc/Act-on-a-Constitutional-Assembly.pdf.

stitution to a group of citizens, supported by legal advice, with the name of "Constitutional Assembly" (CA), which should have consisted of 25 delegates directly elected by the citizens through a system of preferences. The purpose of the CA was to produce a constitutional draft to be passed to Parliament at the end of the work, which is responsible for following the correct procedure for constitutional revision. The bill affirmed that the CA should promote dialogue between citizens and representatives based on the themes developed in a National forum¹⁵, which adopted a complicated method based on participatory democracy practiced by "Agora"¹⁶, an Icelandic non-profit organization specializing in suggesting and organizing procedures for participation in the drafting of official documents.

Moreover, the Constitutional Act prescribed that the participants of the Forum (about 1000) had to be randomly sampled from the National Population Register, "with due regard to a reasonable distribution of participants across the country and an equal division between genders, to the extent possible". Furthermore, as described on the National Assembly official website¹⁷, the first step was to select citizens by random sampling from the National Registry, then restrict the sample to those who have the right to vote for the CA and lived in Iceland and finally try to reflect the formal requests about representativeness assuring that bias in gender, living place and age could be avoided.

During the day of the National Assembly, the 950 selected citizens were divided into small groups, where each participant had time and space to make a significant contribution to the debate, to express ideas, opinions, fostering a proper debate. In this way, it was outlined the context of values in which the incumbent Constitutional Assembly should work:

- The foundations of the Icelandic Constitution and its core concepts;
- The organization of the legislative and executive power and the limits of their powers;
- The role and function of the President of Republic;
- The independence of the judiciary and their regulation of other holders of governmental authority;
- Provisions relating to elections and electoral districts;
- Participation of citizens in the democratic process, including timing and organization of referendum, including one for a new Constitutional Bill;
- Transfer of sovereign powers to international organizations and the conduct of foreign affairs;
- Environmental issues, including the ownership and use of natural resources.

¹⁵This National Forum was held three weeks before the election of members of CA, the 6th of November 2010.

¹⁶See <http://agora.is/>.

¹⁷See <http://www.thjodfundur2010.is/um-thjodfundinn/>

The election of CA members has been held the 27th of November 2010. The voters had to write the number connected to the selected CA candidates on the board, expressing up to 25 preferences, chosen among 522 candidates. The only two constraints for the application, apart from the one to be free from affiliation of any political party, were to be of age and the signatures of at least 30 supporters, a remarkably low threshold. However, only a third of voters, 35.9%, (232.374 entitled on a total of 83.531 voters) participated in the election for CA. This was the lowest turnout since Iceland was declared independent in 1944. The turnout for the first Icesave referendum held on March 2010 was 62%, and the average for parliamentary elections is around 85%¹⁸. The poor discussion among the 522 candidates has influenced the interest in the election, as well as those who had no interest in starting a new constitutional process, judging it unnecessary or inappropriate. A reason of the low turnout could have been the new electoral system¹⁹, never used until then, which required more effort than the normal one used for the Parliament. Others argue that timing was wrong, there were an enormous number of candidates, and the idea was not so consistent. Someone else did not participate because thinking that the draft would probably be rejected by the parliament in any case. Also, there may have been a bit of “election fatigue”, given that in 2010 was the third time that the Icelanders were called to vote, after the first Icesave referendum in March and the municipal elections in spring. Moreover, there were no support groups behind candidates, and this makes difficult to determine whether the policy guidance of the counselors had a conservative or progressive majority. Finally, there are those speculating that the turnout was low for the presence of whom have particular interests to protect

However, many distinct public figures were elected, people of all ages and professions²⁰. The election to the Constitutional Assembly was protested on the grounds of various alleged defects in its execution (Thorarensen 2011), so the executive committee of the Supreme Court annulled the elections. Thereby the Parliament decided to establish a Constitutional Assembly Council (CAC) by means of parliamentary appointment, composed by CA elected members. This hurdle in the process could have weakened the social legitimacy of the CAC.

¹⁸See <http://www.statice.is/Statistics/Elections>.

¹⁹The electoral system used was the STV (single transferable vote), a system designed to ensure that if the chosen candidate has no chance of being or already has enough votes, the vote is to another candidate on the instructions voter, to ensure that only a handful of votes is wasted.

²⁰Not only doctors, lawyers, priests and professors, but also a nurse, mathematicians, artists and poets, political scientists, theater directors and union leaders, ensuring representation of the plural society, with 10 women to ensure gender equality.

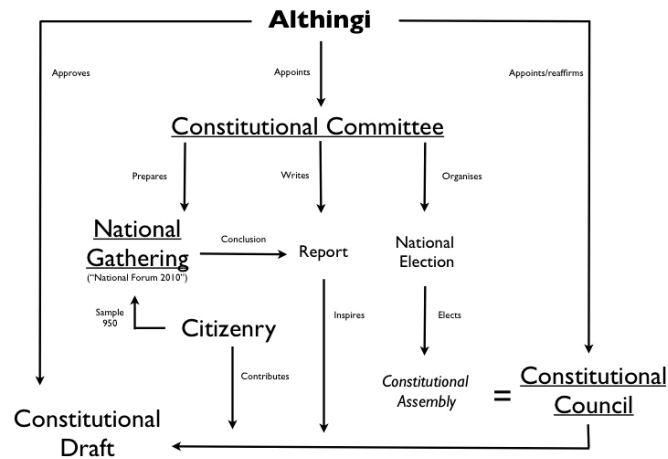


Fig.1 A visual representation of the constitutional process. (from partecipia.net)

5.1 The Performance of the Constitutional Process

The new constitutional council prioritized the use of new technologies, given that Iceland has the highest number per capita in the world of Internet users: 95% in 2009²¹. Icelanders fostered Internet policies rapidly and in 2010 computers were in 93% of households and 92% of them had an Internet connection.

The members of CAC have, however, taken into account also participatory dynamics unrelated to the use of new media, as the use of telephone and letters. The review work and the participation policies were conducted through three overlapping ways. Each week the CAC published online on its official site all the new articles discussed internally within the Council that encouraged letters, email and Facebook messages, to suggest how the text could be strengthened and improved, what should be added or what should be removed. The discussion took place all around Iceland, and not only in places where the council was held, favoring complete independence from interference by political and corporate lobbying, who were unable to “control” the whole territory. Suggestions from citizens were taken into consideration and discussed at meetings of subgroups and, if approved by the council, directly entered into the draft. The councilors met on alternate days to review the documents. Each week, on Thursday, the subgroups hosted a public meeting (with live streaming), discussing and confirming new amendment and suggestions. A newsletter periodically informed of progress those who had subscribed. After two or three weeks and after collecting all the observations and comments, the CAC had the chance to re-propose the correct version of the arti-

²¹See <http://data.worldbank.org>. By way of comparison, the 2009 data for the United States is 78%.

cles in discussion. In the final stage, all the proposed changes were discussed and voted article after article, drafting the final version of the paper.

In support of the constitutional process, in January 2011 a Constitutional Analysis Support Team (CAST)²² was established, a semi-formal collective of individuals which had the task to perform analysis of the constitution, as it was drafted. Many of the constitutional advisers were involved in the work of CAST. In particular, towards the end of the process, when the draft was almost done, the CAST has organized a 'stress test' of the new constitution - an event open to voluntary people. The CAST provided analytical support, operated according to a principle of political neutrality, and dedicated to helping assemblies to construct a functional and internally consistent document. The CAST subscribed also a Twitter channel²³, but it wrote only 5 tweets to promote some article, and it has only 15 follower and 15 following.

5.2 The Use of Social Media for a Transparent Process of Constitution-Making

A particularly useful aspect of CAC is the use of social media to make its own deliberations and discussions more transparent, trying to encourage participation. Throughout the process, public discussions have taken place on the official channels of the Council involving the website and other social media such as Facebook, YouTube, Flickr and Twitter. The official website of the Council²⁴ became an incubator of comments: the CAC received approximately 370 formal proposals²⁵ online, which were discussed in three subcommittees. Moreover, about 3600 ideas and suggestions were posted by visitors, using not only the website, but also social media channels, like the official Facebook page. The majority of comments concerned the Icelandic economic model, still under investigation after the recent default. Other issues of interest were the neutrality of web, transparency and free access to Internet. Each comment had to be approved by the members of CAC, in order to avoid the risk of spam. The live sessions were regularly broadcasted on TV or streamed over the Internet and viewed by an average of 150-400 spectators. More than 50 interviews with counselors were posted on the official YouTube channel, which has raised a total of about 11,500 viewers.

Transparency was ensured by the public profile of the individual councilors who have shared on the official website email address, phone number and social media accounts. The discussions were mostly followed and suggested on Facebook, helped by the fact that 2/3 of Icelanders are subscribed to that social

²²A summary report of findings is produced and uploaded to the official website: const.is.

²³See <http://twitter.com/constdotis>.

²⁴See <http://stjornlagarad.is/>.

²⁵Statistics taken from the official website. See <http://www.stjornlagarad.is>

network²⁶. The official Facebook page of the Constitutional Council²⁷ has about 5600 like useful to follow the updates, but it also see many foreign subscribers, because this open process has made headlines around the world, reducing *de facto* the true value to foster native people's engagement.

The Twitter channel²⁸ has 428 following, 545 followers and only 171 tweets sent, but without reliable data on the penetration of this social network in Iceland is difficult to evaluate its impact, which in any case, due the small numbers of social activity, seems very inconsistent.

According to the chairman of the council Thorvaldur Gylfason²⁹, the language has always been polite and the risk of seeing thousands of senseless comments ended up being pointless and the low participation in the process of drafting is caused by the respect and tones held during meetings, which may have instilled confidence to the members of CAC.

An in-depth analysis of the official social media channels' use, provided by professional tools used for marketing research³⁰ will help to understand in a more defined way the bias and the profiles of those who contributed in the participation process, either posting comments and suggestions or simply sharing content created by others related to the constitutional draft. Unfortunately, in order to get a detailed analysis, we would need access to the various social media accounts, which are managed by the CAC staff.

5.3 The Final Document

At the end of the process, each article of the constitution was individually voted and approved by a large majority. The final version of the constitution was approved unanimously by 25 votes to zero. After four months of intense preparation, the Council has concluded its work on the 27th of July, 2011. The President of the Council presented the constitution draft to Parliament two days later. The vote is currently pending, and the participatory approach continued with a national referendum, to give greater legitimacy to the process. The Icelandic Parliament will not debate and vote on the next step before the spring of 2013.

The proposed new constitution³¹ comprises 114 articles divided into 9 chapters. Changes move in the direction of improving the transparency and fix some distortions that happened in the past. From the institutional point of view

²⁶According to Social Bakers (<http://www.socialbakers.com/facebook-statistics/iceland>), a site that assessment the impact of social media, the Facebook penetration in Iceland is 68.41% compared to the country's population, and 70.07% in relation to number of Internet users.

²⁷See <http://www.facebook.com/Stjornlagarad> (statistics obtained in October 2012).

²⁸See <https://twitter.com/Stjornlagarad> (statistics obtained in October 2012)

²⁹See <http://www.voxeu.org/index.php?q=node/870>.

³⁰E.g. Sysomos or Crowdbooster.

³¹Available in English here: http://stjornlagarad.is/other_files/stjornlagarad/Frumvarp-enska.pdf.

following the draft, the new Supreme Court would become fully independent, the minutes of all meetings are made available to public, the Prime Minister would be obliged to account for his / her government to Parliament, information about issues that concern the public become always available.

For this reason, it is possible to understand the importance and the attention given to transparency and freedom of information. In fact, the final text attributes value to the rights of information and points out similarities with the principles recurring in open data and open government: e.g. article 15, on the right to information, says: "All persons shall be free to collect and disseminate information", highlighting the importance of open data and their public access, essential for every citizen; article 14, regarding the right to having and expressing opinions: "The access to the Internet and information technology shall not be limited unless by a court verdict and subject to the same conditions as apply to the limits of the expression of opinion"; article 51, which regulates electoral campaigns, making them more transparent than before; article 55, requiring that each session of Parliament should be open to the public.

Much attention was given to the management of natural resources, defining a human right the access to a clean and unspoilt nature, outlining such environmental resources as "foundation of life in the country" (art.33-34).

Moreover, the new constitution stipulates that all fisheries are the property of the nation and not of few privates. This could lead to a big impact, because Iceland is the 16th largest fishing nation in the world and his economy is heavily dependent on that industry.

However, the draft has not introduced specific innovations regarding the participation of citizens which are not already written in other European constitutions. Despite the innovative method of creation of the document, few are the grassroots processes that foster forms of participatory democracy, explicated in three articles 65, 66 and 113. Article 65 gives the possibility to organize a petition by at least 10 % of the electorate to call for a referendum on legislation passed by the parliament³². Article 66 gives the possibility for 2% of the electorate to submit an entry on the parliamentary agenda, while 10% of the electorate may submit a legislative bill to the parliament³³. Article 113 is dealing with constitutional revision introducing a compulsory referendum to ratify constitutional amendments.

However, in order to balance powers, the draft constitution has provided the establishment of a constitutional court (the Lögrétta) with the powers to suggest opinions on the constitutionality of legislative bills made by the Parliament or Parliamentary committees.

³²E.g. article 75 of the Italian constitution

³³E.g. article 71 of the Italian constitution

6. A Few Conclusive Thoughts on the Icelandic Process

The approach used in the constitutional reform in Iceland is unique and has no direct precedents in other countries in recent decades (Thorarensen 2011). It might be considered as a return to the older concept of the constitution, which can be traced back to the 18th and the 19th century, where there was a more active involvement of “the people” in the process constitution’s adoption (Fioravanti 2009).

This concept may be revised due to the opportunities offered by new technologies that potentially give a greater power to the “people”, not only by commenting on the final draft, but to participate in an open and public debate during the drafting of the constitution. This participatory approach in many ways challenges core assumptions of mainstream understandings of constitutionalism, such as the idea of constitutionalism dominated by legal professionals or the one of constitutions as higher laws that are near impossible to change (Blokker 2012). Until now, the writing of a constitution by the people is the revolutionary exception, and not the rule. Never before the values in a constitution emerged directly from the population. Constitutions are a backbone for democratic regimes, but never vehicles of public participation and discussion: the Icelandic case is a *social constitutionalism* that fosters a new way to build the social contract between government and citizens, who comes from the nation itself, made possible by new technologies, the small size of Iceland and the high penetration of Internet.

The Constitutional Assembly in Iceland is something remarkably close to direct democracy at work a way to restore faith in the government after the massive failures happened in the recent past. Why they chose to do it now? The special conditions of the historical moment helped by a lack of credibility of politicians, and the severe consequences of economic crisis led the Icelanders to expedite the process of constitutional revision. Does it lead to a return of political credibility?

The experiment of collective participation was possible thanks to the small size of the nation: around 300 thousand inhabitants. It is impossible to compare this government with most of the other western democracies, and it is difficult to think of using the same technique to create an entire constitution which can act as glue for all citizens in bigger states with a long democratic tradition. However, it may indicate the merit of this methodology to amend parts of a preexisting constitution or to create shared policies on a given topic.

This has the potential to set a precedent on how governments restructure and regulate policies, or perhaps how politicians write and submit bills. With transparency, political systems can be reinvigorated, not just in how they operate, but also in how they decide who helps to run it. A greater transparency in the acts and the proceedings of participation, used in the construction operation and emphasized in the final text, offer the possibility to overcome another strong disparities in democracies: the influence of lobbying in parliamentary proceedings, which often change the legislative process for the interest of the few. Unlike the normal

parliamentary procedures, the CAC did not invite lobbyists and stakeholder, but since the hearings were public, they had the same opportunity to submit proposals and suggestions of anyone.

This new path, however, faces some obstacles: are 370 formal proposals and 3600 comments enough in order to talk of "popular will"? Especially when multiple comments made in the various social media are not from Icelandic people, but from international supporters. Citizens' comments in the final draft seem to have been essentially quite limited, and the wider role of the public was mostly consultative rather than truly participative, and despite the lack of a radical-democratic dimension in the new draft, the text is clearly an improvement, not least regarding civic-participatory channels (Blokker 2012).

Do the 25 members of the Constitutional Council, who had extremely different profiles and varied opinions but approved the final bill unanimously, share a common view on what is wrong with the past constitution?

On the 20th of October 2012, a non-binding referendum was held in Iceland, with the intention to guide the government's and parliament's actions regarding the further development of the constitution: voters were asked whether they approved the draft constitution drawn up by the Constitutional Assembly, answering "yes" or "no" to six questions, which cover the most sensitive issues that came out during the building process, such as the use of the Constitution Council's proposals to form the basis of a new draft Constitution, the role of the Evangelical Lutheran Church as state church, the electoral system, and the declaration of all non-privately owned natural resources as national property³⁴. The turnout was 48,9 percent, slightly higher the number of the voters that started the constitutional process, with the election of Constitutional Council's members in 2010. All 6 questions were approved, with a percentage ranging between 57% (the question related to the role of the church) and 84% (the one related to the natural resources)³⁵.

Though still without official result as this paper goes to the publisher and while we wait for more empirical analysis³⁶, it is possible to guess that the good turnout means the effectiveness of councilors' investigative work, reflecting the values and expectations of the majority, justifying the few comments and the small impact of Icelandic people to the text and determining the validity of the decision to involve the whole nation in the making. Now, a possible rejection or diversion from the draft by the Icelandic government would represent a blow to the emergence of new models of participation "from below" (the so called "grassroots participation").

Even if the road to deliberative democracy is no guarantee of appropriate governance and requires revisions, the Icelandic constitutional process is an innovative model of democratic participation, a reference to a more transparent rela-

³⁴See <http://www.kosning.is/thjodaratkvaedagreidslur2012/english/>

³⁵See <http://www.ruv.is/frett/meirihluti-sagdi-ja-vid-ollum-spurningum> (in Icelandic). Non-official data.

³⁶The paper has been sent to the publisher the day after the referendum.

tionship between politics and economics, where people have the potential to respond to the center of the public debate. Iceland demonstrates the importance of perception of government performance, as well as the problems the existing political system is facing. When problems are as deep as they were in Iceland 2008-09, government performance becomes a crucial determinant for increasing dissatisfaction with how democracy works (Önnudóttir 2011). What is better for a democracy than build a new constitution for citizens with the citizens, with a transparent and shared process?

7. Conclusions: a New Approach to Democracy?

The case studies discussed in this chapter demonstrates how ICTS / social media tools are being reshaping the relationship between citizens and politics, in a way that can also encourage participation and accountability and shift the traditional concept of “democracy”. Social media technologies mixed with *citizensourcing* are creating democratic participation and involvement, providing several voices in discussions of policy development, implementation and co-production to develop or improve services quality, delivery and responsiveness.

Although these examples may provide an impression of the potential, their use is still not mainstream to arrange a structured change of paradigm of democracy in a more social aspect, taking advantage of the "cognitive surplus" that Clay Shirky has written in his homonymous book: “instead of wasting all of our leisure time on private pleasure or passive consumption, more and more of us are into constructive civic projects, many of them reaching impressive scale (Shirky 2010).

A new kind of “grassroots democracy”, that means the involvement of ordinary people rather than leaders or hierarchical structures or organizations. A *we-democracy*, a new system for enterprises, political parties, civic associations, citizens and in particular governments to increase participation and transparency, in order to restore the concept of democracy as it was intended in the past³⁷, offering previously unimaginable tools and channels of communication, where each person could be a more active member, contrasting the statement of a pervasive loss of citizens’ political participation and growing cynicism and distrust towards political parties and formal institutions.

A balanced approach to reimagine a combination of direct, participatory and representative democracies. A democracy that knows how to get critical decisions, a democracy that functions well in crisis, a democracy that is able to distinguish the populism and therefore needs strong partnerships, based on a sharing

³⁷According to Aristotle, Politics, Book 6, Part II: Every citizen, it is said, must have equality, and therefore in a democracy the poor have more power than the rich, because there are more of them, and the will of the majority is supreme [...] and so it contributes to the freedom based upon equality.

system for the common good. This new approach expresses its full potential when all political stakeholders (political parties, institutions, citizens, civic associations) are working together, each with its own prerogatives and responsibilities. However, if it is lacking a public agent it may also work, but there is a loss of incisiveness.

As in the case of Iceland, where the full participation at grassroots level of all citizens in the new constitution drafting was strongly desired by the institutions. The result was particularly appealing, with the elaboration of an advanced constitution in terms of civil rights and able to address the defections of Icelandic's economics and politics that led to the disastrous default of 2008. The transparency of each process was ensured by extensive use of social media and other technological tools. However, the support of citizens has been minor, considering the small number of formal proposals came from outside the CC.

In order to have a better analysis of the degree of Icelandic's satisfaction and see if the work of investigation and the level of transparency offered in the process have discouraged the participation of citizens, we must await the outcome of the referendum that would ratify the constitution, the last act of a collaborative and participatory process that has no equal in the history of constitutionalism and democracy.

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