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Citizen Assemblies in Response to Crisis of Democratic Representation – and the Case of Iceland

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Waves of democracy

- 18th century democratic revolution's
 - France, US, etc.
- Wake of WWII
 - New world order
- South Europe in 1970s and East Europe in 1990s



Liberal Democracy in wake of WWII

- Democratic representation
- Rule of law
- Civil Rights in addition to human rights
- New International Order
- Globalization
- Migration



'End of history' in wake of Cold War



- Prevalence of liberal democracy

Three populist waves in wake of crisis

- 1st wave 1972
 - Oil crisis
- 2nd wave 1989
 - Collapse of communism
- 3^d wave 2008
 - International Financial Crisis



Erosion of Liberal / Democracy

- Disrespect for the once shared framework of western liberal democracies
- Diminished support for democracy
 - Less vital amongst the young
 - Direct democracy yes, but civil rights not so much
- Almost half Americans don't know of the Holocaust



Constitutional moment

- Elster (1995) describes seven waves of constitution making following the US Declaration of Independence in 1776
 - 1) During **1780-91** the US, Poland, and France adopted new constitutions, as did Sweden in 1809 and Norway in 1814
 - 2) Following revolutions in **Europe in 1848** several countries adopted new constitutions some of which did not last long because the revolutions producing them were suppressed
 - 3) After **World War I (1914-18)** Poland, Czechoslovakia, and defeated Germany passed new constitutions
 - 4) After **World War II (1939-45)** Italy, Germany, and Japan had new constitutions essentially dictated to them by the victors
 - 5) As the sun set on the **colonial empires** of the UK, France, and others after 1945, new constitutions in Asia and Africa
 - 6) Authoritarian regimes in **Southern Europe** were driven from power in 1974-78 and Greece, Portugal, and Spain adopted new democratic constitutions
 - 7) The seventh and last wave swept **East and Central Europe** after the collapse of communism beginning in 1989, with about 25 new constitutions, all except Hungary (until 2012)



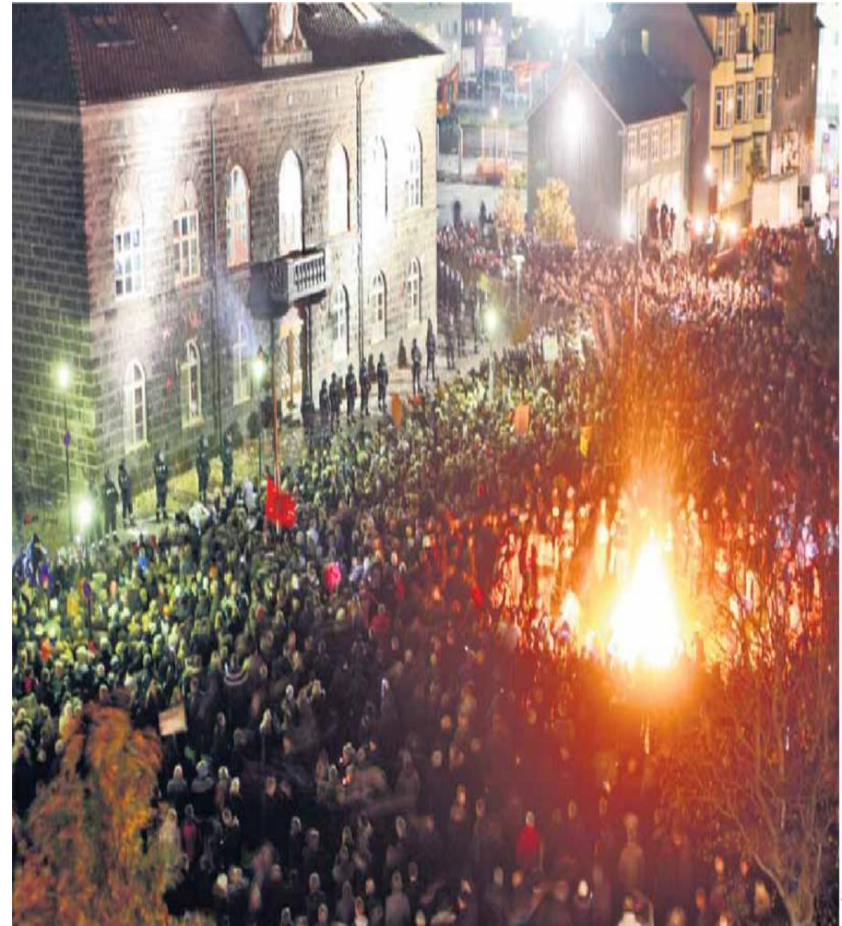
Forums of participatory democracy

- Is the 8th wave starting?
- Constitutional Citizens forums
 - Australia (1998) – on establishing an republic
 - British Columbia (2004) and Ontario (2007) – on electoral law
 - Holland (2006) – *BürgerForum*
 - **Iceland (2011) – *Constitutional Council***
 - Belgium (2012) – Citizens forum *G1000*
 - Ireland (2013) – *We the Citizens / Constitutional Convention*
 - Estonia (Ongoing) – *Rahvahogu* Citizens Assembly
- South American Participatory Democracy
 - The Porto Alegre model of Participatory Budgeting since 1989, spreading to hundred cities
 - Citizens Participatory Conferences in Brazil



Iceland

- The “crash” of 2008
 - Constitutional revision was one of the demands of the “pots-and-pans revolution” in January 2009
 - The banking system had grown 10 times the GDP
 - Three banks comprising 85% of the banking system collapsed within a week, the rest in quick succession
 - Local equity market was virtually wiped out overnight
 - Elster (1995): Most constitutions are written or revised following economic or political upheaval because crises often trigger demands for a fresh start or expose flaws to be fixed
- Constitutional moment turns into emerging new critical order



The process

- Parliament decided to proceed in three steps
- Convene **National Forum**
 - 1,000 persons selected at random through stratified sampling
- Appoint **Constitutional Committee** to gather information, provide analysis, and propose ideas
 - Seven specialist from different directions, 700-page report
- Hold election of **Constitutional Council** representatives
 - 25 representatives elected from among 523 candidates by STV (Single Transferable Vote) method to minimize number of ‘dead’ votes



Unfinished project

- Iceland's constitution dates from 1944 when Iceland separated from occupied Denmark
 - Derived from Denmark's constitution, with nationally elected president substituted for hereditary king, the Icelandic constitution was intended to be only **provisional**
 - Hails from 1874, or rather 1849.
 - Despite repeated attempts Parliament has failed to revise it holistically



The representatives

- The 25 elected were doctors, lawyers, priests, professors, company board members, a farmer, a fighter for the rights of handicapped persons, mathematicians, media people, erstwhile MPs, a nurse, a philosopher, poets and artists, political scientists, a theatre director, and a labor union leader.



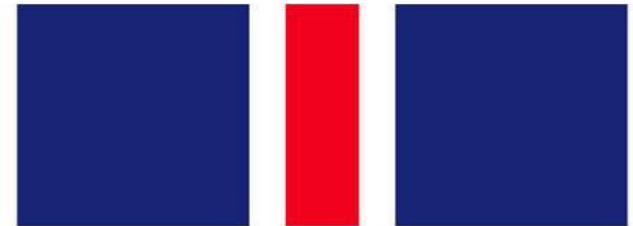
The framework

- Council had four months to do its work
 - (US constitution was also written in four months in 1787)
- Three working groups
 - A. Human rights and natural resources
 - B. Branches of government
 - Legislator, the executive, the president
 - C. Electoral system, direct democracy, the judiciary



Method

- Council decided to:
 - Rewrite constitution rather than revise the provisional one from 1944
 - Basic feature of the 1944 constitution was however retained to preserve the continuity and stability of Iceland's **Parliamentary Republic**.
 - Move chapter on human rights up front to underline their importance
 - Invite the public to participate
 - Through media, but mainly social media



Þjóð til þings
Stjórnlagagæping 2011



Method

- *The world first “crowdsourced” constitution?*
- Active public participation
 - Council received 323 formal proposals
 - All were discussed and answered by one of three committees
 - Over 3,600 comments were posted on website by visitors
 - Council representatives answered most if not all of them
 - Direct webcasts, also aired on TV
 - Over 50 interviews with Council members and others concerned were posted on YouTube



Method



- Many experts also advised the Council every step of the way
 - Lawyers and others
 - In meetings as well as in writing
- Council could not seek the advice of all available and eligible experts
 - However, like everyone else, they were welcome to offer their comments and suggestions
- Council did not invite representatives of interest organizations to special meetings
 - These organizations had same access as everyone else to Council (bankers, fishing vessels owners, farmers)

Method

- Each week, Council posted on its website new provisional articles for perusal by the public
- Two to three weeks later, after receiving comments and suggestions from the public as well as from experts, Council posted revised versions of those articles on the website
- In a final round, proposals for changes in the document as a whole were debated and voted upon article by article, and the final version of the bill was prepared
- At the end of the last round, each article was approved in separate voting
- The Council adopted the new constitution **unanimously**



Substance

- Principle
 - Distribution of power, transparency and responsibility
- Main features
 - Keep the main features of **Parliamentary Republic** system
 - But with clearer division between the three branches of government and an increased public participation in decision-making



Failed ratification process

- Advisory referendum on October 20th 2012
 - Including five specific questions on substance, e.g., about whether to declare natural resources to be the property of the nation
 - **Accepted by 2/3 of voters** (Just under 50% turnout)
- Parliament
 - Ratification postponed until after the April 2013 Parliament elections
 - Right of center post 2013 Parliament halted the process
 - New constitutional committee contemplating next moves

KJÖRSEDILL	
Ráðgefandi þjóðaratkvæðagreiðsla um tillögur stjórnlagaráðs að frumvarpi til stjórnarskipunarlaganna og tiltekin álitafni þeim tengd, skv. ályktun Alþings 24. maí 2012.	
Merkið í annan hvorn ferning hvernar spurningar. Kjósandi getur sleppt því að svara einstökum spurningum.	
1. Vilt þú að tillögur stjórnlagaráðs verði lagðar til grundvallar frumvarpi að nýrri stjórnarskrá?	<input type="checkbox"/> Já, ég vil að tillögur stjórnlagaráðs verði lagðar til grundvallar frumvarpi að nýrri stjórnarskrá. <input type="checkbox"/> Nei, ég vil ekki að tillögur stjórnlagaráðs verði lagðar til grundvallar frumvarpi að nýrri stjórnarskrá.
2. Vilt þú að í nýrri stjórnarskrá verði náttúruauðlindir sem ekki eru í einkaeigu lýstar þjóðareign?	<input type="checkbox"/> Já <input type="checkbox"/> Nei
3. Vilt þú að í nýrri stjórnarskrá verði ákvæði um þjóðkirkju á Íslandi?	<input type="checkbox"/> Já <input type="checkbox"/> Nei
4. Vilt þú að í nýrri stjórnarskrá verði persónukjör í kosningum til Alþingis heimilað í meira mæli en nú er?	<input type="checkbox"/> Já <input type="checkbox"/> Nei
5. Vilt þú að í nýrri stjórnarskrá verði ákvæði um að atkvæði kjósenda alls staðar að af landinu vegi jafnt?	<input type="checkbox"/> Já <input type="checkbox"/> Nei
6. Vilt þú að í nýrri stjórnarskrá verði ákvæði um að tiltekið hlutfall kosningarbærra manna geti krafist þess að mál fari í þjóðaratkvæðagreiðslu?	<input type="checkbox"/> Já <input type="checkbox"/> Nei
<small>Stjórnarskrá er breytt þannig að frumvarp er lagt fram á Alþingi. Það er rætt við þrjár umræður og getur tekið breytingum í meðförum þingsins. Verði frumvarpið samþykkt skal fjúfa Alþingi og kjósa nýtt þing. Frumvarpið er þá lagt fram að nýju og samþykki Alþingi það óbreytt tæka breytingarnar glíði að fenginni staðfestingu forsætis. Stjórnlagaráð hefur skilað Alþingi tillögum að frumvarpi að nýrri stjórnarskrá. Verði það lagt fram sem frumvarp á Alþingi fær það þá meðferð sem lýst hefur verið.</small>	