



# Coproducing the Social Contract without Rethinking the Governance System

## *The Process of Amending the Icelandic Constitution 2009 – 2013*

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## FOREWORD

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# Executive summary

## **SUBJECT**

This study intends to analyze the Icelandic constitutional dynamic initiated in 2009 – one year after the financial crisis began.

## **CONTENT**

While introducing the reader to a sociologic and historic perspective, the author embarks on, through this work, a comprehensive analysis of the Icelandic constitution innovative reform process. Indeed, more than a simple reform, the process aimed to be a constitutional rebuilding, in both substance and wording. This constitutional process was indeed a real intent of coproduction, using governance tools to enhance the participation of the Icelandic people, as diverse as they might be. Even if this constitutional process was initiated by the political authorities, the implication and participation of the Icelandic people was strong as they felt the need to express their opinions, values, and demands within the different arenas offered to them so as to discuss their new Constitution. The author describes in detail the appropriation of the process by Icelanders. The constitutional proposal that resulted is thus written with a simple and accessible vocabulary, a non-exclusively legal one. It endorses, in simple terms, the founding aspirations of the social contract defined by the Icelandic citizens. Its content reflects the new equilibrium between technical dispositions on the distribution of power and politico-philosophical dispositions laying out Icelandic society's founding principles.

However, this process did not achieve the desired result, that is to say the coproduction, the adoption, and the implementation of a constitution that embodies the new Icelandic social contract. The author details obstacles – such as cumbersome bureaucratic and legal procedures – that explain why the new Constitution has yet to be approved. Amongst others, he describes how the new constitutional proposal lacks legal elements for it to be integrated in a strict hierarchy of legal norms and underlines the missing elements that confer to a constitution its rank of legal reference regarding national laws and also international charts and declarations. Therefore, participation and interest from the Icelanders in the

process declined as time went by, resulting in cancelled elections and a re-appropriation of the process by the new government and Members of Parliament.

### **ISSUES AND OUTCOMES**

This case study is instructive for the reflections of the International Network for Reflection and Proposals for a Plural Approach on Constitutions . In particular, it shows once again that legality-legitimacy dialectics are fundamental for state legitimacy. The interaction between those two terms is at the heart of a social contract's institutionalization in a given society. For decades, it has been admitted – and the IRG produced numerous analyses on this topic - that working only on legality while marginalizing legitimization processes conduces to deepen the gap between the state and its constituent societies. Beyond the loss of state efficacy and effectiveness, the disconnection of legality from the legitimacy sources often leads to strong tensions between the state regulation and the others regulations effectively mobilized by the actors, resulting in important political crisis. Those are the critics formulated against the Western state model transfer in various countries and world organizations. The plea in favor of a social re-rootedness of the state – and consequently the constructive hybridization of the diverse legitimacy sources inherent to every society in the regulation carried by the state – is a favorable vector of the legality-legitimacy dialectics.

Yet, the Icelandic example confirms that gathering conditions understood as enabling those hybridizations (participation, political will, time, co-production etc.) is not enough. It also requires working, at the same time, on the legal and institutional framework so that it may be open to such change and hybridization. Otherwise, the risk is to fall exclusively within the dialectics' second component: legitimacy. Such a posture leads to the same effects than those described beforehand, when the attention is focused on the dialectics first term, legality. The gap between state and societies deepen.

With legitimacy, the Icelandic constitutional project did not find its place in the Icelandic legal system neither in the international one. How then can effective legitimization processes be integrated into the legality of a given system?

Legality must embody legitimacy. Legitimacy must be able to be embodied in legality... Let us hope that the state's ability to inscribe itself in a plural approach will open a path favoring the articulation between the two assertions.

**Séverine Bellina and Marion Muller**

Paris, November 2013

# Introduction

Usually a major reform of the constitution of a country or the writing of a new constitution is preceded by major events or fundamental changes in social structure. History has many examples of this. Some European nations created new constitutions in the wake of the First and Second World Wars, others - when they overthrew dictatorships or military regimes and yet others, and in fact many, after the fall of communism.

Iceland is not an exception from this, although there have been no major changes in government structure as in the above-mentioned cases and neither has the country been involved in armed conflicts or wars. The prelude to the major undertaking of revising the Constitution of the Republic of Iceland was the collapse of the banking system in the autumn of 2008.

There was a major boom in Icelandic society in the beginning of the 21st century. This was mostly governed by giant heavy industry projects and the rapid growth of the banks in the wake of their privatization. The government and entrepreneurs had big plans and there was a general atmosphere of optimism and prosperity. According to many people, never before had as many Icelanders been as prosperous as at the time. Under these circumstances, people afforded some things that they would have otherwise not been able to afford. Against loans at relatively favorable interest rates, people expanded their housing properties and bought more expensive cars.

When the international financial markets experienced problems and the banks could no longer fund their operations, they went bankrupt. When this happened, it was as if the Icelandic society hit a wall. Although deposits were guaranteed, many people lost high amounts since the banks' shares became worthless. The most serious consequences were, however, due to the indirect effects of the events. Many other companies went bankrupt or scaled down their business and a number of people lost their jobs. The currency exchange rate deteriorated, the inflation rate rose and interest rates were raised. Money could buy less and the cost of loans rose.

The general public was appalled by the situation and it refused to tolerate it silently. There were protest meetings in the center of Reykjavik and demands were made that the government step down, the heads of the Central Bank and the Financial Supervisory Authority resign and new elections be held. At the time it was requested that the country would create a new constitution.





# I. A constitutional assembly added to the agenda

As stated earlier, people started talking about the importance of amending the Constitution right after the banks collapsed in October 2008. In the following weeks and months, the number of proponents of constitutional changes grew steadily but people had different ideas about how extensive these changes should be. Some thought it was enough to change some individual provisions of the Constitution while others demanded its comprehensive revision and those who wanted to go farthest advocated for the establishment of a new republic and with a new constitution that would be written from scratch.

Most demands by the people were about democratic reforms. People wanted their voice to be heard more often but there was no tradition for organizing referendums in Iceland and there was no provision for it in the structure of government in Iceland. People wanted provisions in the Constitution regarding who could be elected to the Althingi, a better tripartite separation of powers, by, among other things, not allowing ministers to be also MPs, and many people saw a problem in the fact that ministers and the President could stay in office for unlimited periods of time. Binding the country into international agreements without an approval by the nation was also a problem in the eyes of many, but what most people wanted to be provided in the Constitution was that natural resources would be made exclusive property of the nation.

Besides, it can be pointed out that the Constitution's framework had reached an age that required its amendment. The Constitution's Human Rights section was, for example, at the end of the Constitution and in constitutions that have been revised in the past years or decades, this chapter is normally among the first chapters. The style was also somewhat obsolete and the Constitution's provisions were generally laid out very briefly, however not always clearly. There had often been disagreements regarding the interpretation of the Constitution's provisions and sometimes laws had been passed that, after careful consideration, turned out to contradict the Constitution.

According to the Constitution itself, the Althingi composes the Constitution. So it is also the institution that has to make amendments to the Constitution. If

the Althingi passes an amendment of the Constitution, it has to dissolve the Althingi, call for elections and approve the amendments at the new Althingi. When approved by the new Althingi, the amendments come into force. Therefore it was entirely up to the Althingi whether the demands for amendments to the Constitution would be taken into account. The general public could not be legally involved in the matter.

### **A FEW WORDS ABOUT THE HISTORY OF THE ICELANDIC CONSTITUTION**

*Icelanders first had a constitution in 1874 when Christian IX, king of Denmark, provided the country with its fundamental laws. These laws were essentially identical to the fundamental laws of Denmark at the time but the Icelanders' parliament, the Althingi, was granted legislative power regarding Icelandic matters. Over the next 70 years the Constitution was amended several times, mainly to conform with the relationship between Iceland and Denmark, but also some amendments were made concerning the right to vote, the parliamentary structure, the division of constituencies etc. Before the founding of the Republic of Iceland in 1944, the appropriate changes were made to the Constitution, and these were unavoidable since the ultimate form of government of the country changed from a kingdom to a republic with a president. The role of the President as per Iceland's governmental structure was, however, mostly comparable to the role of the king before that. The country's Constitution was approved virtually unanimously in a referendum, with an almost 100% turnout.*

*Although only the most urgent changes to the Constitution were made in 1944, already then there were proposals for a more substantial revision. In the following years and decades, special committees appointed by the Althingi worked towards such a revision. The Constitution has been amended a few times since the founding of the Republic, namely its provisions regarding elections in 1959, 1968, 1984 and 1999, the organization of the Althingi in 1991 and the section on human rights in 1995, but no comprehensive revision has been made.*

*The last attempt by politicians to revise the Constitution was initiated in 2005 when a committee was set up, comprising representatives of all the parties represented in the Althingi. The result of two years of work was a proposal to amend the article of the Constitution that stipulates how to amend the Constitution. The proposal was not submitted to the Althingi.*

In the wake of the collapse of the banking system, social gaps increased. The protests gained more force and by January 2009 the cooperation between the parties in the ruling coalition (the Independence Party and the Social Democratic Alliance) had become so problematic that the change of government became inevitable. The power was transferred to a minority government (a coalition by the Social Democratic Alliance and the Left - Green Movement) with support from the Progressive Party, with Jóhanna Sigurðardóttir as Prime Minister.

Jóhanna had often talked about the need for a revision of the Constitution during her long career as an MP and she proposed a bill calling for a constitutional assembly twice (in 1994 and 1998). When the party that supported the minority government demanded a call for a constitutional assembly as a condition for its support, it was inevitable that this would be put on the agenda. The proposal for a constitutional assembly was also supported by the President of the Republic (Ólafur Ragnar Grímsson) who said at the time of the change of government that he believed it to be an urgent issue to revise the Constitution or write a new one. The appointment of a constitutional assembly therefore became one of the key tasks of the government.

A few weeks after the minority government took office, a bill was presented regarding the appointment of a Constitutional Assembly. The bill was supported by four of five parties in the Althingi but the fifth party (the Independence Party) prevented it from being passed.

The minority government was in office for a bit less than 100 days and parliamentary elections were held on April 25, 2009. In the elections the parties in the ruling coalition got a majority in the Althingi and continued their cooperation now as a majority government. At a short summer session of the Althingi the bill was reintroduced but due to lack of time it was not considered. It was again reintroduced in the autumn of 2009 and after long and strenuous discussions it was approved with 39 votes against one. Eleven MPs abstained. Then the story continues in June 2010.

In her speech, the Prime Minister said, among other things, that:

*“The reasons for resurrecting the ideas for a Constitutional Assembly can now be attributed primarily to the extensive discussion in the society regarding the need for revision of the basis of the Icelandic political system in the wake of the collapse of the banking system last autumn. People have demanded the revision of various principles in the Icelandic*

*government structure, including the rules pertaining to the organization of the legislative and the executive power and the separation between them, how rules regarding the liability of executive power holders and control of the government's work are followed, as well as regulations regarding the possibility for the nation to participate directly in decisions by organizing referendums. This discussion has focused on the Constitution of the Republic, its formulation and on the fact that real democratic discussion about how to handle these matters at the Althingi has never taken place in Iceland. The provisions are still based on the structure that existed at the time of the Kingdom of Iceland in 1874 as provided by the Danish king, an organization that in no way reflects the reality that now exists in Icelandic politics. This, Honorable President, I find very interesting. These issues are important and they are important when we discuss the reconstruction of the society and the moral values within the administration in this country."*

## 1. The organization of the Constitutional Assembly

According to the law, a general election would be held to elect between 25 and 31 representatives for a Constitutional Assembly (the margin was there to prevent having too many representatives from one of the genders. In the end, the representatives were 25: 15 men and 10 women). The assembly would come together in February 2011 and would have completed its work four months later. Since the power to change the Constitution lay with the Althingi, the results of the Constitutional Assembly's work or any bill proposed by it would be advisory and in no way legally binding. The assembly was to discuss specifically the following:

1. The basis of the structure of government in Iceland and its most important basic concepts.
2. The organization of the legislature and the executive and their competence.
3. The role and position of the President of the Republic.
4. The independence of the judiciary and its supervision of other holders of state power.

5. Provisions regarding elections and electoral districts.
6. Democratic participation of the general public, including the timing and organization of referendums, regarding, among other things, the bill to a new Constitution.
7. The transfer of sovereign power to international institutions and the management of foreign affairs.
8. Environmental issues, including the ownership and utilization of natural resources.

Besides, the Constitutional Assembly itself could decide to discuss other issues than the law prescribed.

Then it was proposed to call for a National Forum to prepare the Constitutional Assembly. One thousand Icelanders, chosen randomly from the National Registry, would be present at the National Forum, which would look for the principles and priorities of the general public regarding the country's governmental structure and the Constitution. A seven-member Constitutional Committee elected by the Althingi, would prepare and support the National Forum and process the information produced by the National Forum and deliver it to the Constitutional Assembly. Besides, the Committee would be responsible for the collection and analysis of existing data and information on constitutional issues and also provide the Constitutional Assembly with ideas about amendments to the Constitution. Dr. Guðrún Pétursdóttir, associate professor at the University of Iceland and Director of the Sæmundur Fróði Institute (a research and service institute in the field of sustainable development and cross-disciplinary subjects), was elected chairwoman of the Committee.

## 2. The National Forum

The proposal for a National Forum of 1000 Icelanders was made during the bill's consideration by the Althingi. The idea behind the proposal was to give an opportunity to other people than those who were elected to be on the Constitutional Assembly, to work with and shape the ideas and proposals for amendments to the Constitution.

The model for this unprecedented forum was a meeting held by hard-working individuals, very enthusiastic about social issues, in the fall of 2009. That

meeting's purpose was to discuss and make conclusions about what kind of society Icelanders wanted to build in the future.

Over 1200 people attended the National Forum of 2009 and among other things, they determined what values they wanted to be given high priority in the reconstructed society. The top values were honesty, respect, justice, equality, love, responsibility, freedom, equality, sustainability and democracy. Besides, some priorities were selected to guide the nation forward. The top ones there were education, economy, environmental issues, welfare and family life.

When preparing the formal National Forum on constitutional matters, the Constitutional Committee used as a model the planning and organizing of the 2009 meeting. Therefore it can be stated that the general public laid the foundations of the organization and thus guaranteed its involvement in the revision of the Constitution.

The National Forum took place on November 6, 2010. It was organized in such a way that participants sat in groups of nine at a table and thus communicated their ideas and opinions on specific issues under the guidance of a neutral discussion leader. In the beginning it was discussed what values the participants wanted to be at the foundation of the new Constitution and these were grouped into eight main categories. The content of the Constitution was later discussed based on these values. The participants voted on the one hand on the matters that they felt were the most important ones, and on the other hand, on the matters that they felt introduced something new. The participants on each table then together composed a sentence or a paragraph on the most important issues in the discussion.

The meeting lasted the whole day and at the end of the day the results from each table were collected and their processing began. The values that the participants wanted to be at the foundation of the new constitution were in particular equality, human rights, honesty, democracy, justice, respect, responsibility and freedom.

It is interesting that values such as honesty, justice and responsibility were on the top of the list for the participants of both national forums but they are not included in the current Constitution. In this context, it is important to note that the bank collapse had happened just a short time ago and there were confirmed suspicions that the banks had broken laws and, besides, no one wanted to take responsibility. It can be assumed that those issues were in the focus of people's attention.

In order to provide further insight into the attitudes and perspectives of the Icelandic general public to the issues that would act as guiding light to the revision of the Constitution, below is a brief summary by the Constitutional Committee of the topics selected by the National Forum.

**COUNTRY AND PEOPLE** - Values and value-related matters concerning the country's independence, culture, and the country's position, such as vision for the future, the value of the Icelandic language and the rural areas.

The Constitution is a pact that guarantees the sovereignty and independence of Icelanders and is written for the people of the country. The Constitution shall protect the Icelandic language, culture and the nation's resources. It shall be introduced in schools and the general public shall be granted a voice when making decisions regarding the nation. Iceland's image shall be promoted, cultural diversity and the separation of state and religious organizations shall also be promoted.

**MORALITY** - General moral values without any special connection to political issues or governmental structure, such as honesty, respect, responsibility, tolerance, justice and compassion.

The Constitution shall be based on moral values. The new Constitution's morality spirit shall revolve around dignity, freedom of expression and respect. Emphasis is placed on the honesty of elected representatives, officials, laws and codes of conduct. In order to promote and improve the morals of the nation, it is necessary to teach ethics in schools and increase the social responsibility of the general public. The Icelandic authorities shall be provided with a clear framework, in which dignity, responsibility and the duties to the citizens of the country act as guidelines.

**HUMAN RIGHTS** - Values that lie in the foundation of or are related to generally accepted human rights, such as equality and non-discrimination, freedom of expression, education, freedom of religion and the right to private property.

Everyone is entitled to human rights under international human rights conventions that Iceland has promised to observe, such as freedom of expression, privacy, religious freedom and property rights. Equality before the law shall be guaranteed regardless of sex, religion, nationality, race, residence and sexuality. Everyone shall enjoy equal rights to education, healthcare and minimum subsistence. The value of votes shall be equal.

**JUSTICE, WELFARE and EQUALITY** - Values and value-related matters pertaining to justice, welfare and equality in general, for example with regard to education, healthcare and subsistence.

It shall be ensured that all Icelanders have a decent standard of living regardless of gender, race, age, residence, employment, ethnicity, religious views, economic status, disability, sexual orientation or beliefs. Everyone shall have an equal right to subsistence, education, healthcare and social services. Pension rights shall be guaranteed to all. Votes shall have equal value and criminal laws shall be clear.

**ICELAND'S NATURE, CONSERVATION AND UTILIZATION** - Values and value-related matters pertaining to the environment, including natural resources, such as sustainability, environmental protection and public property.

Nature and the natural resources of the country are inalienable public property, which shall be protected, cared for and utilized in a sustainable manner so that public access is guaranteed. Clear laws shall be set up regarding the nation's right to own and utilize the natural resources, nature and ecosystems. Iceland's nature and natural resources shall be protected for the future generations.

**DEMOCRACY** - Any type of values and value-related matters pertaining directly to the nation's involvement in governing the state, such as the referendums and voting rights. Also values associated with the terms of democracy, such as the dissemination of information.

There shall be active and transparent democracy in Iceland. The value of votes shall become equal within one constituency, voting for individual candidates shall be introduced, the MPs' mandates at the Althingi shall be limited in time and the number of MPs shall be reduced. Democracy shall be based on the tripartite separation of power and clear laws regarding the organization of referendums on important issues. The appointment of judges shall be revised. Voters with equal voting rights shall solely be able to amend the Constitution.

**DECENTRALIZATION, RESPONSIBILITY AND TRANSPARENCY** - Values and value-related matters concerning the structure of state and the management of governmental power in general, such as decentralization, transparency and stability. Also, values (and value-related matters) pertaining to the work of individual institutions and holders of state power and their responsibility.

The tripartite division of power shall be ensured with the roles and responsibilities of persons in authority made clear. Ministers shall not serve as MPs and



ministers at the same time. The Constitution shall guarantee transparency and control of public administration. Professionalism shall be the main criterion for recruitments in the public administration. The President's power shall be revised and a position shall be taken regarding the President's right to veto. The MPs' mandates shall be limited in time. The independence of the judiciary shall be ensured.

PEACE AND INTERNATIONAL COOPERATION - Values and value-related matters concerning Iceland's position in the international community, such as security, peace and neutrality.

It shall be ensured that Iceland is an independent and sovereign state that emphasizes cooperation with other nations, especially in the Nordic region. It shall be ensured that Iceland is an advocate for peace and participates in international cooperation for that purpose. The country's security shall be ensured. Iceland shall actively participate in international cooperation on nature conservation, sustainable use of natural resources, protection of human rights, and aid and development work. Iceland shall not have an army or nuclear weapons.

### 3. The Constitutional Assembly is elected

Membership in the Constitutional Assembly was popular since 522 people ran in the election. Such extensive interest took the government by surprise and it was necessary to change the laws on the design of the ballot, since the existing provisions did in no way allow for so many options on one ballot. Much in the same way, it was necessary to approve changes in the methods for counting votes since the candidates were so many.

The elections were held at the end of November. Each eligible voter could vote for up to 25 candidates. The turnout was 37%, which is considerably lower than the usual turnout in Iceland. As a comparison, the voter turnout at the referendum for law enforcement (Icesave) in March 2010 was 63%, 73% voted in the local elections the same year, 85% in the parliamentary elections in 2009 and 63% in the presidential elections in 2004.

A good cross-section of the society was elected to attend the Constitutional Assembly. Among those elected were university teachers, doctors, journalists, a student, a farmer, an artist, a priest, lawyers, an entrepreneur, and a leader of a trade union, to name a few. Over half of those people were what could be called "well-known" Icelanders since they had appeared in the media, especially

in relation to their work. A law was passed granting the Constitutional Assembly members MP salaries while the Constitutional Assembly lasted.

The Constitutional Assembly was to meet for the first time on February 15, 2011 and complete its work within no more than four months. At the same time as the Constitutional Assembly was being elected, the Constitutional Committee was working hard on, among other things, the preparation of an in-depth report regarding, on the one hand, the preparation, implementation and agenda of the National Forum of 2010, the ideas for amendments to the Constitution and the evaluations by experts on specific issues, and, on the other hand, clarifications of the provisions of the current Constitution, how it has been amended, and a summary of constitutionalism and the governmental structure of a few foreign countries.

But things did not go as intended. The Supreme Court had received complaints about the implementation of the election of the Constitutional Assembly and the end of January 2011 the court invalidated the elections. The Court believed, among other things, that the law's provisions on the secrecy of the ballot had been broken, since the ballots were labeled with consecutive numbers; there had been deviations from the provisions that state that voting shall take place in polling booths (carton walls were used to separate voters from each other); it had not been possible to lock the election boxes; and no special representatives had been appointed to protect the rights of the candidates during the implementation of the elections, as the law provides. This was this Court's conclusion despite the fact that there was no evidence, nor any suspicion, that the above-mentioned issues had affected the elections themselves or their outcome.

After the Supreme Court had invalidated the election, the government had to consider what its next move would be. Generally, people believed there were three options: to discontinue the process of organizing a Constitutional Assembly, to organize new elections, or to appoint the elected candidates to a Constitutional Council although this way the representatives would not have been elected by the people, but appointed by the Althingi instead. The last option of the three was selected. A special parliamentary resolution was made on the appointment of the Council, with its tasks and form otherwise as stated in the laws applicable to the Constitutional Assembly. This arrangement was approved by the Althingi with 30 votes to 21. Seven MPs abstained. The Constitutional Council started its work in April. Its first task was to elect a chairman from among the representatives and that was Salvör Nordal, the head of the University of Iceland's Ethics Institute.

#### 4. Procedures used by the Constitutional Council and participation by the general public

The Constitutional Council made decisions about its own procedure policies and the organization of its work. Its work was organized, on the one hand, in three project committees and, on the other hand, within one seminar. Representatives could choose a committee to attend and these were: A-committee - that discussed basic values, citizenship and the national language, the structure and composition of the Constitution, natural resources and environmental issues, and human rights.

B-committee - that discussed the foundations of Iceland's governmental structure and the role, status, functions and tasks of the President of Iceland, the Althingi, the government and the local authorities.

C-committee - that discussed the Constitutional Council, the democratic participation of the general public, the courts and their supervision of other authorities, parliamentary elections and foreign policy.

In the first stage of the Council's work, the committees worked within their fields of responsibility. In the beginning there were discussions and conceptualizations based on the available data, and later the points were summarized in a draft bill for the Constitution. The later part of the Council's work was devoted to an organized treatment of the draft by the whole Council, which resulted in the end in a final bill to the Constitution, which was delivered to the Althingi.

The procedures were such that the project committees presented their proposals first to the other representatives, then in public meetings and later they were made available on the website of the Constitutional Council. Subsequently, the proposals could be modified to reflect the views of representatives, comments by academics and institutions, and the public opinion. Thus the proposals took shape in discussions by the representatives internally and in dialogue with academics and the general public.

The Constitutional Council decided on three main points, on which it would base its approach to its work. These were decentralization of power, transparency and responsibility. About the first point, it should be said that an endeavor was made to increase decentralization by clearer separation of the three powers - legislature, executive and judiciary - and make provisions for greater participation of the general public in making decisions. Increased transparency and obligation

for the authorities to provide information to the general public was intended to better ensure the rights of the citizens in relation to the government. For that purpose, the rights of the media were recognized in the Constitution and the protection of information was extended. When reviewing the elements of power and the extent of state power, an emphasis was put on ensuring that all power was associated with responsibility.

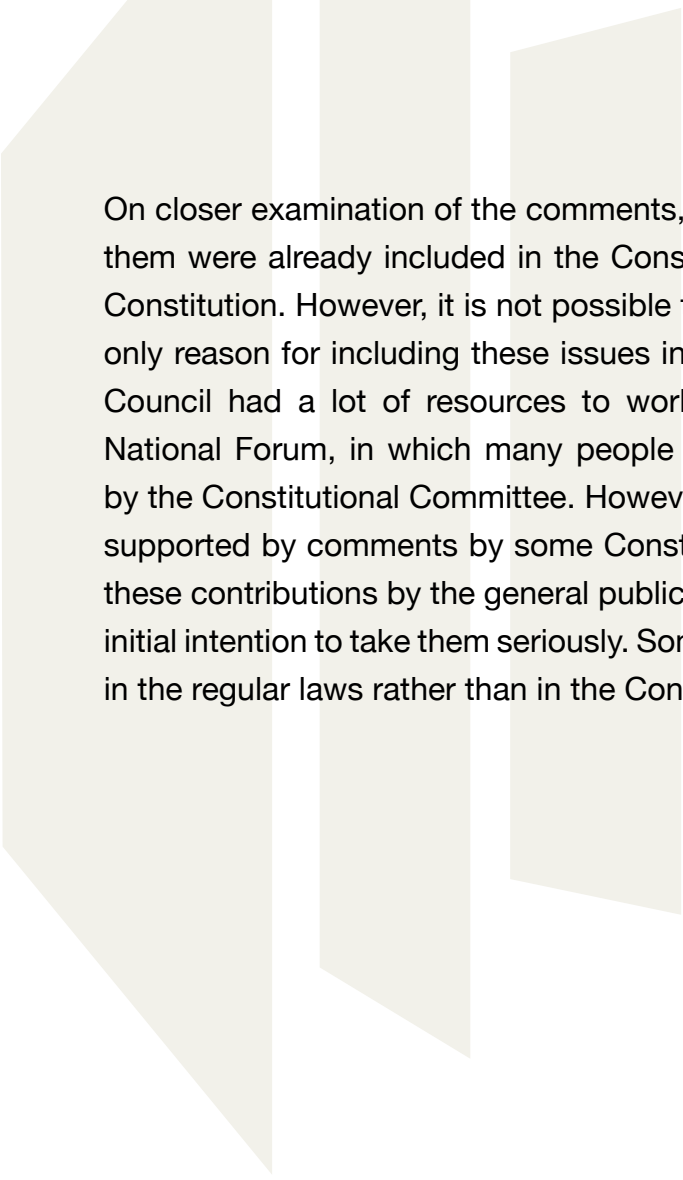
Throughout this process, emphasis was placed on public participation. This was in accordance with the background of the Council, since it was established because the general public requested it. Computer and communication technology was utilized as much as possible. The Council's weekly meetings were broadcast live on its website and Facebook page and the meeting agendas and minutes were published. The general public was also given the opportunity to monitor the development of the expected bill and make comments on it during all stages. The Council called for any comments regarding the Constitution or the process in any way and published them on the website. Many such comments were received and often the Constitutional Council representatives answered them in the comment system. Sometimes lively discussions developed between them and the general public, where different perspectives emerged about different issues, approaches, wordings etc. Anyone could speak their mind, under the condition that the sender signed their comment with their name.

The comments were of various kinds, large and small, on more specific or broader topics, and were primarily submitted by individuals but also by organizations and interest groups. Among the most important issues that people were most interested in were: democratic reforms, the election system, human rights of various kinds, natural resources and the environment, religion, the role of the President, animal protection, peace and the lack of military<sup>1</sup>, the national language, private property rights and referendums. Examples of more specific issues include Icelandic citizenship, the appointment of judges, treason, surveillance of the secret police's work, restrictions on capitalism, the general public's right to roam the land<sup>2</sup>, the political parties' finances, banning civic duty work, the titles of the ministers, minimum subsistence, interest rates, the independence of the prosecution, pollution, taxation issues and the interests of people with little education.

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1. Translator's note: "herleysi" is an Icelandic term without a real counterpart in English that refers to the country's lack of military and general policy of non-involvement in armed conflicts

2. Translator's note: This refers to the typical Nordic "freedom to roam" or "right of access to the land", which refers to everyone's right to roam the land for exercise and recreation, in some cases even when it is private property. In mainland Scandinavia this is also known as "every man's right"



On closer examination of the comments, it became clear that many of issues in them were already included in the Constitutional Council's proposal for a new Constitution. However, it is not possible to say whether the comments were the only reason for including these issues in the proposal, since the Constitutional Council had a lot of resources to work with, including the results from the National Forum, in which many people participated, and the ideas submitted by the Constitutional Committee. However, it can be assumed - and that is also supported by comments by some Constitutional Council representatives - that these contributions by the general public affected the final result because of the initial intention to take them seriously. Some of the proposals obviously belonged in the regular laws rather than in the Constitution.



## II. The new Constitution's form

Voting on the Constitutional Council's draft bill for a new Constitution took place on July 26 and 27. The preparation of the draft had been so successful that the voting took place in an atmosphere of unanimity. Voting took place for each article at a time and most of them were approved by 100%. Finally it was voted for the bill as a whole and it was approved unanimously.

The bill was delivered to the Speaker of Althingi, Ásta R. Jóhannesdóttir, on July 29, 2011. By then nearly two and a half years had passed since the process was initiated with the government's decision to organize a Constitutional Assembly.

According to the bill<sup>3</sup>, which is the result of a comprehensive review of the existing Constitution, the new Constitution has nine chapters instead of seven and consists of 114 articles instead of 81.

It begins with a preamble, a kind of speech by Icelanders to themselves. It is as follows:

„We, the people who inhabit Iceland, wish to create a just society where every person has equal opportunity. Our diverse origin enriches our society and together we are responsible for the heritage of generations, our country and its history, nature, language and culture.

Iceland is a free and sovereign state with freedom, equality, democracy and human rights as its cornerstones.

The government shall endeavor to strengthen the welfare of the country's inhabitants, encourage their culture and respect the diversity of the life of the people, the country and its biosphere.

We wish to promote harmony, security and happiness amongst us and coming generations. We are determined to work towards peace with other nations and respect for the earth and all mankind.

In light thereof we set a new Constitution, the supreme law of the land that all must observe.“

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**3.** In order to avoid misunderstandings, it should be noted that the following discussion is for convenience written in the present tense, although the Constitutional Council's bill for a new Constitution has not yet been approved at the time this text was written. Thus it is sometimes referred to the new Constitution, although of course it is meant the bill for new Constitution.

The new Constitution's chapters are as follows:

- Chapter I. Basic elements Articles 1 – 5
- Chapter II. Human rights and nature Articles 6 – 36
- Chapter III. Althingi Articles 37 – 75
- Chapter IV. The President of Iceland Articles 76 – 85
- Chapter V. Ministers and the Cabinet Articles 86 – 97
- Chapter VI. The judiciary Articles 98 – 104
- Chapter VII. Local governments Articles 105 – 108
- Chapter VIII. Foreign affairs Articles 109 – 112
- Chapter IX. Final provisions Articles 113 – 114

In comparison, the chapters of the current Constitution are as follows:

- Chapter I. Form of government and foundation of governmental structure Articles 1 – 2
- Chapter II. The President and the executive Articles 3 – 30
- Chapter III. Parliamentary elections Articles 31 – 34
- Chapter IV. Althingi Articles 35 – 58
- Chapter V. The judiciary Articles 59 – 61
- Chapter VI. The State Church and freedom of religion Articles 62 – 64
- Chapter VII. Human rights Articles 65 – 81

## 1. Main changes in the Constitutional bill

It may sound strange but among the novelties in the bill is actually its clear wording. The old Constitution was written in such a way that it was possible to interpret some of its provisions in different ways, which often led to disputes and even court trials. It was therefore one of the main priorities for the Constitutional Council to use unambiguous language when writing the bill.

The structure is also different as can be seen by comparing with the chapter presentation above. The chapter on Human Rights is much nearer the beginning



in the new Constitution and the chapter on the Althingi is before the chapter on the President. Another novelty is having special chapters on foreign affairs and local administration. Besides, much attention has been paid to nature (which is very dear to Icelanders and is also very important from an economic point of view) by creating a special chapter on nature and human rights. As far as nature is concerned, it should be mentioned that there is a provision in the bill regarding the nation's collective and perpetual ownership of natural resources and for years many people had been demanding such a provision as well as a report by the authorities where the general public is informed about the state of the environment and nature and the effects of various projects on the environment.

Among the new provisions in the field of human rights, it is worth mentioning that everyone should be guaranteed the right to live with dignity, and whatever is in the best interest of children shall always have priority when making decisions on matters related to children. Also, a child should be guaranteed the right to express his or her view in all matters related to him or her and this view shall be taken into due account in accordance with the age and maturity of the child.

Considerable changes were made to the chapter on the Althingi in order to improve the legislative work. Efforts were made to promote the dialogue between the majority and minority in the Althingi, among other things, by requiring an approval by a qualified majority of MPs on specific issues. A special institution would monitor whether laws are in accordance with the Constitution and whether the monitoring and financial management role of the Althingi is seen to.

The election system was reviewed comprehensively. The votes of all voters would have equal value (in the current election system, votes in rural constituencies weigh more than votes in constituencies in the metropolitan area.) and the green light is given to voting for individual candidates. Referendums are introduced as well as the possibility for the general public to submit issues for discussion at the Althingi. This boosts the direct democracy considerably and this way Iceland joins those countries that guarantee to the greatest extent the general public's right to participate in public decisions.

Considerable changes were made to the provisions regarding the President. The President would not be able to stay in office for more than three terms (twelve years) to avoid fatigue and lack of activity on the President's side. Generally, the power of the President was reduced while his role was defined more clearly. A new provision is that the President would be held responsible for his or her

political acts and that a law should be created defining the President's criminal liability.

Ministers would neither be allowed to hold the same position for longer than eight years and the arguments are the same as in the case of the President: to avoid fatigue and lack of activity. Among other new provisions in the chapter on the Ministers and the Government that can be mentioned are that when an MP is appointed minister, he or she shall leave the MP position and a deputy MP should take the seat, the government shall submit an annual report to the Althingi on its activities and the implementation of the Althingi's resolutions, ministers shall act professionally and objectively when performing their public duties, ministers shall have an obligation to provide information and be correct in their communication with the Althingi, and in important and strategic issues the government shall take a collective decision and therefore the authority and responsibility shall be collective under certain circumstances.

There is no reason to discuss here the provisions on the judiciary but in the following chapter, the one on local government, there are a few issues that are worth mentioning. The local governments would have sufficient capacity and revenue in order to perform their duties as described in the law, and their independence is boosted. The Althingi would have to consult the local authorities when preparing laws that directly concern the municipality and the people in that municipality shall be given the opportunity to request a referendum on municipal issues.

The bill makes provisions about foreign policy more clearly than in the current Constitution. The ministers shall be obliged to provide information about foreign affairs and defense to the Foreign Policy Committee of the Althingi and to consult the Committee on important foreign affairs. It would be prohibited to support operations involving the use of armed force, other than those to which Iceland is committed under national law, except by approval by the Althingi. It would be permissible to bind the country to international institutions, of which Iceland is a member, in the interest of peace and economic cooperation but a referendum would be required if significant state power is transferred to these institutions.

In the final chapter constitutional amendments are discussed and it is assumed that the amendments would later be submitted to a referendum.

To sum up, it can be said that all the most important demands that emerged in the wake of the bank collapse regarding amendments of the Constitution have been reflected in the bill. Large scale democratic reforms were made, the

tripartite separation of power was better defined and provisions were made for public ownership of natural resources.

## 2. Treatment at Althingi and referendum

The future of the bill was unclear after it had been delivered to the Althingi. As mentioned above, solely the Althingi had the power to change the Constitution as per the existing Constitution and, similarly, it was only within the authority of MPs to submit questions for discussion. However, many wished for the nation to express its opinion on the bill before the Althingi would pass it. This was also the position of the members of the Constitutional Council.

Therefore in early October 2011 (the Althingi's first session after the summer is on October 1 every year) the Althingi started the treatment of the bill in the form of a report. After a five-month examination by one of the Althingi's standing committees (the Constitutional and Parliamentary Monitoring Committee) the process was initiated: An advisory referendum would be held in the autumn of 2012 and subsequently, according to the outcome, the bill would be considered at the Althingi. In addition to voting on the bill as a whole, the nation would also vote on specific important issues that concerned the bill. This arrangement was approved by 35 votes against 15 at the Althingi.

As part of its treatment of the bill, the parliamentary committee asked a few experts for their opinion on the Constitutional Council's bill. Then multiple parties sent statements to the committee expressing either a need for improvement or support for the bill as a basis for the new Constitution.

The Constitutional Council held meetings for a few days in March 2012 and expressed its stand on the opinions that had been shared. After an exchange of opinions between the council and the Althingi committee, minor changes were made in the wording of the bill and five questions were formulated to be answered by the general public in the referendum that took place on October 20, 2012.

Before the referendum, information was sent to every household in the country, including a comparison, point by point, of the current Constitution and the proposals for amendments.

The turnout was just under 50 percent. The majority of voters answered yes to all questions. The results for each question were as follows:

Referendum questions	Percentages of YES	Percentages of NO	Percentages of UNANSWERED/INVALID
1. Do you wish for the Constitutional Council's proposals to serve as a basis to a draft for a new Constitution?	yes 64.2%	no 31.7%	Unanswered / invalid 4.2%
2. Do you wish for the new Constitution to provide that natural resources that are not currently private property, be declared public property?	yes 74,0%	no 15,2%	Unanswered / invalid 10,8%
3. Do you wish for the new Constitution to make provisions about the National Church of Iceland?	yes 51,0%	no 38,3%	Unanswered / invalid 10,6%
4. Do you wish for the new Constitution to allow voting for individual candidates for MPs to a greater extent than now?	yes 68,5%	no 18,9%	Unanswered / invalid 12,6%
5. Do you wish for the new Constitution to provide that the votes of all voters in all regions of the country shall have the same value?	yes 58,2%	no 29,3%	Unanswered / invalid 12,5%
6. Do you wish for the new Constitution to provide that a certain percentage of all voters would be able to demand a referendum on a certain issue?	yes 63,4%	no 23,1%	Unanswered / invalid 13,5%

**Figure 1. Referendum questions and percentages of „yes“, „no“, „unanswered/invalid“.**

If counting only the valid answers for any particular question, between 57% and 83% answered affirmatively. Some 67% of the voters who answered the first question wished for the Constitutional Council's proposals to serve as a basis for a draft for a new Constitution.

### 3. The bill is submitted to the Althingi

On November 20, 2012, a bill was presented at the Althingi regarding the revision of the Constitution of the Republic of Iceland. This constituted a considerable

milestone in the process, since, although the Constitution had been amended several times and proposals had often been submitted to amend individual chapters or articles, a proposal for a thorough revision had only once been submitted to the Althingi. This happened in 1983. The Prime Minister at the time (Gunnar Thoroddsen) proposed such a bill, but it did not progress any further in the Althingi.

The final version of the bill was drafted by a group of experts on behalf of the Althingi but was based on the proposal of the Constitutional Council on all major matters. The group of experts made several changes that they considered necessary following a technical legal evaluation conducted at the Althingi's request and in addition the results of the referendum were taken into account. The group of experts noted that they deemed it necessary to make a comprehensive assessment of the situation.

It is worth mentioning one change in particular. The bill proposed by the Constitutional Council introduced some changes to the wording of the provisions on freedom of religion and the state of the National Church (about 76% of the population belong to the National Church) compared to what is written in the current Constitution. Nothing was written about the status of the National Church, besides that the country's laws would provide for the organization of the church in Iceland. Following the referendum, it was considered appropriate to make provisions on the status of the National Church in the Constitution and an article on that was added.

The bill was approved by the majority of the Constitutional and Parliamentary Monitoring Committee of the Althingi. The committee's chairman was Valgerður Bjarnadóttir (Social Democrats). In her speech she said that the Venice Commission (the Council of Europe's advisory commission on constitutional law) was asked for its opinion on the bill but until it is delivered, there is no reason for the Althingi not to proceed to actively work on the matter. "...Of course, our Constitution will be "made in Iceland"<sup>4</sup> even if we seek opinion from abroad," she concluded.

Deputy Chairman of the Committee, Álfheiður Ingadóttir (the Left - Green Movement) mentioned in her speech the different and unique background and work process for the preparation of the bill compared to previously used methods. The work had been done not just by a dozen MPs and experts, but by hundreds, thousands and tens of thousands of people.

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4. Translator's note: literally "home-made".

In this context, Valgerður and Álfheiður declared their willingness that each and every MP would be involved in the issue and thus the bill was to be considered by all eight standing committees of the Althingi. This was quite unusual if not unique.

But although the bill's proposers and its supporters started off full of optimism that the bill would get high-quality, objective and comprehensive treatment at the Althingi, they knew that the process would be difficult. The two big opposition parties (the Independence Party and the Progressive Party) were opposed to the bill and could block its progress with filibuster. And to make a long story short, this is what they did. Their opposition was based on many factors, large and small. In their opinion, the bill had been inadequately presented to the Althingi; the recommendations regarding the need for comprehensive evaluation had not been complied with; work on the bill had been carried out unprofessionally; the Constitution should have been amended in a way that would enjoy as much consensus among all political parties as possible, which had not been the case; the Constitutional Council had worked on a weak basis since the Supreme Court annulled the election to the Constitutional Assembly; the turnout in the referendum on the bill had been low, and academics considered the bill not sufficiently well prepared, among other things. At a later stage, they made comments on the essence of numerous articles of the bill.

#### 4. The President expresses his opinion

The President of Iceland, who is undeniably one of the country's leading scholars in the field of constitutional law (doctorate in political science and a former professor at the University of Iceland and as such he spent time researching the Icelandic political system) had mostly kept himself to himself in the process. In his New Year's address to the nation on January 1, 2013 he initiated a discussion on the issue and also expressed his opinion on the matter:

*“Good ideas were then put forward in the proposals of the Constitutional Council, many of which enjoy broad support. New provisions on the nation's right to demand referendums on the most important issues: unequivocal national ownership of natural resources; greater independence of the judiciary and more extensive human rights provisions*

– all these, and many other things, are steps in the right direction.

*It is therefore unfortunate to find that now, as the new year begins, the debate about the new constitution has in many ways been led into a cul-de-sac. Instead of unanimity on a social contract, controversy rages over fundamental points, and scholars in our universities have stressed that much in the constitutional proposals is unclear and complicated. There has been practically no discussion of the new system of governance that the proposals entail; how the Althingi, the Government and the President would interact. Nevertheless, the intention is to abolish the Council of State<sup>5</sup>. The Head of State and the Government would then have no venue for consultation in times of urgent necessity. The team of leaders in whom the people showed their trust clearly in a general election would find themselves without the right to speak freely in the Althingi when they entered the Government.*

*It would become easier for individuals to secure election to the Althingi simply on the basis of being well known in the media; the influence of political parties would be much reduced, while individuals within the same party would compete against each other right up to election day; the importance of the regions outside the capital area would also be greatly reduced. Leaders of the political parties would no longer have a special role to play in the formation of new governments. In this, the President of the Republic would control matters far more than has been the case up to now.*

*Under these arrangements, various governments that we have had since the Republic was founded would probably not have come into being; indeed, these new provisions would probably have prevented the formation of the minority coalition of the Social Democratic Alliance and the Left Green Movement in January 2009. The Prime Minister*

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5. A forum of the President and the Government where the President approves of particular laws and other important administrative measures.

*would be granted disciplinary powers over ministers from other parties, and would be able to dismiss them all. It seems that the authors of these proposals feel that the main weakness in Iceland's constitutional structure over the past decades has been a want of even greater power on the part of prime ministers – and also, in fact, the President.*

*Certainly, the draft Constitution contains some useful provisions on referendums, national ownership and human rights, but it also creates a system of governance that is very different from what we have been used to since the foundation of the Republic. It would be a political experiment without parallel in the countries of the West.*

*[...]*

*At a meeting of the Council of State yesterday, I called on all political parties to work together with broad-mindedness and a will for conciliation as their guiding light and for the constitutional issue to be channeled into an environment that would secure quality of treatment, with priority given to those changes that enjoy the broad support of the people. Only in this way will a successful result be achieved.*

*We must not let the constitutional issue become bogged down in wrangles and trials of strength in the Althingi. That would neither be worthy of the original pledge to create a new social contract nor show proper respect for the unanimity that greeted the adoption of our present Constitution.”*

The response to these words of the President was in full compliance with attitudes to the issue. The opponents of the bill were happy for these words and its supporters criticized them, saying that the President's interpretation that the proposed bill would grant more power to the presidential institution, were wrong.



### III. Off the agenda for the time being

The Venice Commission delivered its opinion in mid-February 2013. It contained a number of comments. The commission thought many articles of the bill were too general and unclearly formulated, and that there was some complexity and inconsistency regarding the provisions related to the balance of power and the interaction between the Althingi, the Government and the President. The commission delivered tens of comments in total and these were about most chapters of the bill. The commission said that since there was little time left for the current Althingi to work (elections were scheduled for April 27) it would probably be most appropriate to make small changes to the articles regarding the amendment of the Constitution and delay the complete revision to be considered by the new Althingi.

The following two weeks saw much frustration among politicians regarding the issue. Time was short until the Althingi would be dismissed and the chances of a vote on the bill decreased as the days went by. The political fights will not be explained here, but it should be mentioned that when it was clear that the bill would be considered, one of the opposition MPs, Thor Saari (The Movement), who was a sincere supporter of the constitutional amendments, proposed a motion of no confidence for the Government since he thought it would betray the nation regarding the constitutional amendments. The proposal was barely turned down; 32 votes against 29.

The outcome of the debates in the Althingi was that party chairmen, Árni Páll Árnason (Social Democrats) and Katrín Jakobsdóttir (the Left-Green Movement), who had both been elected new chairmen of their parties in February, and Guðmundur Steingrímsson (independent MP) submitted a proposal for a schedule to continue working on the bill during the new Althingi. This bill was approved with 25 votes against two and 21 MPs abstained. The new Althingi is, however, in no way bound by this approval.

It is hardly necessary to mention that this outcome was very disappointing for the dedicated supporters of the constitutional amendments. Among the MPs of the governing coalition who abstained and thereby did not support the schedule proposed by their fellow party members were Prime Minister Jóhanna Sigurðardóttir and the aforementioned Álfheiður Ingadóttir and Valgerður Bjarnadóttir. The

disappointment reached far outside of the Althingi and at least among those who took part in the Constitutional Council. They felt like they did all the work for nothing.

They, however, did not sit silently, and nine out of the 25 members<sup>6</sup> were high on party lists for the parliamentary elections, of them six were candidates for a new party the Iceland Democratic Party<sup>7</sup>, which had a constitutional reform as its main goal. None of the Constitutional Council members were, however, elected to the Althingi.

## 1. Future is unclear

At the time this text is being written (May 2013) it is unclear what the future of the constitutional reform will be. The parties that mostly opposed the amendments (the Progressive Party and the Independence Party) were most successful in the elections and formed a government. The new government's policy states that it will continue to work towards the revision of the Constitution "with extended solidarity and professionalism in mind." Emphasis would be placed on the provisions regarding the ownership of natural resources and the referendums on laws passed by the Althingi, as per incentive by a significant part of the electorate. The revision of the Constitution would take place under the supervision and at the responsibility of the Althingi but the work done in the recent years would be taken into account. Emphasis would be placed on transparency and informed debate involving the general public.

The issue hasn't been discussed further and it is not clear what is meant by "the work done in the recent years." It may though be assumed that it is being referred to the Constitutional Council and the work done in connection with it. If this is so - and indeed whether it is so or not - the substantial work that has been done can be of use in the future. Apart from the draft itself, the discussions about the Constitution took place in the society and a lot of information on the subject was collected. If and when the process is started again, there will be a lot of information available.

When the process is revised and an attempt is made to evaluate it, much has to be considered. Although the call for constitutional reforms came in the wake of the collapse of the banking system, it is debatable whether this call came

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6. Translator's note: of the Constitutional Council.

7. Translator's note: literally "Democracy Watch".

from the general public (however one might define that term) or only from its louder minority. It is also debatable whether there was an urgent necessity for the revision after the Collapse. Diverse perspectives emerged, including that it was natural to undertake such work after such a dramatic event in the history of the nation and, on the other hand, that since it was possible to deal with the consequences of the bank system collapse, there was no doubt that the current constitution had withstood the test of time and there was no need for revision now.

Another issue is - and this was often mentioned in the debate - whether it is appropriate to amend the Constitution in opposition to one of the largest and best established political parties in the country (the Independence Party). Traditionally there has always been very broad political consensus on constitutional amendments in Iceland. On the other hand, one may ask whether it is normal for one or two opposition parties in the Althingi to fight so vigorously against the will of the majority.

Different criteria were also applied in the debate, but this is of course well known from all political debates. As an example, the supporters of the amendments used the results of the advisory referendum as an argument in their fight - 67% of voters who voted wanted the Constitutional Council's proposals to be used as the basis for a new Constitution. The opponents noted, however, that the turnout was less than 50%. It is a matter of interpretation whether this turnout is high or low. This is certainly low turnout compared to normal election turnout in Iceland but well above the average when compared to turnout in referendums around the world.

The Supreme Court's annulling the election of the Constitutional Assembly was present in the debate throughout the process. The organization of elections in Iceland had to date been mostly impeccable and thus it is extremely unfortunate that the organization had not been carried out perfectly. The opponents of the amendments kept repeating this argument and thought that already at that time the process had had to be terminated. Supporters of the amendments, on the other hand, thought that the Supreme Court had been very uncharitable in its ruling since there was no evidence that the shortcomings in the organization of the elections had affected the outcome.

Another question is whether the Althingi played its cards right after it was handed the Constitutional Council's bill. Three months passed before the issue was tabled at the Althingi and it took five months to decide that an advisory

referendum shall be organized. The bill was thus submitted in March 2012 and approved in May and then about half a year passed before the referendum took place. Only after the referendum, the Althingi could start properly considering the case. At the time the comprehensive technical legal audit of the bill had not yet been completed and it was generally considered necessary.

It should also be noted that during its whole term the government was busy with large scale projects. Due to the collapse of the banks, many extensive projects needed attention: budgeting was more complex than usual, Iceland had an agreement with the IMF to adhere to and there were also difficulties and time-consuming disputes with Britain and the Netherlands (Icesave). Extensive changes were initiated in the taxation system, the fisheries management system and the organization of the cabinet, which were largely not in accordance with the opposition's views. All of these issues required energy and time and created a deep conflict between the government and the opposition.

Was there any benefit? Ultimately, various things must have been learned in the process in terms of methodology or political conduct, and these lessons can be useful if and when the process is restarted.

## 2. General interest in the Constitution (and women in control!)

Regardless of political methods and debates, it quickly became apparent early in the process that there was considerable interest in the Constitution and constitutional issues among the Icelandic nation. This is apparent from the number of candidates for the Constitutional Assembly (522) and good participation in the National Assembly (one thousand people were called and almost everyone showed up), as well as all the feedback provided by the people during the work of the Constitutional Council and during the treatment of the bill at the Althingi. The general public wrote extensively articles on the subject in the newspapers or on blogs and many people expressed their opinions at public meetings and live over the phone on radio shows. Furthermore, it should be noted that there are free and independent organizations dealing with constitutional issues that are in operation. It should be reiterated that this interest is related not only to the necessity of a comprehensive revision of the Constitution, but also to another issue: some people wanted to approach the issue carefully and in some cases that the Constitution would not be amended.

And very briefly at the end. It was mainly women who were leading the way in the entire process. Prime Minister Jóhanna Sigurðardóttir, Ásta R. Jóhannesdóttir, Speaker of the Althingi, Dr. Guðrún Pétursdóttir, Chairman of the Constitutional Committee, Salvör Nordal, Chairman of the Constitutional Council, Valgerður Bjarnadóttir, Chairman of the Constitutional and Parliamentary Monitoring Committee at the Althingi and Álfheiður Ingadóttir, Deputy Chairman of the Constitutional and Parliamentary Monitoring Committee at the Althingi. With a little simplification and artistic licence, one could say that men (the heads of the opposition parties) have been hindering the process.



# Selection of articles from the constitutional bill

*These articles have been selected because they relate to unusual issues for a constitutional bill.*

**Article 5** - Duties of citizens: the government shall ensure that all be granted the rights and freedoms embodied in this Constitution. All shall respect this Constitution in its every respect as well as the laws, duties and rights derived there from.

**Article 7** - Right to life: all shall inherit the right to life at birth.

**Article 9** - Safeguarding of rights: the public authorities must at all times protect the citizens against human rights violations, whether committed by the holders of state power or by others.

**Article 10** - Right to security: all shall have the right to the security of their person and protection against any kind of violence, such as sexual violence, inside the home or outside.

**Article 15** - Right to information: all persons shall be free to collect and disseminate information. Public administration shall be transparent and shall preserve documentation, such as minutes of meetings, and shall register and document issues, their origin, record and final resolution [...] The collection, dissemination and delivery of documents, their preservation and publication may only be abridged by law for a democratic purpose, such as for the protection of personal privacy, the inviolacy of private life, the security of the state or the lawful activity of supervisory agencies [...].

**Article 17** - Freedom of culture and academia: the freedom of science, academia and art shall be ensured by law.

**Article 29** - Prohibition of inhumane treatment: the death penalty may never be introduced into law. No one may be tortured or be otherwise subjected to inhumane or demeaning treatment or punishment. No one may be subjected to compulsory labour.

**Article 31** - Prohibition of compulsory military service: a compulsory military service may never be introduced into law.

**Article 32** - Cultural treasures: valuable national treasures that belong to Iceland's cultural heritage, such as objects of national value and ancient manuscripts, may neither be destroyed nor delivered for permanent possession or use, be sold or pledged.

**Article 33** - Nature and environment of Iceland: iceland's nature constitutes the basis for life in the country. All shall respect and protect it [...] This means that the diversity of life and land must be maintained and nature's objects of value, uninhabited areas, vegetation and soil shall enjoy protection. Earlier damages shall be repaired as possible. The use of natural resources shall be such that their depletion will be minimised in the long term and that the right of nature and coming generations be respected.

**Article 36** - Protection of animals: the protection of animals against maltreatment as well as animal species in danger of extinction shall be ensured by law.



# Key dates

Bank system collapse - October 2008

Minority government assumes power- 1 February 2009

Bill of Constitutional Assembly presented - 4 November 2009

Bill on Constitutional Assembly approved - 16 June 2010

National Assembly held - 6 November 2010

Elections for Constitutional Assembly - 27 November 2010

Vote declared invalid - 25 January 2011

Constitutional Council appointed - 24 March 2011

Constitutional Council meets for the first time - 6 April 2011

Constitutional Council delivers bill for Constitution - 29 July 2011

Constitutional Council's bill presented in the form of a report to the Althingi - 4 October 2011

Proposal for a referendum on the bill submitted - 20 March 2012

Proposal for referendum approved - 24 May 2012

Referendum takes place - 20 October 2012

Bill to amend the Constitution presented - 16 November 2012

Venice Commission delivers its opinion - 20 February 2013

A bill submitted to delay the process - 6 March 2013

Bill to delay the process approved - 28 March 2013



# Some facts about Iceland

Population	320,000
People with the right to vote	230,000
Capital	Reykjavik
Official language	Icelandic
Form of government	Republic
Parliament	Althingi
Number of MPs	63
Number of ministers	8 - 10
Membership to EFTA	Since 1970 (founded 1960)
Membership to the EEA	Since 1994 (founded 1994)
Membership in Schengen	Since 2001 (founded 1985)
Membership in NATO	Since 1949 (founded 1949)
Membership in the UN	Since 1946 (founded 1945)



# Biographies

## **Björn Þór Sigbjörnsson**

Björn Þór Sigbjörnsson (born 1972) is an Icelandic journalist residing in Reykjavik. He worked for years at the newspaper Fréttablaðið - the largest Icelandic newspaper in terms of circulation - and at the National Radio. Since 2011 he has worked as an independent author of books and articles. He is one of the two main authors of “Iceland in the centuries 2001-2010” (JPV Útgáfa publishing house 2012), extensive annals covering the major events in Icelandic society in the first decade of the 21st century.

## **Séverine Bellina**

Séverine Bellina is the current Director of the IRG. She holds a PhD in Public administration and is specialized on governance, institutionalization of power and normative pluralism in Africa. She was a consultant for the French Ministry of Foreign Affairs on democratic governance issues, and actively contributed to the drafting of the French Strategy for governance development cooperation. She worked also as an expert partner in the Democratic Governance Group Bureau (UNDP-BDP) in Dakar and Oslo and as a consultant to the European Commission. She is a teacher at Sciences Po Paris.

## **Marion Muller**

Marion Muller holds a Research Master Degree in Politics and Sociology with a specialization in Development Politics from Sciences Po Bordeaux (France) and a Bachelor in Political and Administration Sciences from Granada University (Spain). After several field works in Togo, South Africa and Niger, she coordinated the Initiative for Public Administration Reform for the French Ministry of Foreign Affairs. She worked for the IRG as a Program Officer on “Legitimacy and rootedness of powers” and “Reform of Public Institutions”. She currently acts as a Consultant in Public Governance and International Cooperation for several organizations including the IRG.