




---

## LAW AND ADMINISTRATION IN POST-SOVIET EUROPE

Vol. I(VI)/2019: 59–72

---

DOI: 10.2478/lape-2019-0006

Pasquale Policastro   
Uniwersytet Szczeciński, Szczecin

# CONSTITUTION, ETHOS AND CHANGE OF LIFE IN COMMON: SOME INTRODUCTIVE REFLECTIONS ON THE EXAMPLE OF ICELANDIC CONSTITUTIONAL PROJECT

**Key words:** Theory of constitution, static and dynamic constitutional principles; paradigms of constitutionalism; participation of citizens to the development of constitutional relations; living constitution; developing new constitutional relations; ethics of constitutional processes

### Abstract

The Icelandic constitutional movement was created to address and develop a new constitutional form based upon transparency, responsibility and participation. Taking into consideration the events, which took place in 2008 this expectation appeared more than legitimate. Furthermore, the quality of the debate, which took place within the civil society and in the cooperation between civil society and Constitutional Council, are very meaningful elements supporting a genuine possibility of change. The aim of implementing a participation-based constitution may lead to the diversification of the Icelandic project with respect to the typology of the existing constitution. This may produce as a result the development of new checks and balances. For this reason the development of public local services may be an opportunity to develop a social balance with respect of the constitution in force, as well as a living constitution starting from below. In this way the values purported by civil society may lead to higher levels of political freedom and finally to the approval of a new constitution. To keep the Icelandic process communicatively open in a transnational perspective may thus permit other persons to contribute to the development of Icelandic democracy. It may furthermore offer the Icelandic example as a useful tool that could be used by many world societies aiming to implement transparency, responsibility and participation in their public life. Indeed, even though the Constitutional Bill of 2011 will not finally be validly approved as the Icelandic constitution, the problems that it posed, and the possibilities that we see are stemming from them, have in our opinion a general importance for constitutional reflections.

## The reconstruction of a puzzle: on the aims of the Icelandic constitutional movement, and the reality in which it developed

The recent evolution of the constitutional Icelandic movement shows characteristics that it is worth taking into consideration as elements of a puzzle, that, when joined together, may give a new perspective on what we may understand as constitution. Among the elements of the puzzle, we shall consider first of all the “cazero-lazo” and namely the “pots and pans revolution”, which followed the economic crisis of 2008. This form of protest, which started in Latin America, which in our opinion should still be studied in its depth, joins two very important types of political demonstrations: from one side helplessness, and secondly a call to be listened to and organise, going beyond the existing roles and divisions. The Icelandic process, shared the characteristics of the “cazero-lazo” as a bipartisan, grassroots’ search of being heard and of hearing oneself, calling thus for new solutions: we may say here that an “ethics of solidarity” based upon sharing the public burdens between all members of society has also appeared in Iceland, in the form of a reflection on the position of the individual in the society. A second aspect, which characterised the ‘Icelandic puzzle’, appears to be the traditional Nordic approach to democracy, based on discourse – both formal and informal – community identity and common reflection for the search of solutions and making use of the existing social organisations, such as the “knitting” clubs. Here, new models of communication, are fostered. These are based on sharing, on social networks, for example, the problems of how to ruminate on a new constitutional order, as well the search for new methods to share problems, opinions and viewpoints<sup>1</sup> integrated within the traditional ones. From our point of view such activities justify the reflection on the forms of solidarity. These activities could be understood similarly as being at the roots of the Polish democratic transforma-

tion, and namely as “sharing the common burden”<sup>2</sup> may appear as the natural evolution of the Icelandic basic protest. Art, in itself<sup>3</sup> but also in the form of documentary storytelling<sup>4</sup>, has been chronicling the search for communication, of mutual support, of sharing opinions, feelings and impressions. We see also the passage from the protest to the search for solutions, which by documenting human feelings and impressions opens up new paths and possibilities of action. The blending of opinions, suggestions and expectations as an element to share, may be said to transform the puzzle into a “soup”, the “blueberry soup”, which gives energy and helps in the enduring efforts<sup>5</sup>. A third aspect based on the grounds of the new energies produced by the means of sharing fears, doubts, but also reflections has helped in the attempts to develop a new constitutional project. It has been a constitution developed from below, making use of different means to guarantee a genuine and wide social debate with instruments developed by the people and for the people. This resulted in a project where a new dimension of limited government seemed to appear, which may seem to address a “communicative equality” joining the right to manifest individual opinion with the duty of strong subjects, and especially institutions, to publically declare and discuss their activities and reflections. A forth aspect of the “Icelandic puzzle” is the activity of the judicial system, which has tried to a wider extent to illustrate the deep relationship between economic crime, national politics and transnational economic and political relations<sup>6</sup>. Our point has been to show the capability of the existing legislation

<sup>2</sup> J. Tischner (1992), *Etyka solidarności* (Ethics of solidarity), Kraków, Znak 2000, p. 8; see also the abridged English version “The Ethics of Solidarity” selected by Dobrosław Kot, Kraków 2005, translated by Anna Fraś, [http://www.tischner.org.pl/Content/Images/tischner\\_3\\_ethics.pdf](http://www.tischner.org.pl/Content/Images/tischner_3_ethics.pdf), where there is reference to the Letter of St. Paul to the Galatians (6, 2): “Carry each other’s burdens, and in this way you will fulfil the law of Christ”.

<sup>3</sup> It is worth considering the attention given to creativity and ‘creative industry’ in Iceland, in the aftermath of the crisis and the attempt of the ‘citizen reconstruction’, which followed after that. See M. Sigrún Sigurðardóttir, T. Young, *Towards Creative Iceland: building local, going global, Quantitative and qualitative mapping of the cultural and creative sectors in Iceland*, May 2011.

<sup>4</sup> See E. Jerrett (dir.), *Blueberry Soup*, cit.

<sup>5</sup> Blueberry soup is indeed the soup given to athletes among others during Vasalopet, the famous Nordic ski race, celebrating the enterprise of the Swedish King Gustav Vasa.

<sup>6</sup> See at least *Hæstiréttur Íslands – Highest Court of Island* 498/2015, decision of 6 October 2016.

<sup>1</sup> See, *Blueberry Soup*, a documentary directed by Eileen Jerrett, Wilma wishes productions, 2015. See in the film the declaration of Thorgirts Völundarsson on the “Ministry of Ideas”, as an society-based agency, that was justified by the need to make the system clear and understandable by the people. The argument developed is the following one: the aim to permit the people to be aware of the current state of the affairs, and address their issues to the politicians in as open a way as possible is justified by the fact, that one shall avoid the situation of 2008, where people were unaware of the present dangers.

to confront, when correctly used, extremely dangerous abuses of economic trust and power.

**Participation and social transformation in developing a new constitution: on the fundamental nature of the problems posed by Icelandic constitutional process**

To properly consider Iceland's constitutional project one needs however to pose the question as to whether we may see in it the endeavour to develop a new kind of constitutional form. I think the key point consider at the outset is confronting the question with the opinion of the Venice Commission, which, commenting the position of the Government in the institutional balance of the project of the Icelandic Constitution says that: a) the government is the weakest institution in the system<sup>7</sup>; b) there is relative independence of the Ministers in the Government, with the Prime Minister acting as a sort of moderator; c) the constitutional project shows a strict subordination of the executive to the legislature<sup>8</sup>. Such elements create, according to the Commission a kind of "unbalanced conditions for invoking the political responsibility of the Government"<sup>9</sup>. Indeed the "Government", according to the Venice Commission, has no means to permit through early elections, people on questions of disagreement with the Alting<sup>10</sup>. We deduce, from this questionable statement, that the Venice Commission appears uneasy in dealing with the transformation from a semi-presidential constitutional approach, which is one element of the binding Constitution, with the more participative approach demanded by the proposal of a new Constitution: it is a passage from a majoritarian model, which appeared dangerous and non-transparent into a more consensus based model<sup>11</sup>: and this notwithstanding the better performance of

consensual models<sup>12</sup>, which may actually call for an exploration of new institutional solution addressed to improve consensus. The Venice Commission did not look upon the participative turn given by the elected and appointed Constitution makers, in a favourable light, and this may be the sign of a deeper problem: namely that the XX Century concept of "unity of public law"<sup>13</sup>, is approached not in the means of a coexistence of paradigms, such as the new formulation of the dichotomy of "gubernaculum" and "jurisdictio" by Mc Ilwain, or our paradigm of constitutionalism: namely control relations, permitting to look at the constitution both in a systemic way and in particular to:

I) the relations between human rights to the policies which are enacted to permit their attainment;

II) the relation between participation and representation;

III) the relation between norms and how they conform to the reality by means of judicial control or constitutional practice<sup>14</sup>. The Venice Commission seems to refer instead to a specific standard within which the relations between different political aims and the legal framework shall be limited. Such a standard may appear related not only to the approach in some experiences of reference, but additionally to a conservative paradigm according to which existing political equilibriums within Members not considered as democracies "at risk" by the mentioned Commission or the Council of Europe, is to be preferred to changes. In the case of Iceland, the fact that the exercise of political power had to be shared with the population, and not exercised by politicians and public officers and magistrates may have been a non-written, but significant element of concern for the Council of Europe. And this is notwithstanding the fact that the social transformation addressed to

<sup>7</sup> European Commission For Democracy Through Law (Venice Commission),

Draft Opinion On The Draft New Constitution of Iceland, Strasbourg, 11 February 2013, Opinion N 702 / 2013 Cdl(2013)005\*), Prepared on the basis of comments by Ms Jacqueline De Guillenchmidt (Substitute Member, France), Mr Jan Helgesen (Member, Norway), Mr Wolfgang Hoffmann-Riem (Member, Germany), Mr Jean-Claude Scholsem (Substitute Member, Belgium), Mr Jorgen Steen Sørensen (Member, Denmark), p. 19–20 *passim*. See here par. 109.

<sup>8</sup> Opinion of Venice Commission par 110, 112.

<sup>9</sup> Opinion of Venice Commission par. 111.

<sup>10</sup> Opinion of Venice Commission, *Ibidem*.

<sup>11</sup> According to the definition elaborated since the end of

the 1960-ties, and later developed among others by A. Lijphart, *Patterns of Democracy. Governments Forms and Performance in 36 Countries*, New Haven – London Yale University Press 1999, It. ed. Le democrazie contemporanee, Bologna, Il Mulino, 2001, p. 23–24 (Italian edition).

<sup>12</sup> *Ibidem*, p. 321–322, It. ed.

<sup>13</sup> See f.e. G. Del Vecchio, *Humanité et unité du Droit. Essai de Philosophie juridique*, Librairie générale de Droit et de Jurisprudence, Paris, 1963.

<sup>14</sup> See P. Policastro, *Prawa podstawowe w demokratycznych transformacjach ustrojowych*, Lublin 2002; Idem, *Constitutionalism, comparison, complexity: Prolegomena on Liberty and the use of Language for a Predictive Theory of Law*, in E. Castorina, P. Policastro (eds.), *Liberty and Language. The Global Dimension of European Constitutional Integration*, Torino 2010, p. 15–109.

participation manifested in Iceland significant ethical meaningfulness.

This consideration leads us to the pose the following question addressed to the present manifestation of the constitutional form, which is at the same time the main question and thesis of this paper:

1. Do we have room today for diversity and pluralism in the understanding of a constitution?
2. What are the practical possibilities offered to the countries and to the people, who desire to give themselves a constitutional form responding to their needs, but not necessarily responding to the prevailing forms as in the case of the Icelandic people?
3. What are the limits of this process, and namely do we have the possible kinds of checks and balances whose aim is to forge the development of a new constitutional frame, or even more, a new constitutional form, a self-controlled one?
4. From this question arises another two, which are more substantive in their nature and namely: to which extent we shall admit pluralism in constitutional law, and namely plurality of forms in constitutional law, which may be referred to a "limited government"?
5. May we therefore admit the existence of constitutional law as the system of principles and relations permitting people to self-determine themselves within a frame of a "limited government", or shall we refer to the existence of constitutional law as a "rule admitted by generalised practice?"
6. What is then the role of reason and of discussion in giving shape to a constitution?
7. Is it this a real role or it shall give way to the "system", the "institution", "the dominant and generally accepted theory and practice?"

### **Political diversity, pluralism and critical thought in constitutional law**

We shall start to answer the posed questions, with some brief consideration from the problem of political diversity and pluralism in constitutional law. We may start with a reflection, that in ancient times there was admitted some diversity in understanding constitution. And this was mainly because constitution was observed starting from practice. In the study of ancient constitutionalism scholars started from the analysis of a plural-

ity of constitutions and concentrated on the limitation of power on the base of a "mixed constitution". In the Middle Ages such a tendency gradually seemed to shift to the study of the limited government starting only from the experience of England.

In modern constitutionalism, we have two interesting tendencies: the first of which is aimed at developing on the basis of new constitutional experiences, new models of constitutions aspiring at the same time to become the constitution of all the people. So it was the case of The French Declaration of Rights and Man and Citizen of 1789 and English Constitutional developments became pivotal elements in the understanding of all modern constitutions. A rather monistic constitutional standard was produced, which took the characteristic of an ideal type, where the balance between participation and representation was rather on the side of the latter. So the concept of constitution became gradually affected by a sociological understanding of constitution. This tendency also characterised the later stages of the development of the idea of constitution: in particular the charter that was drawn up in the aftermath of World War I, where, the evolving French and British notions of social rights were added to the idea of liberal freedom. The confidence of the legislative over the executive has been observed mainly as a social phenomenon. Considerations or reflections on the nature of law started from the thoughts of Hans Kelsen. And even though they appeared formally prevailing, they gave soon way to considerations based on general acceptance. The values related to the nature of law became thus immanent and ideological.

The tendency to concentrate on one acceptable form of government, the parliamentary government, however rationalised, by granting a significant role of the executive, is manifested in the constitutions adopted by many countries. However, the crisis of representation, which was produced under post war tensions and the ideology of mass parties led to the crisis of such constitutions. Most European States, though not exclusively, became authoritarian States. After World War II, the European States pursued supranational integration, but they did not try to equilibrate the relationship between participation and representation shifting its balance towards participation. The result was a construction in which, efficiency is outbalanced by the lack of a fully-fledged participative citizenship. This shortcoming is having different negative results: first of all, it is making it difficult to generalise worldwide a debate on limited



government in countries where society is highly differentiated in relation to wealth, the status of the different sectors of the population, such as women or migrants, conflicts between social groups on religious and ethnic groups. Secondly, by becoming a factor of development of political debates, which are excluding and not including. For example, the rise of populisms within the European Union, is founding its sources in a logical approach to the institutional of political and institutional development based on standards. Such standards of the European Union are not only throwing into crisis the process of European integration, but also encouraging the same quality of political debate within the Member States. As a result, a political project towards the present economic, political and social challenges.

A second tendency, which appeared, characterised by some scholars representative of different conceptions and political orientation, may be joined to the general denomination of “critical lawyers”. Such scholars, represent a more refined approach to society than the majority of constitutional law lawyers, and are concentrated on the relation between specific forms of government, their immanent practices and the nature of law. We can find several arguments supporting the “critical perspectives” in addressing political affairs. We would like here to mention at least the approach of Franz Neumann<sup>15</sup>, since he has been working between Europe and USA, as one of the representatives of the “Frankfurt school” of thought. The fundamental contribution of this author is a theory that draws inspiration from the statement that contemporary politics, as political science and sociology, consists in the manipulation of the masses by small elites, especially by means of symbols (I, 2, 34). And for this reason no political system may fully implement political freedom, and therefore we need a critical theory, which may not justify nor legitimate any political system, but shall criticize them all.

Such an approach appears indeed open to difference, and therefore a good starting point both to develop our criticism to the approach of the Venice Commission. It additionally allows us to explore genuine possibilities to implement the Icelandic political proposals, including at the same time different reflections and perspectives. Among critical scholars we may mention people from

different political perspectives. Among them we may refer to the Italian Gaetano Mosca, whose aim was to verify in which ways an organized minority may prevail over a disorganised majority. On this base Mosca developed his criticism of the people’s sovereignty and of parliamentary democracy. The Italian-Swiss scholar Giuseppe Rensi, verified this hypothesis, for what concerns the absolute state, the constitutional monarchy and the republican and parliamentary system. He observed that the will of people may arrive to prevail in different political regimes, whenever it arrives to reach a “sufficient degree of strength”<sup>16</sup>. arriving to propose to distinguish the government of the State as a “state of class” and “direct democracy”: on these grounds he recommended as a solution the forms of direct democracy, as adopted in Switzerland.

The methodological importance of this perspective, namely that the development of new ideas had to be found through comparison, both of ancient and modern experiences, and that the nature of the political mechanism inherent to a form of government. This approach is useful at least because it takes into account the existence of a plurality of governments, envisaging a confrontation between them and proposes a correction.

We may not present a whole analysis of critical lawyers. However, we may remember the Italian scholar Carlo Amirante, who, as recently as 2008, has been, following many years’ reflections, pointing out that, especially within the process of globalisation and European integration founded upon the economic freedoms, the “State” as a political form as been absorbed by the “form” of the market, not any more opened to democracy and debate, but following its internal logic<sup>17</sup>.

As we suggested before, critical lawyers are developing their analyses from different ideological and political perspectives rather than relying upon the mainstream ideas. Taking their opinion into consideration permits us to take into account, not only the question of juridical freedom, which we may be enjoyed within a constitution, but also the question concerning the variety of possible innovation in law. Indeed, the tendency recognised by Lijphart, observing in principle the period starting from the end of WWII until 1996, that most of the 36 democratic models, which have been studied, fall in the category of the parliamentary system,

<sup>15</sup> F. Neumann, *The Democratic and the Authoritarian State*, New York, the Free Press, 1957. Italian edition, *Lo stato democratico e lo stato autoritario*, Bologna, Il Mulino, 1973: here quoting the book we will refer to the number of the section, the chapter and to the page in the Italian edition.

<sup>16</sup> G. Rensi (1902), *La democrazia diretta*, Milano, Adelphi, 1995, p.

<sup>17</sup> C. Amirante, *Dalla forma Stato alla forma mercato*, Torino, Giappichelli, 2008.

and only some in the category of presidential system<sup>18</sup>. Such remarks, which based upon observation, show that democratic governments have a tendency to fall into a very limited range. At the same time, the methodology adopted for this analysis, also show the difficulty to include a system within the category of democratic government in this approach<sup>19</sup>. Such classification based upon measurement may appear excluding, tending rather to protect the achievements obtained than really aiming at supporting democracy. For this reason, the problem of democracy, as envisaged by Franz Neumann, as the kind of government that takes place when moral motivations permit, to become in time the base of wide social transformations, which bring human freedom, political freedom to its maximum development<sup>20</sup>, shall be able to profit of all innovation and of variety.

For this reason the answer to our first question as to whether we have room today for diversity and pluralism in the understanding of constitution, shall be positive.

To study how to develop innovation in the constitution as a concept, one being a static constitution and the other dynamic may be useful. By a static constitution we mean a constitution that takes into account and protects the “factual situations determined by the existence and the functioning of different rules on the distribution of influences on the social, political and economic sphere”<sup>21</sup>. In the frame of a static constitution, the achievements of individuals and groups may take place without changing such the basic constitutional framework. Instead, within a dynamic constitution the rule permit “to develop a gradual transformation from the model of repartition of the influences on political processes, on society and on wealth distribution”<sup>22</sup>. The rules of a dynamic constitution necessarily have a wider, more open meaning than in the case of a static constitution. Indeed, in a static constitution the habits and perspectives of individuals and groups shall not necessarily become part of the political and social debate, although

they may be seen as ideological constitutional principles. We have instead a different situation when we deal with a dynamic constitution. In this case the aims of such societies and their specific way of understanding law, play a very significant role, as they represent the foundation upon which to implement change.

For this reason, namely the prospect of transformation, leaving aside institutional solutions which were included in the proposal of the New Constitution for the Republic of Iceland, we have to consider it with due attention. The debate within a society, its ethical dimension as well as the tendency to look at the law of the Republic as a means for political participation have a paramount importance. Indeed they present a significant transformation potential: constitutional policy shall therefore consider in which ways such potential may be gradually implemented. In this perspective the importance of innovation and diversity in the constitutions, as related to the need of change, may be properly considered.

### **Political freedom and the possibility to justify a new constitutional framework with respect to the existing experiences: the social debate in Iceland and its outcomes**

In the light of the reflections presented, we may better approach the Icelandic constitutional project. In particular we may consider our second question, which concerns the nature of what the practical possibilities for a country and for a people may consist of. A people who desire to give themselves a constitutional form responding to their needs, and not necessarily to the prevailing forms. We will try to answer to this question in two steps, firstly checking the possibility to justify the need to adopt a new constitutional framework. Secondly, we will consider the possibility to implement the values embodied in the new constitution, and which are, in our opinion, rooted in the social debate.

Indeed, the Icelanders, in the aftermath of the economic crisis of 2008, desired to overhaul the constitution. They proposed a new type of constitution. This idea was arrived at and was the result of a project that encouraged citizens' consultation and deliberation, with the aim to increase transparency through the increase the level of citizens' participation. The cause of this process is mainly the debate that occurred within the society on the occasion of the Icelandic crisis. This debate

<sup>18</sup> A. Lijphart, *Patterns of Democracy*, cit. p. 137 *passim*.

<sup>19</sup> *Ibidem*, p. 69 f.

<sup>20</sup> F. Neumann, *The Democratic and the Authoritarian State*, cit. I, 2, 79.

<sup>21</sup> P. Policastro, Constitutionalism vs. Economic Analysis: On the Use of Founding Theories and Complementary Theories in Constitutional Interpretation, in Stephan Kirste (Ed.), Anne van Aaken (Hrsg.), Michael Anderheiden (Hrsg.), Pasquale Policastro (Hrsg.) *Interdisciplinary Research in Jurisprudence and Constitutionalism*, Archiv für Rechts- und Sozialphilosophie – Beihefte (ARSP-B) Band 127, 173–203., p. 182.

<sup>22</sup> *Ibidem*, p. 189.

overshadowed, for its wealth, the arguments developed in the former years, addressed to a new Icelandic constitution event though there appears some ideological connection with the former debates on the constitutional change<sup>23</sup>. In this debate there appeared the issues of values, the duty to participate to the government, transparency and sustainability also with respect to the standards of life. The wealth of this debate appears to be the beginning of a process addressed to produce a new constitutional form. For this reason the debate that has been produced goes beyond the positive contents of the project of a new constitution.

In the debate which anticipated and accompanied the works of the Stjórnlagaráð<sup>24</sup> we see indeed a clear attention to the community and to the ethical values: The film “Blueberry Soup” contains many examples including interesting reflections Ms. Arnfríður Guðmundsdóttir, a pastor, underlines the need to look at life in a wider way “if we only live for today we can become very egocentric”<sup>25</sup>, while Ms. Brindis Viglunds-dóttir, a professional knitter, points out what the crisis of 2008 produced a turning point for Icelandic people: they had to realise what they had to do with their life, what were their values, and what is good to be doing<sup>26</sup>. This ethical aspect has been joined with a reflection on human responsibility, as the musician Svarar Knúttur points out that the crisis comes from the wrong attitude and the wrong values adopted by the people. However in his lyrics he suggests to take a positive attitude. In his “Humble Hymn”<sup>27</sup> he proposes once more the reflection that we learn by mistakes, which is at the same time, which in our point is both the expression of an ethical perspective and a scientific open viewpoint. If mistakes are made, then this is the occasion to reflect

and improve both ourselves, and our community. For this reason – the musician continues – we need to talk, not being afraid of explaining our present condition and ask for questions. This conclusion of the song is an appeal to participation. A very important declaration of Mr. Knútturwe finds in the film “Blueberry Soup”, where “Democracy means not having strong leaders, but having strong people, that are not thinking only to themselves, but that are ready to change their opinions”<sup>28</sup>. Another statement of this musician, shown in later parts of the said documentary is that, ‘we do not have the right to become rich, but we have only the right to freedom of expression and water.’ The constitutional importance of such a declaration is that it appears addressed to a new approach to our life in community<sup>29</sup>.

All these statements appear very interesting since they highlight the issue of attaining political liberty in Iceland. They are reinforced by the outcome of public consultations, also by means of social networking. Ms. Katrín Oddsdóttir, a lawyer (who was a Member of the Constitutional Council) underlined, in her declarations, which were included in the documentary “Blueberry Soup”, the importance of the suggestions and inspiration she received from all of the society during the works on the project of constitution<sup>30</sup>.

The attainment of political liberty was indeed the main political problem posed by the German author Franz Neumann, who stressed that political liberty may not be reduced only be juridical liberty. If so, continues Neumann, it would be very difficult to justify democracy as the political system, which guarantees the maximum of liberty<sup>31</sup>. But here, in front of the ethical reflection of Icelandic people aiming to increase politi-

<sup>23</sup> Á. Th. Árnason, *Review of the Icelandic Constitution – popular sovereignty or political confusion*, Tijdschrift voor Constitutioneel Recht, 2011, p. 342–351, esp. 345, when he pointed out that the criticism to the Constitution of 1944 claimed that Iceland never had a Constitution of its own.

<sup>24</sup> The Constitutional Council, appointed by the Altingi resolution of March 24<sup>th</sup> 2011.

<sup>25</sup> Blueberry Soup, cit. m. 06:15 (around).

<sup>26</sup> *Ibidem*, m. 06:36 (around).

<sup>27</sup> Humble hymn We walk a lifetime / and lose our treasures. / But in the end our fortune / is measured by our fading scars. // Without our failure / there's no redemption. // And so we take our chances / to fall and rise with equal grace. // God bless our mistakes. / Let our bubbles break. / Let us be thankful for our foolish pride. // The air between us / is filled with silence. / Our words were never spoken / from fear of our rejection. // So tell your stories/ and ask your questions. // Regrets are made for losing./ Embrace our imperfections. ///

<sup>28</sup> Blueberry Soup, cit. m. 08:28 (around).

<sup>29</sup> See the reflections I developed years ago A New Garment for an Old Question: ‘A Clash between Man’s Rights and Citizens’ Rights in the Enlarged Europe?’ in: Joakim Nergelius (ed.), *Nordic and other European Constitutional Traditions*, Martinus Nijhoff Publishers, Leiden/Boston, 2005, p. 61–92. See especially p. 92, where at that time with respect to the process of European integration, I was referring to the need to change the paradigm of fundamental rights, not linking them with the rights traditionally supported by societal groups.

<sup>30</sup> On this issue see also, T. Gylfason, A. Meuwese, Digital Tools and the Derailment of Iceland’s New Constitution, CE-SIFO working paper no. 5997, Category 2: Public Choice July 2016, who underline that digital democracy may reach significant quality standards; however, consensus is of paramount importance, since the societal contribution may put at risk vested economic interests.

<sup>31</sup> F. Neumann, *The Democratic and the Authoritarian State*, cit., I, 2, 57.

cal participation, we see the endogenous development of those social transformations, which permit the maximum development of human freedom and therefore also of political freedom<sup>32</sup>.

For this reason attaining political freedom in Iceland passes necessarily through the development of that constitutional form that grants the possibility to develop the envisaged social transformation within the society.

The constitutional project joins a parliamentary government with known participatory instruments, as well with an approach to rights, which is partly innovative. This project is worth considering especially in so far that it is concerned with and pays attention to the biosphere and to natural resources. Indeed such principles call for a sense of responsibility, of everybody for government, whose importance goes beyond the boundaries of Iceland. In particular the Icelandic constitutional project aims to grant a process of government, which is transparent. In doing so the Constitutional Council searched for an approach oriented on the search of consensus, dialogue and participation, preserving however representation. In this sense, the duality between representative government and participation has been more oriented towards participation.

The search for political freedom in Iceland in a way, which guarantees the maximum participation of everybody to the government, fully justifies the search for a different constitutional form. The Icelandic proposal overcomes the semi-presidential system, without nevertheless renouncing to the most important representation aspects.

If we therefore ask ourselves the reason for the institutional difficulties that accompanied the Constitutional process, including the way in which elections to the Constitutional Assembly have been organised<sup>33</sup> and the refusal of the Parliament to deliberate upon it, we shall search for them rather in the values that accompanied the constitutional debate and the new understanding of constitution, than in specific solutions adopted.

The new sense of responsibility for the Republic has appeared during the constitutional debate as a fundamental value, which has the potential to lead to a new way of thinking about the Constitution. This aspect, together with the shift towards participation, is in my opinion the reason of the institutional obstacles before

the new constitutional project. In our opinion, however, the present obstacles should be taken as an opportunity to develop an approach to constitution, which would permit to preserve the genuine freshness of the society and start a new way of living constitutional relations. Indeed a polity is identified not as much by its formal power constituted into a formal constitution, but by the services that it grants to its citizen (and to non-citizens, who are living in interdependent communities)<sup>34</sup>.

In conclusion, the importance of the values included in the debate that accompanied and followed the events of 2008, fully justify the attempt of Icelandic citizens to establish a new constitution. A fundamental motivation was to avoid the dangers of the great periodical economic crises by means of new checks and balances stemming from participation, as well as to pose the base to a new approach to political life in Iceland. Such motivation addressed to transformation can be recognized from the comment to political debate.

### **The implementation of new values by means of community action: some proposals for Iceland**

We will turn now our attention on how the values embodied in the proposal of a new Icelandic constitution may be implemented. Participation indeed, as a means to balance representation, goes beyond the inclusion of the means of direct democracy in the constitutional text. Indeed responsibility, participation, transparency appear as paramount values in the Icelandic constitutional process. As values aiming to achieve political freedom, they should be seen to address the implementation of social transformations. For this reason constitutional formulations and institutional guarantees, should be accompanied by social practices aiming to implement social values. In this way such practices may play the role of the material means of control of constitutionality. Such means permit one to look at the constitution also from the perspective of the levels of control relations set not only by law but also by society. To fully highlight the importance of such social relations, we may say that they are helpful both to verify how rights are implemented, how participation balances representation and how law works to implement constitutional

<sup>32</sup> *Ibidem*, p. 79.

<sup>33</sup> As we can see from the decision of the Supreme Court: however, we could look only at a "Transcript From the record of minutes of the Supreme Court, 25 January 2011".

<sup>34</sup> For example the attention of Icelandic constitutional proposal.



principles – and namely to verify compliance of constitution with constitutionalism. They are also useful to understand that a political community exists due to the services that it can provide, not only by means of the public administration, but also within itself. Operating such services directly within the society will permit society itself to check and balance the implementation of the constitution, which is extremely important for the social transformation necessary to achieve higher levels of political freedom.

To this aim there may be very inspiring the examples, which take place in several parts of the world, where people develop different forms of organizing, by themselves, basic public services. Here we have several examples that are worth describing, although in a very synthetic way.

We may mention first of all networks addressed to support the production and exchange of goods and supply of services, which are alternative to the big corporations. We may mention among them for example “BAL-LE”, the Business Alliance for Local Living Economies, whose aim is to “spark and deepen relationships among a growing movement of people using business to create healthy, equitable, and connected communities”<sup>35</sup>.

Often connected to such networks we find quite a few examples addressed to emitting local money, as in the case of the Bristol Pound (UK): in this case as the website explains we deal with a “money that’s made by local people for local people. It can’t be used outside Bristol postcodes, so money circulates around the city again and again, making our local economy greener, fairer and stronger”<sup>36</sup>. Other local currencies, on the basis of, and inspired by, the same principles can be found in different European countries, as well as in Africa, Asia, North and South America<sup>37</sup> and Oceania. It is worth reporting an initiative of this kind also in Mexico City, where this new local currency, the Tleloc, is permitting the creation of small enterprises, thus revitalizing economy<sup>38</sup>. Similar to such initiatives, but much older, we have the WIR Bank currency, which works

as a payment circulation without currency between the participants. The System WIR started in 1934, in the aftermath of the 1929 crisis, with 16 members. Presently, it counts over 60 000 members, among them 45 000 SME in the whole of Switzerland. The transactions in the WIR currency are conducted only in Switzerland, and this system is considered an important complement to reinforce the national economy<sup>39</sup>. Indeed, as economic operators declare, in the periods of crisis the turnover decreases much less on the transactions that are done in WIR francs, with respect to the transactions in Swiss Franc.

All these local payment services are therefore reinforcing the links within the community but also through the communities. Also in the cases in which there are not yet a very substantive increase of the number of transactions, such as in the case of Bristol, its social acceptance<sup>40</sup> manifest the will of participation. Furthermore, good performance, in terms of the number of transactions per unity of currency, appears as the result of strong participatory commitment, such as in the case of the Chimgauer currency in Germany<sup>41</sup>. For this reason is the participatory and the problem oriented scheme that may be seen as the cause of the success of such complementary currencies. This permits us to highlight that such solutions, which are centered on citizenship, do not appear viable only in the most advanced economies, but also in other economic realities, as has already been pointed out, some years ago, in the example of “The Global Exchange Network” in Argentina (Red Global de Clubes de Trueque Multireciproco – Global network of groups of reciprocal exchange). Such a network which was started by a few local activists, quickly developed in only 5 years, to a national network of 500 groups having over 230,000 participants,

<sup>39</sup> Defila H. (1994), *60 Years of the WIR. Economic Circle Cooperative Origins and Ideology of the Wertschaftsring*, translated by Greco T., WIR Magazin, September 1994, see also the official web page of the WIR bank: <https://www.wir.ch/fr/>; On complementary currencies there is a growing literature. It worth mentioning IJCCR, “International Journal of Community Currency Research”, the journal of the “Research Association on Monetary Innovation and Complementary and Community Currency Systems (Ramics)”. For more information, see <http://www.ramics.org>.

<sup>40</sup> de la Rosa, J.L. and Stodder, J. (2015) ‘On Velocity in Several Complementary Currencies’, *International Journal of Community Currency Research* 19 (D) 114–127 <[www.ijccr.net](http://www.ijccr.net)>ISSN1325-9547, <http://dx.doi.org/10.15133/ijccr.2015.012>, p. 122, Table 3.

<sup>41</sup> Ibidem, p. 123.

<sup>35</sup> <https://bealocalist.org/about/>

<sup>36</sup> <https://bristolpound.org/>

<sup>37</sup> See Community Currency Knowledge Gateway.

<sup>38</sup> <http://community-currency.info/en/featured/bbc-tve-earth-report/>. For an articulated description of the phenomenon, see Luis Lopezllera-Mendez & Stephen De Meulenaere, *Towards an Economy in the Hands of the People: The Tianguis Tlalc Local Currency System in Mexico*, *International Journal of Community Currency Research* 2000: Volume 4, ISSN 1325-9547.

who have been exchanging skills, knowledge, goods and services. This process has been supported by a local currency<sup>42</sup>. It has been a positive answer to the economic crisis.

In these cases we can observe that local participation leads to the development of community connection by means of the creation of instruments supporting the production and the exchange of value within the communities. Such self-governance of the local economy manifests itself as a factor of resilience and collective problem solving in front of situations of need. In this sense, providing local services is a manifestation of liberty, since people become able to take responsibility for their own destiny. In this way they complement the national economic mechanisms, balancing them by means of the exercise of collective freedom within the local communities or in trans-community networks.

However, we may have also phenomena in which a traditional way of understanding local power, supported from a constitutional transformation, allows for higher levels of freedom in a community. We can see this in the experience of village community of Kuttambakkam in the district of Chennai, the capital of the State of Tamil Nadu, in India, where by means of participation, essential issues such as unemployment, poverty, urban waste, lack of infrastructures, illiteracy have been approached through a blend of local policies and activism. For example, the inhabitants have been cleaning the village, while the village administration has been providing for collection of bins, a public cleaning service and a system of collection of rain. Furthermore, the inhabitants, who offered labour and supplies in cooperation with the village administration, which made use of the available resources, built together an aqueduct, thus overcoming a budget shortage of around 40%. The local assembly, the "panchayati", played an important role in this process. The legal and political framework to this reform has been the amendment of the Indian Constitution together with the participation, mutual help and development of local services. Such an example, was developed mostly because of the engagement of the mayor Elango Ranaswamy, according to whom, voting only is not enough for democracy. His argument adds that representation is not enough since represen-

tatives may make use of their time doing other things with respect to the ones that people are waiting for. And therefore, what makes a difference is participation. These experiences are not isolated. In many parts of the world people produce their own food and exchange it in the communities.

We also have services that are developed throughout the communities and are appearing as the manifestation of transnational citizenship. For example in Africa Youth intervened in the activity of the Great Green Wall at their own cost: with a budget that was less than 1/80 of the funds received by Senegal. These youth planted over 1 300 000 trees in this country, supporting the change of the economy of villages from a survival economy into a basic sustainable economy, which is now transforming into a surplus sustainable village economy, with high political participation<sup>43</sup>.

We may add many more examples to the ones I mentioned above. However, I would like to say that such examples can be developed in many conditions, also where the material wealth of the interested societies is very limited. In Iceland there are all the moral and cultural conditions for the society to locally develop public services. "Knitting clubs" are not only examples of units supporting the discourse within public opinion, as analyzed by Habermas<sup>44</sup>. They may become the inspiration and the base of practical activities, which may implement the values of the new constitutions, making it become a living constitution even before the new constitution becomes the new formal constitution of Iceland.

<sup>43</sup> See P. Policastro and E. Castorina, *Towards a Supranational Dimension of Citizenship Through Knowledge, Skills and Competence: From ECONET to the Great Green Wall*, p. 89–96 in P. Policastro (ed.), *Towards Innovation in Legal Education*, Eleven, Utrecht 2013; Pasquale Policastro, *Biosfera, politica del diritto e educazione delle coscienze*, in: E. Carnassa (ed.), *Democrazie e Religioni. Libertà religiosa, diversità e convivenza nell'Europa del XXI secolo*, Edizioni Scientifiche Italiane, Napoli 2016 p. 43. Such activities are now followed by the "Foundation Coeur Vert" a foundation constituted in Ivory Coast and operating both in Africa and abroad, the N.Y. based public charity "Green Africa for the World", as well from the foundation, which is being constituted in Ivory Coast. The film "Great Green Wall: Africa for Africa" directed by Małgorzata Frymus shows in a coherent way the contribution of such young people to a new transnational citizenship founded upon values of the respect of the common good, and namely biosphere as well as.

<sup>44</sup> J. Habermas, *Strukturwandel der Öffentlichkeit*, Neuwied 1962; ed. it. *Storia e critica dell'opinione pubblica*, Roma–Bari 1985.

<sup>42</sup> De Meulenaere, S. (2000) 'Reinventing the Market: Alternative Currencies and Community Development in Argentina' *International Journal of Community Currency Research* 4 <www.ijccr.net> ISSN1325-9547 <http://dx.doi.org/10.15133/j.ijccr.2000.004>.

Knitting clubs, the cultural Icelandic traditional values<sup>45</sup>, and the examples coming from many world realities may become therefore practical political possibilities to implement new values, thus developing the needed social transformations to facilitate a growing level of democracy and of political liberty.

### **For a living Icelandic constitution and a new paradigm of constitution and of constitutional transformation**

We showed above some examples of public services, which people may actually develop by themselves. The development of such services at the local level yields effects at different levels.

A first level of effects is that they permit the direct implementation of rights in a coherent way with the constitutional representation and people's understanding of the constitution.

A second level of effects is, that in this way society is able to create benefits that the State is not able to produce. Such a level of effect supports direct democracy, since it shows the ability and the willingness of the society to develop services.

The third level of effect of substantive participation is that the power is shifted from above to below. And this without necessarily creating conflicts with the State. Indeed, local public services increase the resilience of local communities and allows for the development of complementary political influences, based on producing and supply services addressed to the common good.

A forth effect is that each community may develop the public services, which are best suited to its needs and requirements. There will result differentiated forms of society: the differences between the government will not be based, as in ancient times, by the government of one, or the government of a few, or even the government of the many, but on the kind of public service communities that they are able to develop, and their organization.

These arguments may be addressed to confute the objection, that direct democracy may finally be not be of support to a "limited government", backing instead, for example, populist aims. Indeed the objections that direct democracy or, even democracy based on social

networking, may support populism, may not hold whenever the community is itself in condition to imagine and to implement specific services. On the contrary, such arguments are helpful to confront the arguments purporting that a government where the relations between participation and representation are rather on the side of representation. Indeed, representation, especially in technological societies characterized by a plurality of groups of interest, may lead to develop systemic relations, which stem beyond normal people and their needs. Indeed, as an important representative of the socio-systemic school has once more stated it, 'society and the individual psychological feature are not communicatively accessible one to the others'<sup>46</sup>. Although we do not completely share such a point of view, putting into life practical action by the people, appears to me one of the most fundamental means to bring it into the sphere of the public debate and social verification, policy needs and government priorities. In this way the influence of non-transparent interests in the process of government, which Icelandic people want to get rid of, may be controlled and limited. The production and the supply of public services at a local level, may permit to develop participative, transparent and sustainable social, political and economic relations and therefore help to develop more resilient communities. It may thus engender the development of the social transformations needed for a higher level of democracy and political freedom. It may additionally allow good practices to develop, that are supportive of resilience but may help an overall resilience of the world political and economic order.

The examples of local public services may be adapted, integrated and developed by local communities in Iceland: in such a way, that people will start living their constitution and, when together they will first develop checks and balances for state activity, secondly they will be able to influence reforms, for example in the field of energy. Gradually they will come to determine the same form of the State: at that time the Constitution of Iceland will be at disposal of the whole world. This is also an answer to our third question, since the limits of the process of creating innovation in the constitution is

<sup>45</sup> See also Á. Th. Árnason, *Review of the Icelandic Constitution*, cit. esp. p. 345.

<sup>46</sup> G. Teubner, *La "matrice anonyme": de la violation des droits de l'homme par les acteurs "privés" transnationaux*, in *Revue critique de droit international privé*, octobre-décembre 2016, p. 591-984: please take into account the formulation of the socio-systemic paradigm, that society and the individual psychological feature are not communicatively accessible, one to the others, p. 599.

that such a process shall be able to develop a consistent system of checks and balances: the development of local public services by means of the community goes indeed in such direction. From this we have the answer to the forth question, and namely to which extent we shall admit pluralism in constitutional law, and namely plurality of forms in constitutional law, which may be referred to as a “limited government”. The answer is, to our understanding, that such extent is coming from the fact that checks and balances should appear gradually more and more satisfactory. In the case of Iceland, the ethical motivation to change as well as the social motivation to the constituent process add important elements supporting the development of a better approach to limited government, both taking into account institutional checks and balances, as well as the ones stemming from the relations between state and society, especially when local communities develop public services.

We may then on the basis of such considerations answer the following questions that we posed. They are: 5) whether we may therefore admit the existence of constitutional law as a system of principles and relations permitting people to self-determine themselves within a frame of a “limited government”, or instead if we shall refer to the existence of constitutional law as a “rule admitted by generalised practice”. Following such questions we have 6) what may the role of reason and of discussion in giving shape to a constitution, and 7) whether this role is real or it fades away within the “system”, the “institution” or “the dominant and generally accepted theory and practice.

The development of local public services permits the development of a new class of checks and balances, which are driven by the society. The constitution may be integrated by such new tools, which allow for the ethical momentum that supported the constituent process. And this is an answer to our third question, since we admit that the main function of constitutional law is the self-determination of people joined in societies.

By developing local public services through the community we develop self-government and at the same time we enrich the constitution with a new class of checks and balances. Such services and such checks and balances are not part of the formal constitutional but are a new living constitution. Developing such services, is a kind of way of enacting new constitutional principles even before that Parliament has been approving the new Icelandic Constitution. Such a living New Constitution from below, may be a very important ele-

ment of pressure for the approval of the New Icelandic Constitution. Through such organised grassroots and efficient activities, Parliament may constantly feel and experience the motivation, dedication and rationale staying behind the proposal of constitution elaborated by the Constitutional Council. Indeed, a constitution has two bodies<sup>47</sup>: the one is the binding (written) constitution, which embodies the deeds, the conceptions and the expectation of the persons who created it; a second body is the living constitution, which is manifested in the activities and in the action of the people perceiving themselves, seeing (representing) themselves in the constitution. Such activities are connected to the duties that people conferred to the polity or the state in accordance with the constitution. And such duties are connected to the organisation of the life in common, namely to the function of organising the food supply, the access to water and energy, the measure of value, the solution of controversies and so on.

Some of the above said activities may be organised by the same Icelandic society on its own, while some may be left to the State. In this way democracy and political freedom may be manifested in two ways: from one side as through the living practice of the ethical motivation, the responsibility and participatory attitude, understood as the base of the new constitutional order. Concerning the activity of the different communities, it is not important how much a single community will be in the condition to achieve, in terms of self-organisation, production and supply of services. What is important instead is that the society may start living by new constitutional values and principles as a viable alternative to the present political order. Keeping organized and putting ideas into practice may assist the Icelandic society to gain a consciousness of the importance of its achievements, both in terms of policy as well as in terms of practice of limited exercise of political power.

In this way, by means of practical actions, it will be possible to compare the quality of the constitutional relations, which to society is able to put into being basing on the values of the new constitution, with respect to

<sup>47</sup> There is some far logical analogy between our concept of “The two bodies of the Constitution” and the concept of Kantorowicz of “The Two Bodies of the King”, see E.H. Kantorowicz (1957) *The King's Two Bodies: A Study in Medieval Political Theology*, with a new introduction by Conrad Leyser and a preface by William Chester Jordan, Princeton University Press, 2016.



the ones, which may be attained by means of the present constitution. The success of the new living constitutional paradigm will gradually be recognised both internally and in the transnational society, transnational economy and politics. The condition for the Parliament to approve a new binding Constitution will be then realised much more easily, since the quality and the consensus on the participatory activities will make the difference. The policy of the Republic and its policy will gradually be absorbed by the momentum of the quality of your transparent and participatory activities.

To put into motion all these kinds of local activities, as I already pointed out, for example, the Icelandic tradition of “knitting clubs”, may be quite meaningful. For what concerns further knowledge and motivation to develop local services, I may say without fear that many people worldwide may wish to contribute. In fact many people find the dimension of the Icelandic constitution remarkable and admire its participatory elements, which became an “open source” process, and which is producing much hope for a new transparent and participation based approach to the constitution in general. Indeed, there are many people worldwide, who are developing new ways of living in their communities: there are new and old experiences, which may be very helpful, when properly shared, to develop the living body of Icelandic constitution. This support may give important feedback, since the more the principles that back the Constitution making process in Iceland will be shared worldwide, the more Icelandic society will be aware of the importance of what it’s doing.

For all the reasons of sharing the motivation, the dedication and the ingenuity of Icelandic people and its supporters and of all the different movements trying to develop a grassroots based new approach to life in common, shall be to my understanding an important target of constitutional policy. I therefore propose to develop an open source worldwide platform, where political proposals of the Icelandic people for a new Constitution may be shared and joined with the proposals on ways of organising together several activities for local communities addressed to produce a new living constitutional identity – for Iceland and the whole world.

In order to develop a living constitutional identity it may be very important to reach the aim of a genuine constitutional transformation – based on the proposal of the Constitutional Council. Indeed, the opinion that it is not certain whether the crisis, which took place in Iceland, may find its roots in the shortcomings of the

Constitution<sup>48</sup>, and seen together with the Conclusions of the Special Investigation Commission permits simply to point out that the crisis has been related with the exercise of political power. This is a problem of many constitutions, where the constitutional text appears not to be able to frame and direct political power, notwithstanding the formulations included in the text. Just to remain in Scandinavia, the constitutional practice in Sweden in the last century has shown that the implementation of the formal constitution was somehow a derivative of the exercise of political powers. And today, the Swedish Constitution contains very few limitations to the power of the Prime Minister in exercising his duties<sup>49</sup>.

Coming back to Iceland, the Conclusion of the Special Investigation Commission (SIC)<sup>50</sup> finally permits us to see that the Constitutional system has not been able to create a sufficient framework to frame the power of the interests of political groups and that of the corporations. The Working Group of Ethics, which has stressed that, together with “negligence and sometimes reproachable actions “within” financial, administrative, political and the public sphere, the crisis manifested itself first of all through the presence of “weak social structures, political culture and public institutions” strengthened such conclusions. The answer of the society to this state of affairs appeared therefore correct: more participation was needed. In this way, a new constitutional form for Iceland, both in its written and living aspects, may appear very useful for the many countries in the world, where there is a need for social transformation and transparency, where participation and political freedom are deemed important. The Icelandic example may become thus very useful for humanity of XXI century.

<sup>48</sup> European Commission For Democracy Through Law (Venice Commission) Report “The Icelandic Constitutional Experiment” by Ms Herdís Kjerulf Thorgeirsdóttir, Member (Iceland), Conference On Constitutional Justice as a Guarantee of the Supremacy of the Constitution Dushanbe, Tajikistan 16–20 September 2015. The reported is made in Strasbourg, dated 28 September 2015 and has a signature: CDL-PI(2015)020, sec. par. 3 and par. 6.

<sup>49</sup> See J. Nergelius, *Constitutional Reform in Sweden*. Some important remarks, *Tijdschrift voor Constitutioneel Recht*, 2013 no 4, p. 372–379.

<sup>50</sup> Which was established in December 2008 by Act No. 142/2008 of the Althing, the Icelandic Parliament, with to investigate on the processes leading to the collapse of the three main banks in Iceland <https://www.rna.is/eldri-nefndir/ad-dragandi-og-orsakir-falls-islensku-bankanna-2008/skyrsla-nefndarinnar/english/>

## Bibliography:

- Amirante C. (2008), *Dalla forma Stato alla forma mercato*, Torino, Giappichelli, 2008.
- Árnason Á. Th., *Review of the Icelandic Constitution – popular sovereignty or political confusion*, *Tijdschrift voor Constitutioneel Recht*, 2011, p. 342–351
- de la Rosa, J.L. and Stodder, J. (2015) 'On Velocity in Several Complementary Currencies', *International Journal of Community Currency Research* 19 (D) 114–127 <[www.ijccr.net](http://www.ijccr.net)>ISSN1325-9547 <http://dx.doi.org/10.15133/j.ijccr.2015.012>, p. 122, Table 3.
- De Meulenaere, S. (2000) 'Reinventing the Market: Alternative Currencies and Community Development in Argentina' *International Journal of Community Currency Research* 4 <[www.ijccr.net](http://www.ijccr.net)> ISSN1325-9547 <http://dx.doi.org/10.15133/j.ijccr.2000.004>
- European Commission For Democracy Through Law (Venice Commission), Draft Opinion On The Draft New Constitution of Iceland, Strasbourg, 11 February 2013, Opinion N° 702 / 2013 Cdl(2013)005\*, Prepared on the basis of comments by Ms Jacqueline De Guillenchmidt (Substitute Member, France), Mr Jan Helgesen (Member, Norway), Mr Wolfgang Hoffmann-Riem (Member, Germany), Mr Jean-Claude Scholsem (Substitute Member, Belgium), Mr Jorgen Steen Sørensen (Member, Denmark). The opinion is also reprinted in D. Carrillo (ed.) and others, *The Icelandic Federalist Papers*, 2018, p. 191–243.
- Frymus M., Nyks L., Policastro P. (2015), *Great Green Wall: Africa for Africa*, feature film produced by World Peace Lab and Nyks Media (executive producer), M. Frymus, director, L. Nyks, pictures, P. Policastro, scientific supervision.
- T. Gylfason, A. Meuwese, Digital Tools and the Derailment of Iceland's New Constitution, CESIFO working paper no. 5997
- Jarrett E. (2015), *Blueberry Soup*, a documentary film directed by Eileen Jarrett, Wilma wishes productions, 2015.
- Habermas J., *Strukturwandel des Öffentlichkeit*, Neuwied 1962; ed. it. *Storia e critica dell'opinione pubblica*, Roma–Bari 1985.
- Kantorowicz E.H. (1957) *The King's Two Bodies: A Study in Medieval Political Theology*, with a new introduction by Conrad Leyser and a preface by William Chester Jordan, Princeton University Press, 2016.
- Governmental Studies, University of California, Berkeley, 2018.
- Luis Lopezllera-Mendez & Stephen De Meulenaere, Towards an Economy in the Hands of the People: The Tianguis Tlaloc Local Currency System in Mexico, *International Journal of Community Currency Research* 2000: Volume 4, ISSN 1325-9547.
- Lijphart A., *Patterns of Democracy. Governments Forms and Performance in 36 Countries*, New Haven – London Yale University Press 1999, It. ed. *Le democrazie contemporanee*, Bologna, Il Mulino, 2001.
- Nergelius J., Constitutional Reform in Sweden. Some important remarks, *Tijdschrift voor Constitutioneel Recht*, 2013 no 4, p. 372–379.
- Neumann F. (1957), *The Democratic and the Authoritarian State*, New York, the Free Press, 1957. Italian edition, *Lo stato democratico e lo stato autoritario*, Bologna, Il Mulino, 1973.
- Policastro P. (2002), *Prawa podstawowe w demokratycznych transformacjach ustrojowych*, Lublin 2002.
- Policastro P. and Castorina E. (2013), Towards a Supranational Dimension of Citizenship Through Knowledge, Skills and Competence: From ECONET to the Great Green Wall, p. 89–96 in P. Policastro (ed.), *Towards Innovation in Legal Education*, Eleven, Utrecht 2013.
- Policastro P. (2012), Constitutionalism vs. Economic Analysis: On the Use of Founding Theories and Complementary Theories in Constitutional Interpretation, in Stephan Kirste (Ed.), Anne van Aaken (Hrsg.), Michael Anderheiden (Hrsg.), Pasquale Policastro (Hrsg.) *Interdisciplinary Research in Jurisprudence and Constitutionalism*, ArchivfürRechts- und Sozialphilosophie – Beihefte (ARSP-B) Band 127, 173–203. p. 182.
- P. Policastro, *Constitutionalism, comparison, complexity: Prolegomena on Liberty and the use of Language for a Predictive Theory of Law*, in E. Castorina, P. Policastro (eds.), *Liberty and Language. The Global Dimension of European Constitutional Integration*, Torino 2010, p. 15–109.
- Policastro P. (2005), A New Garment for an Old Question: 'A Clash between Man's Rights and Citizens' Rights in the Enlarged Europe?' in: Joakim Nergelius (ed.), *Nordic and other European Constitutional Traditions*, Martinus Nijhoff Publishers, Leiden–Boston, 2005, p. 61–92.
- Policastro P. (2016), *Biosfera, politica del diritto e educazione delle coscienze*, in: E. Carnassa (ed.), *Democrazie e Religioni. Libertà religiosa, diversità e convivenza nell'Europa del XXI secolo*, Edizioni Scientifiche Italiane, Napoli 2016.
- Rensi G. (1902), *La democrazia diretta*, Milano, Adephi, 1995.
- Sigrún Sigurðardóttir M., Young T. (2011), *Towards Creative Iceland: building local, going global, Quantitative and qualitative mapping of the cultural and creative sectors in Iceland*, May 2011.
- Teubner G. (2016), *La "matrice anonima": de la violation des droits de l'homme par les acteurs "privés" transnationaux*, in *Revue critique de droit international privé*, octobre–décembre 2016, p. 591–984
- Tischner J. (1992), *Etyka solidarności* (Ethics of solidarity), Kraków, Znak 2000, p. 8; see also the abridged English version "The Ethics of Solidarity" selected by Dobrosław Kot, Kraków 2005, translated by Anna Fraś, [http://www.tischner.org.pl/Content/Images/tischner\\_3\\_ethics.pdf](http://www.tischner.org.pl/Content/Images/tischner_3_ethics.pdf) (checked on 4/11/2019).