A TRILOGY OF PARTICIPATORY DEMOCRACY IN UNITED KINGDOM, GERMANY AND NORDIC EUROPEAN COUNTRIES

Irina Marina LAZĂR

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Abstract
The globalization of the world and society has strained the limits of the nation-states capacity—both for democratic political life and for the redistributive policies upon which basic social justice depends (Habermans, 2003). One of the most challenging developments in the political and judicial realm of the latest decades in European Union is undoubtedly the proliferation and the reinforcing of participatory democracy. Besides the still very fluid and experimental form of its realizations, participation implies a variegated spectrum of models and procedures involving different actors and powers (Blondiaux, 2005).

In this context of experimenting different mechanisms of participation by blending them into different social realities and judicial cultures, the article will tell not just three stories or approaches of participatory democracy, but it will also follow a red thread of common tendencies, difficulties encountered in its implementation, common and particular fears, and also the perspectives of this new tool of modernizing the public administration functioning.

The aim of this paper is to understand how participatory democracy operates in United Kingdom, Germany or Nordic European countries, but also to study its implications over the behavior of citizens and politicians and over the final policy outcomes. The comparison becomes more challenging due to the difference in political and judicial organization of those countries.

Whatever would be the mechanisms of participatory democracy at local or national level and irrespective to the level of citizen’s involvement (information, consultation or co-decision), the democratic participation cannot be imposed or imported, and it will not become durable unless there are real bases in legislations, administrative organization and a genuine interest both from politicians and from the citizens.

Keywords: participatory democracy, policy, referendum, representative democracy, public administration

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1 Postdoctoral Researcher, Faculty of Law and Social Sciences, University of Craiova, Romania, irina_lazar15@yahoo.com, 0040 740518283.
1. Introduction

Over the last decade, comparative law studies have been revitalized and have made a considerable progress, due to the challenges that Europeanization of law and globalizing trends brought in the daily life of the citizens, so that we cannot understand this global society where we live and we cannot improve our lives without a cross-national overview. As a result, "comparative law has become a vibrant and intellectually stimulating field of study and research and it has advanced our knowledge in a variety of areas and contexts" (Reimann, Zimmermann, 2006).

The importance of comparative legal studies was enlightened even from the eighteenth by Montesquieu which stated that “which laws are appropriate for a country depends on climatic, geographical, cultural, religious, economic, moral and political factors, so it is very unlikely that the laws of one nation can suit another" (Montesquieu, 1748). In modern times, the trends of legislative and administrative reforms in different countries it is not just a question of imitation, but merely a consequence of the society’s evolution, a sign of the common needs for improving the state of now days democracy, beyond the families’ laws or "parent systems". This was the case also for the movement of reinforcing the participatory democracy in European countries, which started in the '70s with isolated cases of experimentalism, pushed forward by a vague idea of diminishing the role of the state-providence, then after being proliferated in almost all European countries, with different speed and motivation, until now days, when it became a current preoccupation for the European institutions. Starting with the Commission’s White Paper on European Governance (2002), participatory democracy gained field especially after the entry into force of the Lisbon Treaty (1 December 2009) and it was reinforced by the Additional Protocol to the European Charter on Local Self-Government on the Right to Participate in the Affairs of a Local Authority (Council of Europe, 2009) and by the European Citizens’ Initiative (ECI) which became legally effective on 1 April 2012.

All these recent reforms leads to the conclusion that the rights of citizens to participate in public affairs is not just a matter of expression of national popular sovereignty, but an European support for the re-establishment of democracy at all local, national and European level. It should not be an end in itself, but a tool to achieve a goal, involved into a perpetual movement. Although the legalistic culture of European countries gives many similarities in this field, it is important to observe the particularities on what the political and judicial organization of the states and public administration grounded this principle in their national democratic tradition. Our study will focus on three categories of states: United Kingdom, a parliamentary democracy, based on
universal suffrage and also a constitutional monarchy in which ministers of the Crown govern in the name of the Sovereign, Germany, as a bureaucratic model that remains basically Weberian (Hammerschmid, Meyer, 2003) – a complex federal system and a complex interrelationship between the federal government (Bund) and regional governments (Länders) (Royo, Yetano, Acerete, 2011) - and the Nordic European countries, which offer an interesting case study.

2. United Kingdom – a solid construction under recent major reforms

The United Kingdom of Great Britain and Northern Ireland consists of three countries (England, Scotland and Northern Ireland) and one principality (Wales). Wales became legally annexed by England through Laws of Wales Act 1535, Scotland joined United Kingdom as a result of Act of Union 1707 and the Northern Ireland was the most recent addition in 1920 by the Government of Ireland Act 1920 (Gillespie, 2009). Since then, United Kingdom seemed to be a very solid and welding construction, governed by the majoritarian “Westminster democracy” (Lipjart, 1999). But, in the recent decade, significant changes occurred with respect to the federal-unitary dimension, through the devolution of power to Scotland and Wales. Since the creation of a Scottish Parliament and a Welsh Assembly, Britain can no longer be characterized as an unadultered (centralised) unitary state. The devolution of power has led to the creation of a “semi-federal structure within a constitutionally unitary framework” (Flinders, 2005) and pushed to the recent Scottish independence referendum, organized on 18 September 2014. This proves once again how participatory democracy can shape a solid kingdom constructed in thousands of years, starting from the public policy-making decision at local level and affecting even its inner historically-rooted structure.

Citizen participation in the United Kingdom is a complex and rich field. “Not only is there a long tradition of pluralist democracy based on a thriving civil society, but the country has recently been experiencing extensive devolution of powers to its constituent parts (referred to as jurisdictions) – England, Scotland, Wales and Northern Ireland –although to differing extents and across a spectrum of policy areas” (Gilchrist, 2011).

United Kingdom has had an interesting and long-time oriented strategy for implementing participatory democracy. It all started in 1960s when the annual ministerial reports on improving education, planning, health and welfare have recommended that those affected by policy decisions should have the means and the opportunity to make suggestions on priorities and how things could be done differently, or at least to respond to proposals put forward by the authorities (Taylor, 2011). Gradually, during the 1970s this method of consultation was adapted to become more proactive and the citizens were...
approached to provide input and were asked to identify the issues that concerned them, through surveys or open meetings (Gilchrist, 2011).

The next step in this strategy, implemented between the 1980s and 1990s involved the organizations of the community (national voluntary bodies providing advocacy and support services for the most vulnerable members of society, local associations running schemes for children and young people, etc.), which become more and more responsible for the delivery of services on behalf of a range of public authorities. “Government funds were awarded to such organizations on the basis of service agreements that specified what was to be delivered and how certain targets were to be met. For some of this “contract culture”, as it became known, it has created security, but an uncomfortable sense of dependency. Others managed to maintain their independence and simultaneously carry on campaigning for changes in legislation and government spending priorities. Embedded within this approach was a new way of thinking about the people who used or benefited from publicly funded services. This ideology was enshrined in the various ‘consumer charters’ launched by the Conservative government in the early 1990s, designed to empower parents, patients, passengers and pupils (among others) to have more of a say in how services in fields such as education, health and transport were organized” (Gilchrist, 2011).

After the last general election (May 2010) the coalition made up of Conservatives and Liberal Democrats developed a political ideology, called “the Big Society” integrating the free market with a theory of social solidarity based on hierarchy and voluntarism. The stated priorities are: give communities more powers (localism and devolution); encourage people to take an active role in their communities (volunteerism); transfer power from central to local government; support co-ops, mutuals, charities and social enterprises; publish government data (open/transparency government). The intention of Big Society is to harness the efforts and expertise of communities, to get involved in running affairs in their areas and come up with innovative ways of solving age-old problems. The government website describes Big Society as “… helping people to come together to improve their own lives. It is about putting more power in people’s hands – a massive transfer of power from Whitehall to local communities”. Its ambition is to drastically reduce the role of the state in people’s lives, to devolve power to the lowest feasible level and to unleash the energies and local knowledge of communities for the benefit of society as a whole (Gilchrist, 2011).

After summarizing the participatory strategy evolution, it is important to observe its implementation in society, both at national and local level. The most important tool of participation is the referendum, that, on a general manner, can be categorized as pre-legislative (held before proposed legislation is passed)
and post-legislative (held after legislation is passed), with a binding or just consultative value, according to nature of the topic addressed to citizens.

At national level referendums are rare in the UK. The Government has held only two referendums covering the whole UK, the main area of application and debate has been precisely the UK’s participation in European integration: the first in 1973 on whether to stay in the European Economic Community and the second one, for deciding whether the country should ratify the proposed Treaty establishing a Constitution for Europe (2006). Another referendum was organized in 2011, on whether to change the voting system for the UK Parliament to the Alternative Vote method. The result was negative.

Most referendums have taken place over questions of devolution and governmental organisation and mainly at regional level, in the countries composing the United Kingdom: Scottish devolution referendum, Welsh devolution referendum, (both held in 1979 on whether there should be a Scottish Assembly/ National Assembly for Wales); Greater London Authority referendum (in 1998 on whether there should be a Mayor of London and Greater London Authority); North East England devolution referendum (in 2004, on an elected regional assembly); Welsh devolution referendum (2011, on the law-making powers of the Welsh Assembly).

As for the local level, the Local Government Act 2000 made it possible for councils to make a choice for an elected mayor. The election of mayors was introduced in 2002 in England, it is also possible in Wales but not possible in Scotland (House of Lords, Constitution Committee - Twelfth Report, Referendums in the United Kingdom, 17 March 2010). In 2003 it became clear that, being afraid of losing power to a newly elected mayor, only 11 of all the local councils had chosen the option with an elected mayor (Snape, 2004). Furthermore, the Local Government Act 2000 created a strong executive; formal decisions are now made in the cabinet, which is formed by the majority party (John & Copus, 2010). Another reform in the democratic yard, that involved the local communities, was made through the adoption of the Local Government Act of 2003, which gives to the local councils the power to call local polls on issues within their remit, but this type of referendum is not binding for the authorities, it has only a consultative value.

Equally, there is another category of referendums, regulated by Local Referendums Bills, foreseen for England and Wales and with a binding value. They are launched if a petition is signed within six months of the notification of intent by at least 10 per cent of the respective local government electors. The Localism Bill proposes others varieties of local referendum: on change in form of governance or change in form of executive – initiated after the petition made by five per cent of the local inhabitants, or by direction of the Secretary of State; on any public local question – it must be supported by five per cent of
local electors; on council tax increases: the Secretary of State and the House of Commons will agree on a “ceiling” for Council Tax rises. If a local authority proposes to raise taxes faster than this rate, local people will have the right to approve or to veto the rise in a referendum; on neighbourhood development orders.

As participatory democracy is a flexible and dynamic field of experimentation, the authorities have the capacity to innovate and to create different tools of communication and interaction, starting with 1990s. Consensus conferences, citizens’ juries and citizens’ panels began to be used around 1994. These mechanisms were given new emphasis in the Governance of Britain program when Ministry of Justice published in July 2008 a National Framework for Greater Citizen Engagement, that was inviting proposals on citizens’ summits, citizens’ juries and a petitioning mechanism for Parliament. The same document also included the goal that “Participatory Budgeting should be used in all local authority areas in England by 2012”. This has mainly taken the form of the management of community funds at local and city level, and public/private arrangements. Other tools that can be used by local authorities are: e-petition, web-based majority building, agenda-setting citizens’ initiatives, consumer surveys, citizen panels, demand and opinion polls. Even if they don’t create a direct obligation for the authorities, they may influence the decision-making policies.

Maybe the most important measure, with a direct impact on participatory democracy implemented during the last four years in United Kingdom was the adoption of The Localism Act 2011, which sets out a series of measures with the potential to achieve a substantial and lasting shift in power away from central government and towards local people. They include: new freedoms and flexibilities for local government; new rights and powers for communities and individuals; reform to make the planning system more democratic and more effective, and reform to ensure that decisions about housing are taken locally. Different parts of the Act will come into effect at different times. In many cases, the Government will need to set out further details, such as, the exact rules on how different community rights will work. In some cases, the Government will ask the public for their views. Parliament will also have the chance to look at the rules and vote on them before they are made final.

3. The German recipe of participatory democracy

Germany is one of the European countries with a very interesting story on participatory democracy. During the country’s creation after the 2nd World War, its constitutional framers eradicated the elements of direct democracy that
had existed in the Weimar constitution and opted for a system of strong representative democracy—an institutional response to the political instability of the Weimar era, as well as a reflection of their general distrust of the people’s capacity to act wisely (Scarrow, 1997). Between its founding in 1949 and the unification from 1990, the German system has rested firmly on the principles of representative democracy. The framers of the Basic Law, fearing antidemocratic popular tendencies, designed moderating institutions between the people and the exercise of power (Geissel, 2009). Political parties became the most important of these, and Germany was even characterized as a “party-state” (Stöß, 1997).

Since the fall of the Berlin Wall, discussions of democratic reform in Germany were more actively, the request and the manifestation pro direct democracy being manifested mostly in the communal and regional levels. As a consequence, seven states have passed new constitutions with referendum provisions or expanded citizen participation in local administrative and planning processes, and several states have incorporated referenda and citizen initiatives in local community affairs (Dalton, Bürklin, Drummond, 2001). We must state that before 1990 only Baden-Württemberg had some legislative procedures of direct democracy but after unification, all eastern German Bundesländer introduced gradually direct democratic procedures in their state constitutions, so that today participatory democracy is institutionalized and applied at the local level all over Germany.

The Federal Republic of Germany is one of the few European Union countries without experience with direct democracy at the national level, the Constitution only provides for national referendums on changing the federal constitution or in case of envisaged reorganization of Germany’s federal structure, while the local level has become a dynamic field for participatory experiments after the 1990 unification.

Besides that, the regional (Länder) level offers a participation on three stages: the first stage, called "petition" or "popular initiative" - when citizens present an application/request for a process which may lead to a referendum on legislative or constitutional matters – excluding the aspects dealing directly or indirectly with the economy, and the salaries of politicians and officials (the so-called "finance tabu"); the second stage involves the collection of signatures supporting the initiative, the quorums being variables according to the state legislation (usually vary between 8% and 20% of the state electorate); the third stage refers to the organization of a referendum who’s result is legally binding, under the condition to be validated by a certain percentage of the electorate (for example, on legislative matters the quorum for approval varies between 15% to 33% of electorate, while in constitutional matters the minimum quorum is usually 50%, with the exemption of Bavaria, where the approval quorum is...
25%. Moreover, this quorum is further linked to a supermajority of two-thirds in favor of the reform, which makes any changes virtually impossible. German constitutional tradition makes an important distinction between referendums (Volks- / Bürgerentscheid) initiated by the authorities and those resulting from popular demand (Volks/Bürgerbegehren). Depending on the initiator, it may or may not be possible, or obligatory, to hold a popular vote. At federal level, a referendum can only be called by the federal authorities (Best, Augustyn, Lambermont, 2011).

As for the local level, the German doctrine stated that “the German case shows overall that participatory innovations have the potential to cure some of the current malaises of representative democracy” (Geissel, 2009), although there isn’t certainly a fast-track cure. On a general manner it were identified four main democratic innovations: direct democracy procedures, co- and network governance, consultative-discursive procedures and electoral reforms (idem.).

The first category, of direct democratic procedures comprises consultative and binding referendums. They can be launched by the local council or by the citizens themselves, starting with a “popular initiative” (Bürgerbegehren). The procedure, the scale of signature quota (depending on the size of the community) and the time limits for signature collection varies according to the legislation of the Landers and also to the topic of the referendum. For example, we can have petitions whose aim is to “correct” a decision of the local council (Korrekturbegehren) or petitions that put a topic on the political agenda that had been neglected by local political representatives. Every petition is first checked by the local authorities (usually, the local council) according to its legality (content, timeframe for collecting the signatures, quotas of signatories required by law) and also, most states demand that a petition must include a plan about how to cover the costs of the proposal. The next step is that the local council either accept or refuse the proposal, but if refused, the issue is put to a popular vote (Bürgerentscheid). In almost all federal states there is a participation quorum of between 20% and 30%. When a local referendum has been successful, the majority of states impose an exclusion period of one to three years, during which the referendum result can be repealed, or allowed to lapse, only by a new referendum.

Besides the mandatory referendum there are also non-institutionalised and non-binding tools of participatory democracy that we encounter at local level in Germany: consensus conferences, citizens’ juries, planning cells, public dialogue sessions or citizens’ panels – that are organized by association of citizens, local authorities or NGO’s on different topics (e.g. sustainable energy resources of a certain community, urban land use planning). The idea of the “Bürgerengagement” (the engagement of citizens through associationism or
direct involvement in public services) had been growing in importance and diffusion, meanwhile, often taking the form of volunteer work by residents for the benefit of the council and the local community.

Another category of participatory mechanisms, widely discussed by politicians and political scientists was introduced under concept of co-or network governance, which supposes a closer cooperation between local groups and politicians. It was imported by Latin America (Porto Alegre, Brazil and especially from Christchurch, New Zealand - winner town of an international prize in 1993 for being a model of good governance) and is also known as participatory budgeting. Germany was very seduced by this model of participatory budgeting (Bürgerhaushalt) since, between the first experiment in 1998 and March 2010, it was implemented or discussed in over 140 municipalities. Although they are consultative mechanisms aiming at information, transparency, accountability and changes in local procedures, it involves citizens on the allocation of local public finances, especially of financial investments, initially introduced with the aim of reducing public spending and to balance financial deficits. In fact, Germany is, to date, the European country in which there has been the greatest number of experiences of participatory budgets (Allegretti & Herzberg, 2004). However, according to these authors, the main objective of participatory budgets in German local governments has been transparency, while making residents true participants in public decisions, especially through the consultation of citizens as consumers, has been a secondary goal.

The meetings can be arranged as neighborhood meetings or thematic assemblies, and as closed or public. The number and rhythm of meetings can vary, delegates can exist or not, the discussion can be informal or structured by specific rules, and mediators can be involved or not. Often there are kinds of affirmative action to guarantee participation from politically marginalized groups (Geissel, 2009). Although this form of participation is reduced to a consultation form and the citizens can only make proposals on how to cut public spending become very popular and appreciated between citizens, even though the decision-making process remains tightly in the hands of the local authorities. From a procedural point of view, this process of participatory budgeting can be divided into three phases: the first one is about the information of citizens about the city’s revenue and expenditures, with detailed explanations of local taxes, of transfers from superordinate institutions and of how inflexible expenditures (personnel, ordinary management) restrict an increase of resources (Allegretti, Herzberg, 2004). In the second phase citizens are consulted during public assemblies, with the help of questionnaires often also available on the Internet. The third stage concerns reporting following the voting on the budget at the City Council (Geissel, 2009).
This legal frame is permissive with innovations and creativity, every community could adopt and improve the tools of attracting citizens in the budgeting. We can offer some examples of German strategies (idem.): involvement of pupils in an integrated project aimed at working out the budget policy (in Vlotho); neighbourhood meetings, a four week online discussion, a moderated discussion forum, information stands, posters, leaflets, a budget calculator, preference polling, newsletter and interviews with politicians (Berlin-Lichtenberg); public seminars on the topic with the citizens representatives that are chosen by a draw (in Emsdetten). Equally, for the consultation of the citizens there are distributed questionnaires through different channels (schools, media, etc.) in order to explain the allocation of budget and also to measure the degree of satisfaction and to give to the citizens the opportunity to pass resolutions on investment projects. In every case, the local administration decides if it takes into account the proposals for the budget project, but in any case, it has to motivate every rejection.

Due to this flexibility and to the responsiveness of the citizens toward this participatory instrument, Germany became one of the most interested European country in exploring experiences of Participatory Budgets, with the greatest number of wide-ranging political coalitions promoting them. It remains to be seen whether the German approach on public budgeting is susceptible to make budget cuts (especially in the current European economic and financial situation) or it will it will be transformed only into a tool with which to legitimise the austerity plan of the government, without interfering with its contents or the distribution of the readjustments.

Finally, one last category of participatory tools derives from the mechanism of democracy functioning. Election of mayor and its recall was object of electoral reform after 1990 as well as the introduction at the local level in more and more states of an electoral system that combines proportional representation (―party ballot‖) with majority voting (“direct candidates”).

According to some authors, “the German experiences illustrate that participatory innovations do not improve the quality of democracy per se. Without careful design, participatory innovations can have a detrimental impact, for example, reducing input-legitimacy. Furthermore, no innovation can solve all current democratic malaises” (Geissel, 2009). The question is to know whether these tools are really known by all the citizens or whether they do contribute to a form of “illusion of participation” next to the “illusion of representation” (Premat, 2006). On the one hand, the “illusion of participation” means that the political system seems to offer different tools to citizens although it is based on a kind of passivity. On the other hand, the “illusion of representation” shows that these instruments are included in communicative strategies for representatives who represent only their own interests (Ellul,
1977). The combination of these illusions produces what we can call the representative game between citizens and political elites (Premat, 2006). As a brief conclusion, we can sum up that, if the participatory procedures find a solid ground in the legislation have the potential to enhance input legitimacy, to add quality to the political processes or at least, to improve the civic skills, which would be the most important achievement for the future reforms.

4. A breeze of Nordic participatory democracy

The international perspective over the Nordic countries refers to a social model of democracy (Pontusson, 2011) which involves the combination of a free market economy with a welfare state, translated into high employment rates, low levels of poverty and inequality, high living standards and advanced liberal democracies. While there are differences among different Nordic countries, they all share a broad commitment to social cohesion, a universal nature of welfare provision in order to safeguard individualism, by providing protection for vulnerable individuals and groups in society, and maximizing public participation in social decision-making. It is characterized by flexibility and openness to innovation in the provision of welfare. While, formally, it is the democratic political system that gives popular legitimacy to state activities, the education and the formation of a healthy civic society has become part and parcel of the Nordic societies. This is the consequence of civil society organizations which became the most dynamic part of democracy, their structure and development being similar with the one of political parties.

The legacy of the people's movements has led to the expectation that civil society organisations function as “schools of democracy” for their members. Similar to citizenship within a democratic political system, individual membership is associated with both rights and duties (Hoogheem, Dejaeghere, 2007). The combination of membership and voluntary work is instrumental for participants’ democratic rights and fosters a sense of collective ownership. This system of governance may be labeled “consensual governance” and led to the development of Nordic cooperation in the field of social policy – and the consolidation of a Nordic identity - as factors being conducive to the development of the Nordic (welfare) model (Alestalo, Hort, Kuhnle, 2009). The latest edition of the Sustainable Governance Indicators rank Sweden, Finland, Denmark, and Norway at the top in a comparison of democratic quality in 41 OECD and European Union countries.

The civil society sector formed a parallel bureaucratic structure with the state’s administration, between them two being substantial overlapping zones that, during the time, influenced the activity of the state’s institutions and leaded to more transparency in governance, legitimized by the citizens, who learned
democracy procedures in the daily life. The Nordic discourse, however, builds on a more equal society and flat hierarchies with participatory democracy, and on comprehensive schooling with strong local community roots. Leadership thinking and practices are formed by the culture and context they are part of: they are primarily shaped by the national/local values, traditions and practices, and only partially shaped by politics, discourses and literature (Moos, 2013).

As a foreign observer I would perhaps emphasis that people in the Nordic countries are still highly willing to contribute to local communities and associations through voluntary work. A large proportion of the population is member of at least one organisation. Thinking of what the future might hold, the high quality of democracy is not under any immediate threat. Still, in the long run the developments are likely to have implications for how we describe the region’s democratic societies. The Nordic countries might be about to let go of the benefits of a civil society that is inclusive, transparent and educates the grass-roots in democratic practices and values. In the meantime, the Governments from these countries are making efforts to be permanently connected with citizens through a complex and wide-ranging type of activities by addressing them multiple public problems for consultation. Equally, there is a big diversity and a public debate all the time that leads to individual or group initiatives that will be sustained in front of the public authorities by the organizations of the civil society.

5. Conclusion

In this study we have told three stories about how European countries of different law systems have understood to involve in the recent decade their citizens into the decision-policy making. The road from the Westminster-an democracy to Weber-an system encountered both in Germany and Nordic model evidence clear the differences in the development of welfare systems within and between the states and also indicates that the juridical structure of the country, the political culture and the civic education plays a major role in the future of the democracy.

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