

9 Deliberative constitution-making and local participatory processes in Poland and Hungary

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9.1 Introduction

A process of democratic deliberation requires norms (legal or at least customary), institutions (political or social), and competence from participants (ability to present their position and to evaluate arguments critically). As a political process, deliberation in social and political life involves both the formal, institutional frameworks of such practices and the cooperation of citizens or politicians who understand and appreciate the value of deliberation as a political and civic instrument. This chapter analyses the deliberative component of selecting formal and informal, local and national, experiences of political participation in Hungary and Poland. The main purpose of our chapter is to reveal the rules that provide spaces for deliberation and describe the attitudes of the main actors who initiate deliberation by bringing examples from Poland and Hungary between the years of 2010 and 2022.

We aim to answer the following questions: how do different social actors treat deliberation in the two polarised societies, what are their motivations and by which social, cultural, and political factors are they influenced? Is it just a political weapon, a part of an electoral strategy, or is deliberation also an instrument for collective learning and decision-making?

We compare the deliberative process in Hungary and Poland for several reasons. First, the historical, political, and cultural similarities are evident. Second, both countries share many parallels in their history of national liberation movements, survival of the Stalinist period, and democratic and market transformation (Rose-Ackerman 2005). Third, both countries are among the so-called young democracies; both have a very high citizen satisfaction with EU membership. At the same time, both countries are analysed in the context of rising populism (Bugarič 2019) and deteriorating democratic quality (Marcau 2019; Szent-iványi & Kugiel 2020), especially in terms of civil rights and the procedures of representative democracy, the rule of law, political pluralism, and the protection of minority rights (Brusis 2016). Thus, on the one hand, we have a process of ongoing democratic consolidation and, on the other, symptoms of an interrupted or reversed democratisation process.

Formal democratisation dominates over internalised democratic values in Poland and Hungary; the transformation and the EU pre-accession process have

built democratic institutions and defined rules for their operation. However, the lack of cultural and historical traditions supporting deliberation, the rule of parties critical of the EU, socio-economic problems, and populism contribute to the weakening of liberal democratic procedures (Blokker 2014; Szymański 2018). There are also similarities in the constitution-making process that have occurred in a highly polarised social and political environment in recent years.

Moreover, as we will investigate within this chapter in detail, pseudo-deliberative activities have appeared in both countries in recent years. These initiatives are similar in that the authorities emphasised their deliberative character, the value of the confrontation of different opinions and ideas, and substantive discussions involving representatives of different backgrounds (experts and all interested parties). Meanwhile, in reality, the impartiality of experts or the transparency of objectives and procedures could be questioned.

This study compares several deliberative practices implemented in Poland and Hungary between 2010 and 2021. The first part of the chapter explains constitution-making within the two countries and our theoretical framework. The examples analysed in the chapter concern elements of deliberation in constitutional change and the use of deliberative and participatory practices at the local level. We show deliberation as a tool to legitimise state authorities' actions and as a tool chosen by ordinary citizens when they demand changes in government. Following the analysis of the selected cases, the conclusion discusses pseudo-deliberative activities, deliberative and participatory processes within the two countries, and a summary of cultural and historical factors that determine different actors' use of deliberation.

9.2 Constitution-making and constitutional amendments in Poland and Hungary

Constitution-making in Poland and Hungary has never been an open deliberative process. The constitutional projects were drafted among parliamentarians and experts. The fragmented political scene and distrust between the post-communist and post-opposition elites hampered the negotiation process (Pócza & Oross 2021; Kampka 2021).

Poland's Constitution was adopted in 1997. After the victory of the Solidarity movement in 1989, changes were introduced to the previously binding, communist Constitution, and in 1992, the so-called "small constitution" was passed, concerning the basic principles of the political system after the transformation. At the same time, a Constitutional Committee began to draft a new Constitution. After several years of drafting, the Constitution was adopted by Parliament and approved by the people in a referendum. The text of the Constitution provoked many objections, and less than half of the eligible citizens participated in the referendum. Nevertheless, 53.5% voted in favour of the Constitution. Despite the initial controversy and the difficulty in achieving consensus, the functioning of the Constitution did not provoke significant disputes for the next 20 years (Welp 2013, 95).

During the more than 20 years of the Polish Constitution's validity, various drafts of changes have been submitted many times. Many of them were related to

Poland's accession to the EU. For instance, the first amendment to the Constitution adopted (in 2006) was the introduction of the possibility to extradite a Polish citizen in connection with a European arrest warrant. In 2009, the second amendment linked to the right to stand for election. By 2017, 18 draft amendments had been submitted (by parties, groups of experts, or the President), which were not adopted (the legislative process was halted at various stages). The proposals for amendments concerned such issues as (1) the immunity of parliamentarians, (2) regulations relating to the competence of Polish institutions in the context of EU law, (3) the proportionality of elections to the Sejm, (4) vetting and decommunisation, (5) rules of conducting a referendum.

Since 2015, Poland has had a political and legal dispute over the Constitutional Tribunal. The Law and Justice government's changes to the composition of the Tribunal and changes to the entire judicial system have led to a constitutional crisis (Radziejewicz 2020). As a result, the interpretation of the provisions of the Constitution has changed without formal amendment.

During the democratic transformation process in 1989/1990, inclusive deliberation on the future institutional structure of Hungarian politics was almost unimaginable. It was an elite-driven negotiation between the reform communists and the democratic opposition in which strategic considerations about their future positions determined the mindset of all relevant political actors. Citizens' participation was, in general, less desired by the parties. A second chance was given to the political elite in 2010, as the Fidesz Party won a two-thirds majority and the power to change, amend, and rewrite the Hungarian Constitution. Directly after the landslide victory, the second Orbán government set up a small advisory committee (consisting of former intellectuals, legal scholars, and scientists), which had the task of giving advice directly to the prime minister on how the new Constitution of Hungary would look. Little publicity was given to this body, and in the end, nobody knew what kind of influence this small advisory committee had on the new Fundamental Law. As a second step, an ad hoc parliamentary commission was set up with the task of *travaux préparatoires* and drafting the framework of the new Constitution. This committee invited a wide range of scholars and experts from the public sphere to submit proposals discussed in the ad hoc commission. However, due to the polarised context of Hungarian politics, left-wing and green opposition parties left the commission no sooner than the first proposals had arrived. It was a protest against the constitutional amendments adopted by the right-wing two-third majority, which overwrote some of the most recent decisions of the Hungarian Constitutional Court. The commission continued its work without the left-wing and green MPs, but it was again unclear which proposals came from the public sphere and the selection criteria into the commission's final report. Even more disappointing was the destiny of the commission's report, since after being adopted, it landed practically in the dustbin of the Hungarian Parliament. Thus, public involvement became obsolete and entirely neglected by January 2011 as the commission finished its work. As a third stage, the government started a national consultation on the Constitution and, at the same time, asked the parliamentary factions to prepare their version of a draft constitution on which a debate would take place in the

Parliament. As the only process that involves public consultation in this chapter, we will focus on this process more in detail. Ultimately, from a normative point of view, both processes (in 1989 and 2010) were instead directed and managed by the political elite with few incentives for including deliberative bodies or techniques.

Both the former Constitution, adopted in 1989, and the new Fundamental Law of Hungary (adopted in 2011) had been very flexible. There have not been any special restrictions on how constitutions could be amended; the only criterium was to have a two-thirds parliamentary majority in a unicameral parliamentary system. The Parliament adopts the Constitution and can amend it with a simple supermajority. The founding fathers did not differentiate between the *pouvoir constituant originaire* (Constitution-making power) and the *pouvoir constituant dérivé* (power of amending the Constitution.) Furthermore, there is no special requirement of popular involvement or confirmation by the next Parliament after a new election. Even the head of state does not have any role in the constitution-making process or constitutional amendment. In this procedural sense, the Hungarian Constitution has been highly flexible. Due to this flexibility, formal amendments have been quite frequent in the last 30 years. Beyond this formal flexibility, however, the Hungarian Constitutional Court's constitutional adjudication also played a crucial role in an unceasing "post-sovereign constitution-making" process as reflected in practice. The Hungarian Constitutional Court also played an important role in informal amendments of the Constitution and the Fundamental Law.

9.3 Polarisation and deliberative practices – theoretical background

Low social trust and civic participation are a legacy of the previous political system of the two selected countries. The main factors unfavourable to deliberative practices are profoundly rooted distrust between elites from the communist period and representatives of the democratic opposition, the high social costs of political and economic transformation, and fragmentation of the political scene. We agree with Sarah Sorial, who aptly observes:

Civics infrastructure refers to the set of social background conditions necessary for deliberation to function in the ways in which deliberative theorists hope it will. These conditions include an active, engaged and informed citizenry, who are aware of both their rights and their civic duties; a comprehensive civics education about the workings of Government, political and law-making processes, and the content and function of the Constitution; and a robust culture of deliberation, or knowledge about *how* to deliberate.

(2018, p. 324)

With the rise of populism and deepening social polarisation, deliberation becomes a challenging process within the two societies.

The experience of countries building democracy after a period of authoritarian rule proves that deliberation appeared in public space and public discourse in

conjunction with other phenomena such as democratisation, decentralisation, or recognition of cultural diversity (cf. Pogrebinski 2018). Democratisation is linked to the emergence of civil society, an essential part of the Polish and Hungarian transformation process. The political involvement of citizens, the emergence of NGOs, the development of social movements, with particular emphasis on urban movements, created a landscape in which deliberative practices became a natural need and form of action.

Decentralisation requires the active role of local and municipal authorities. In the Hungarian and Polish cases, deliberative practices accompanied participatory budgeting, implemented in many cities. Economic development made possible by the support of international organisations is another factor contributing to the adaptation of deliberative practices. In the case of Hungary and Poland, EU funds were of great importance. EU programmes require public consultation at various stages of project implementation, which is undoubtedly a factor favouring civic participation at the local level. Residents, officials, and local authorities had to accept the formal rules of consultation, but at the same time, they learned to interact and discuss. As Hungary and Poland are 'new' EU members, exchanges organised within the town, county, or regional partnerships were also important. They allowed Polish and Hungarian local communities to learn the practices of co-governance, deliberation, and participation practices that function in mature democracies (examples of participatory budgets).

In the period analysed in this chapter, the ruling parties are conservative and nationalist in the case of Poland (Law and Justice Party since 2015) and Hungary (Fidesz). On the other hand, interesting examples of deliberation concern left-wing parties that appear on the political scene (the case of Biedroń's Spring or the Hungarian Two Tailed Dog Party). In addition, social movements use deliberative practices related to the rights of sexual minorities (the example of the Polish Women's Strike or events organised by LGBT activists in Hungary). This confirms the assumption that deliberation is a tool whose value increases as social and cultural diversity increase.

Deliberative or participatory practices involving citizens in public affairs appear to be an antidote to cure the democratic malaise (Dryzek et al. 2019; Smith 2009; Geissel & Joas 2013; Newton & Geissel 2012). In addition, there is a growing body of literature on the spread (Dias 2020) and internal functioning of deliberative and participatory procedures (Bächtiger et al. 2018; Caluwaerts & Reuchamps 2015; Elstub & Escobar 2019; Fishkin & Luskin 2005).

The examples discussed in this chapter show actions that have the character of deliberation or are defined as such. We assume that in the public space, discourse is a political action. Furthermore, we assume that social ideas and images of deliberation are as important as the practices themselves. In post-communist countries, the term 'deliberation' emerged in the public space in the context of democratisation and a sense of agency. It was popularised by activists, local government officials, and civil society researchers (Juchacz 2006; Sroka 2009 2018; Wesolowska 2010). It functioned in public and media spaces as one of the possible signs that confirmed the democratic character of the state.

We reflect on a phenomenon that we conventionally refer to as pseudo-deliberate activities and deliberation. The criteria for evaluating deliberative practices and the basis for the typology of these practices are very different (cf. Curato, Hammond & Min 2019). In our approach, we do not focus on formal issues. Instead, we are interested in how different social actors treat deliberation in its discursive and practical dimensions; what they call deliberation and why they refer to it.

In a very simplified form, we assume that deliberation consists of social actors (politicians, local authorities, NGOs, citizens) wanting to deliberate on something important. To deliberate means to present legitimate demands, present one's positions, and learn and understand the positions and needs of other participants. The actors want to deliberate because they are convinced that it can lead to beneficial solutions, which they want to implement. Pseudo-deliberative activities occur when (1) the actors do not see the need or sense of deliberation because they consider other methods of decision-making to be better, (2) they do not treat the (potential) participants in deliberation as real partners, and (3) they do not want (or know that they will not be able) to implement the solutions worked out during deliberation.

In the examples presented below, we point to these elements based not on assumptions about individual actors' real motivations and intentions, but on a description of facts that allow for such an interpretation.

At a national level, the chapter focuses on constitutional changes from three perspectives: (1) top-down: Government initiated processes to consult with citizens (e.g. the 2011 National Consultation about the Fundamental Law of Hungary; presidential proposal for a national referendum on amending the Constitution in 2018 in Poland); (2) Processes initiated by civic actors (e.g. protests, petitions) at the national level related to constitutional changes; and (3) new initiatives of national political movements to introduce new activities at a national and local level.

9.4 Analysis

9.4.1 Case selection

Our chapter's primary purpose is to understand how different actors utilise deliberation, so cases where deliberation is a formal or informal process are analysed. By bringing examples from the period between 2010 and 2021, the chapter identifies common factors that have shaped processes in the two countries. We selected cases that reveal the interaction among the actors and the underlying factors that determine the use of deliberation in polarised contexts (see Table 9.1).

Various institutions and social actors use deliberative practices in Poland and Hungary at different levels of social life. However, these practices characterise a great diversity, dispersion, and above all, a relatively short history of their application and only the emerging tradition of undertaking such activities in local communities (at the municipal or city level). Since 2015, the Polish Government has changed the judicial system without a formal amendment to the Constitution.

Table 9.1 Selected cases

<i>Selected cases</i>		
	<i>Poland</i>	<i>Hungary</i>
National level	President initiative of the national referendum on the Constitution (2017/2018) Formation of a new political party Spring [Wiosna] (2018)	National Consultation about the new Hungarian Constitution (2011) Do-it-yourself urbanism (Hungarian Two Tailed Dog Party)
Local level social/urban movements	Participatory Budgeting The Polish Women's Strike	Participatory Budgeting (in Budapest) Citizens' Assembly in Budapest urban movements Student Network

Examples of civic movements that emerged in response to the actions of the authorities are Komitet Obrony Demokracji [The Committee for the Defence of Democracy], Obywatele RP [Citizens of the Republic of Poland], and Ogólnopolski Strajk Kobiet [The Polish Women's Strike]. These organisations' activities mainly include organising protests, providing legal aid, and organising events to increase knowledge and civic participation. Some of these activities are deliberative. In Hungary, university students were the most active segment of the society following the constitutional changes of 2011.

Another space is the emergence of new parties based on social movements, some of which refer to deliberation when formulating their electoral programmes. In recent years in Poland, examples include the left-wing parties Razem [Together] and Wiosna [Spring] or the centrist Polska 2050 [Poland 2050]. In Hungary, new parties emerged in response to the government's actions and are the main initiators of democratic innovations (Hungarian Two Tailed Dog Party, Dialogue, Momentum Movement).

The cases described below have been selected because they are well documented (media reports, academic studies) and can be regarded as typical of different levels of deliberation. All types of these deliberative activities will be considered through the prism of the rules (legal or customary) by which they are organised, the actors (initiators and participants), and their attitudes, all of which shape how deliberation is understood and treated.

9.4.2 Top-down processes – pseudo-deliberative activities

Politicians and state institutions are actors who can introduce deliberation into political life. In both countries analysed, deliberation is not regulated by the legislation on constitution-making. However, it is present in public discourse and understood as a way of legitimising government decisions rather than working out political solutions.

9.4.2.1 Public consultation on constitutional change – referendum proposal by President Duda

During a national holiday to celebrate the adoption of the May 3 Constitution (1791), Polish President Andrzej Duda expressed his belief in the need to amend the current Constitution. He declared the idea of a referendum in order to involve as many citizens as possible in the debate. The President wanted the referendum during the centenary of independence celebrations (November 2018) as the starting point for further work on a new Constitution. The President argued that there was a need to change the Constitution, but most Poles did not share this belief. According to public polls, 70% of respondents did not want changes to the Constitution. Constitutionalist also disagreed on the existence of a ‘constitutional moment’ (Ziółkowski 2018). Polish law allows the President to announce a referendum after receiving the consent of the Senate. In the proposal presented to the Senate, the President proposed the following procedure:

- 1 Public consultations, which would confirm the will to amend the Constitution and identify the most critical demands
- 2 A consultative referendum, in which citizens would answer questions on constitutional issues that had emerged from earlier consultations
- 3 Preparation of a draft Constitution
- 4 Enactment of the Constitution by Parliament
- 5 A confirmation referendum.

In this planned sequence of activities, deliberative elements appear in the first stage in the form of public consultation. At the moment of submitting the presidential proposal, this stage had already been completed. Meetings organised by the President’s Office as part of the social information campaign ‘Together about the Constitution’ had been held for nearly a year. These included conferences and panel discussions on issues identified by the Chancellery. The selection of participants in the meetings was inclusive, especially when it came to regional meetings. However, there was no specific procedure or information on how these discussions would translate into a draft constitution. In his application to the Senate, the President proposed ten referendum questions (Appendix 9.2). However, he did not specify how these questions were derived from the discussions held during the meetings. The subject matter and format of the questions raised questions and criticism from senators. In the vote on July 25 2018, the senators did not support the presidential proposal, and the initiative was not implemented (Kampka 2020).

The lack of transparency in the selection of participants and the translation of their debates into effects (the level of rules), the image goals of the President (the level of actors and attitudes) make this initiative a façade deliberation (see Table 9.2).

9.4.2.2 National Consultation about the new Hungarian Constitution

Deliberative mini-publics (in the form of citizens’ assemblies and conventions) are not a common practice of Hungary’s constitutional landscape. A chance was given

to the political elite in 2010, as the Fidesz Party won a two-thirds majority and the power to change, amend, and rewrite the Hungarian Constitution.

The National Consultation – designed by the elites of the national conservative party Fidesz – Hungarian Civic Alliance in 2005 as a deliberative practice to increase the party’s social embeddedness – became a government-funded questionnaire sent to Hungarian citizens by mail. In 2011, the Hungarian Government used National Consultation to detect the public mood on specific questions regarding the new Constitution. A consultative body was appointed by the prime minister to set the main principles of the new Fundamental Law of Hungary. Debates about the text of the new Constitution were organised among the members of the body, and the National Consultation Committee prepared the formula for public consultations. Parallel to the debates of the Constituent Assembly, a questionnaire with 12 questions entitled “Citizens’ Questionnaire on Fundamental Law” was posted to all Hungarian households in late February/early March 2011. Citizens were invited collectively to comment on the main principles of the document by answering those 12 questions. National Consultation about the new Constitution offered no space for lively deliberation or forming a consensus. Participants were allowed to respond to the questionnaire by post, using pre-paid envelopes (Appendix 9.1). The questionnaire contained a mixture of questions based on the decision-maker’s sincere curiosity and questions formulated with latent suggestions implicitly promoting the “right answer”. Some questions were tendentious, presupposing an existing consensus within the Hungarian society or within at least part of the Hungarian society that was supposed to send back the questionnaire (for example, the third question was worded as ‘Some people suggest that the new Hungarian Constitution should protect common values such as family, order, home, work, and health. Others don’t think this is necessary. What do you think?’). This presupposed self-selection of the respondents mainly sympathising with the Fidesz Party was also reflected in the results of the National Consultation. Answers that promoted the conservative agenda of Fidesz got a clear majority, mainly between 80 and 90 per cent supporting the position of the right-wing party. Thus a presupposed existing consensus among Fidesz supporters was confirmed rather than formed through the consultation process. Some questions, nevertheless, had a real stake, and the agenda setter might have been interested in what the public thinks. Here, the agenda setter tested public opinion but efforts to argue for or against any of the propositions and, consequently, finding a compromise or consensus among participants, was not part of the game (Pócza & Oross 2022).

Seen from the normatively neutral perspective of participatory and deliberative democracy, any attempt to give voice to the people is an excellent incentive to connect voters with their representatives. However, more careful consideration is needed when analysing the actual practices of populist actors. Fidesz has been criticised for refusing to hold a referendum concerning the Constitution. National Consultation was used as a strategic tool for the party’s interest, and it has given additional legitimacy to the draft constitution. Because of its design and practice, National Consultation served political purposes. It has lent more credibility to the Government, provided effective arguments against criticism, and provided an opportunity for shaping public opinion (Oross & Tap 2021).

9.4.2.3 *Deliberation in the creation of a new political party – the example of the Spring*

An example of the marketing use of deliberation was creating a new political party programme: Biedroń's Spring (Wiosna).¹ As an analysis of the content of the party's website and press coverage shows, meetings called 'brainstorming sessions' were held in various cities for several months. The objective was clearly defined: to collect suggested changes demanded by citizens. The meetings were inclusive. These suggestions were to be included in the programme of the new party. The meetings were led by Robert Biedroń and a local activist who would later stand as a candidate for the European Parliament. Participants made proposals on political, social, and economic issues. They were first briefly discussed and then a vote was held on the demands made. In April 2019, the new party's programme was announced. According to the declarations, this programme was based on ideas submitted during the meetings. However, no clear rules were presented as to how this was done. The inclusiveness of the meetings, the sense of political empowerment, the nationwide nature of the meetings, the importance of the subject matter, the elements of the debate and the clearly stated expected outcome (a list of demands), allow us to consider this example in terms of deliberation. However, it must be admitted that the main objective was to engage people to benefit the new party and ensure its media publicity. The procedures for translating the results of the discussions into the party's programme were unclear. Participants also spoke of an insufficiently in-depth discussion of the conclusions and suggestions made in deliberation. Therefore, deliberation was used for marketing purposes.

The initiating politicians and participating citizens (the level of actors) acted according to nonformal and not fully defined norms (the level of rules). Citizen enthusiasm (or bitterness) was used to publicise a new political initiative rather than to work out solutions (the levels of attitudes) (see Table 9.2).

9.4.3 *Urban/social movements' initiatives (demand for deliberation)*

Protest as a civic activity has a longer tradition in post-communist countries than discussing public issues and consensus-seeking. Sometimes there are not only two sides of the conflict but instead two groups: active citizens and people who are not interested in public affairs. In such cases, deliberation is possible, though difficult. However, it always requires institutions to act as either a neutral mediator or an engaged agitator. We can also observe actions that attempt to use deliberation during social protests and activities of social movements. It is then sometimes used to manage participants' activity and formulate coherent movement demands.

9.4.3.1 *The Polish Women's Strike*

This feminist organisation has organised many protests against restrictions on women's rights. During the wave of protests in 2020, a consultative council was set up with 500 people, comprising activists and experts. The council's task was to gather the demands made during the protests and develop solutions that could

be implemented now and after the next parliamentary elections. These long-term solutions were to answer what ideally the state we want to live in should look like. The council works in 14 teams: Women's Rights, LGBT+ Rights, Rights of Persons with Disabilities, Rule of Law, Secular State, Education, Workers' Rights, Health, Mental Health, Fight against Fascism, Media, Culture, Climate, and Animal Rights. The proposals developed by the council are published online on the Loomio platform. The users can discuss and vote on the proposals.

Online deliberation is an initiative of the Polish Women's Strike. The inclusiveness of these discussions and their specific purpose indicate their deliberative nature. On the other hand, there is a lack of clearly defined procedures and an ensured possibility to implement proposed solutions. There are also limitations typical of online deliberation. Despite its inclusiveness, the participant groups are relatively small (in some thematic groups, less than ten people). Their statements are often only an expression of their own opinion and not an argumentative reference to the council's proposal or the statements of other participants.

9.4.3.2 Protests organised by the Student Network in Hungary

In December 2012, the Hungarian Government announced funding for only 10,480 free places² for the following year, down from over 44,000 in 2011. This led to nationwide protests beginning on December 10, with student and faculty meetings at various universities, the occupation of government offices, and a meeting with several thousand people at the Faculty of Social Sciences of the University of Budapest (ELTE) where participants formulated their demands to the Government. University meetings and protests were organised by the activists of a Student Network called HaHá ('Hallgatói Hálózat', or HaHá). HaHá is a non-governmental organisation that does not have any leaders or hierarchy but is based on grassroots democratic principles. Therefore, the decision-making process was based primarily on personal participation. Decisions were taken online, through Loomio, or through in-person meetings and forums. Forum technology was the decision-making technique of publicly convened, larger forums, facilitating participation (if someone was on-site). It was developed by the Spanish Los Indignados and brought to HaHá through Occupy. To solve the problem of personal participation, they offered online opportunities and networking. This did not include a large central assembly, but at the same time, each cell (or city by cell) held its assemblies, and there was an online connection between cells. This allowed for the discussion of common and local problems simultaneously, but at the same time, it required a high degree of intercellular communication and coordination (Susánszky - Gerő 2014, 139).

9.4.3.3 Do-it-yourself urbanism came in the creation of a new political party: the Two Tailed Dog Party (MKKP)

Members and activists of the Two Tailed Dog Party gave considerable attention to answering how to change Hungarian society, as changing the conventional line

of thinking in Hungary is of prime interest to the party. MKKP's street interventions are street art pieces and the delivery of Do-It-Yourself urbanism. Deliberation happens during specific meetings where they meet and ideate around public space issues, problems, or discuss how dull pieces of infrastructure can be made colourful and cheerful instead. These sessions are called "Rendkívüli Ügyek Minisztériuma" or "The Ministry of Extraordinary Affairs", and famously transform street infrastructure such as cabinets and ventilation shafts into SpongeBob SquarePants or mushrooms or pieces of smiling Lego bricks. Often when the activists of the party deliver an intervention, the police or people from the area ask them about permissions (often in a threatening tone and with reference to potential punishment). Yet, even more often nowadays, people greet the group more kindly and instead direct their anger at public servants who decide that such bus shelters or guerrilla-planted flowers are illegal and have to be removed (Le 2020).

To sum up our findings, we found that deliberative principles in protest movements are addressed on the go. The equality of protest participants fosters deliberation, but opposition to the authorities makes it difficult to include all stakeholders (actors). Moreover, the confrontational nature of the movements is not conducive to consensus-seeking (attitudes) (see Table 9.2).

9.4.4 Local democracy (new opportunities for deliberation)

The strengthening of local self-government that contributes to the civic engagement of residents happens parallel to the emergence of NGOs and urban movements in many cases. The participatory budget is one of the tools that can enhance deliberative practices.

The participatory budget in Poland appeared for the first time in Sopot. Over the next few years, similar solutions were introduced in different cities. Their number grew exponentially: in 2013, 16 were implemented; in 2015, there was 171 (Starzyk-Durbacz 2016). The participatory budget aimed at managing local finances more effectively, strengthening local identity and civic education, and increasing social involvement and integration in the local community. It was a voluntary initiative of the local authorities where rules were not applied to everyone. The source of knowledge occurred through the exchange of experiences and good practices in which many NGOs participated³. In many municipalities, the procedure was the responsibility of councils and committees whose members were ordinary citizens. Researchers observed both the introduction of deliberative elements and the pursuit of inclusiveness (for instance, by lowering age requirements so that young people could also submit projects and vote) (Starzyk-Durbacz 2016).

On the other hand, funds allocated for civic projects constituted a small part of the entire city budget. The domination of local authorities was evident throughout the process, the criteria for evaluating submitted projects were not always clear, and implementation was sometimes a problem (Popławski 2018). In 2018, a new law obliged local governments to allocate 0.5% of their budget to civic projects every year. These projects were to be selected by a vote. The current legislation does not require any deliberative elements. However, some cities have stayed with

the earlier models (Łukasik 2020). The introduction of rigid rules for the civic budget increases the number of such practices. However, it does not improve their quality of civic participation (Podgórska-Rykała 2019).

The participatory budget has played an essential role in shaping civic awareness and is an important space for NGOs and urban movements (Kubicki 2019). It has allowed many people to take part in deliberation and its potential.

The ‘community budget’ institution was introduced in Hungary by the local Government of the XIX district of Budapest (Kispest), which fulfilled the incumbent socialist Mayor’s electoral pledge inspired by the coalition partner green party. In 2016, the municipality enabled citizens to choose from 16 development projects, while in 2018, items to be put to the ballot were selected from local suggestions, refuting earlier critics who claimed that the process reduced citizen capacity. The Mayor’s manifesto for the 2019 local elections promised to continue the process in each budget year and allocate budget resources based on neighbourhood votes. In 2019, the XXII district of Budapest led by the Mayor of Fidesz-KDNP also decided to introduce participatory budgeting.

Those early birds of participatory budgeting inspired the opposition candidates running for the Mayor of Budapest’s position during the 2019 local elections. Opposition parties managed to turn municipal elections into ‘a referendum against the government’ and gained a majority both in the General Assembly of Budapest and in the majority of the 23 districts of the Hungarian capital city. Following the 2019 municipal elections and the Budapest Municipality, several local governments of Budapest (1st, 3rd, 8th, and 9th districts) allocated a small sum (about 1%) of their annual budget for local participatory budgeting in 2020.

Participatory budgeting has no legal background in Hungarian legislation and its implementation is in a preliminary phase in most districts of Budapest. The PB is created through decisions as part of the annual budget. The implementation of the process is controlled by the Mayor or a designated Deputy-Mayor of the municipalities with different levels of commitment to take up its recommendations. Budapest has a dual self-government system; there are different models of participatory budgeting in the districts and the City Council of Budapest. Participatory Budgeting in Budapest mostly resembles the participatory modernisation model of PB (Sintomer et al. 2016: 47) that offers consultation on public finances for citizens and gives local people a say in planning a small percentage of the total budget (Oross & Kiss 2021).

A participatory budget offers the possibility to use deliberation (at the level of rules), has the potential to develop self-government and civic attitudes (attitudes), and its implementation depends on the involvement of residents, authorities, and officials (at the actor level) (see Table 9.2).

9.5 Conclusion

The appearance of deliberation in post-communist countries such as Poland and Hungary was connected to political transformation processes. Deliberation was associated with transparency of the authorities and participation of citizens in

decision-making processes. It also gave rise to hopes for civic education and the transformation of the public sphere. Solutions worked out in consultations, beneficial to all, were to replace authoritarian decisions imposed from above. Involved citizens were to replace passive masses. Politicians began listening to voters and treating them as partners and not paternalistically. Rational argumentation and open discussion were to replace propaganda and official orders. However, this ideal has not yet been fully achieved. Populism invokes the people's voice without actually allowing citizens to have a say. A tendency to arbitrary decisions and centralisation are still present in the attitudes of the political elite. The appeal to national pride and emphasis on the state's power is not always accompanied by an appreciation of citizen empowerment, even if such slogans appear in political rhetoric.

This chapter revealed how different social actors treat deliberation within two polarised societies. The Hungarian and Polish cases show conditions for deliberative practices in relatively young democracies and political systems affected by populism. Table 9.2 presents social, cultural, and political factors that support or hinder deliberation at three levels: rules, actors, and attitudes.

Table 9.2 Factors supporting and hindering deliberation

<i>Factors supporting deliberation</i>		
Rules	Poland EU requirements (mandatory public consultation on EU projects) Unwritten rules of deliberation in municipal and NGO projects	Hungary A legal obligation of local municipalities to hold at least one public hearing per year
Actors	Municipal authorities NGOs New politicians Urban activists Feminist and LGBT+ activists	Municipal authorities NGOs urban activists Students
Attitudes	Erasmus experience Development of civic awareness and culture International contacts Cooperation between EU twin towns	Development of civic awareness and culture International contacts Cooperation between EU twin towns
<i>Factors undermining deliberation</i>		
Rules	No deliberation in the constitutional process No obligation of deliberation in participatory budgeting	Public administration reforms entailing radical re-centralisation No legal background regarding participatory budgeting
Actors	Politicians Lack of politically neutral institutions promoting deliberative practices	Right-wing populist party in a dominant position within the party system
Attitudes	Polarisation Lack of education and civic engagement Use of pseudo-deliberation as a legitimisation tool	Polarisation Lack of education and civic engagement Use of pseudo-deliberation as a legitimisation tool

Constitution-making has never been a highly deliberative process within the two countries. For example, regarding the norms of a constitutional amendment in Poland, the adoption of the text requires approval by parliamentarians and by citizens in a referendum, whereas, in Hungary, the Parliament adopts the Constitution – there is no special requirement of popular involvement. Deliberative mini-publics invoked by the Polish President in 2018 were pseudo-deliberate activities due to the non-transparent selection of participants and the formulation of the outcomes of the debates (level of rules). These activities were also driven by the President's desire to enhance his image (levels of actors and attitude). In 2011, the Hungarian Government used National Consultation to provide additional legitimacy to the draft constitution. However, the lack of deliberative events and the careful selection of the 'correct answers' within the questionnaire confirmed a presupposed existing consensus among Fidesz supporters rather than forming it among members of society through the consultation process.

We presented the deliberative practices in creating a party's political programme (Spring example), and concluding that the meetings called 'brainstorming sessions' mirror a marketing use of deliberation. Thus, the subjective treatment of citizens, political accountability, and the requirement for transparency in decision-making are often at odds with the short-term marketing objectives that politicians wish to pursue.

The factors that are not conducive to deliberation are related more to attitudes and beliefs than formal rules and laws. Among the reasons for difficulties in implementing deliberative practices, the low level of political participation in general is mentioned first and foremost, as evidenced by voter turnout statistics. Protest as a civic activity has a longer tradition in post-communist countries than discussing public issues and consensus-seeking; therefore, social movements play a critical role in offering deliberative events for the public.

As the examples described above show, deliberation is sometimes an administrative requirement necessary to legitimise the decisions made by the authorities. It is also used as a political marketing tool. It may become a form of channelling social energy that otherwise may result in protests. Deliberation requires institutions that act as either neutral mediators or engaged promoters of deliberative practices. A participatory budget offers the possibility to use deliberation. It can develop self-government and civic attitudes, and its implementation depends on residents, authorities, and officials (see Table 9.2).

Both analysed countries are undergoing intensive social, cultural, and political changes. The course of these processes and their effects are still unknown today. However, there is no doubt that deliberation has already become one of the prominent tools of political action, especially for younger generations of politicians and citizens. Finally, it is worth noting the importance of membership of the European Union, international contacts, and a new generation of adults who were brought up in a democratic system.

Notes

- 1 Robert Biedroń is a Polish politician, MEP, local government leader, and activist. He is the first openly gay to get into the Polish Parliament. In the past, he was a member

of left-wing parties and has always been involved in sexual minorities' issues. He won local government elections and was mayor of Slupsk for one term. Then, in early 2019, he announced that he was going to form a new political party.

2 In Hungary, is it the government that decides on enrolment quotas.

3 Examples: stocznia.org.pl, partycypacjaobywatelska.pl, budzetyobywatelskie.pl

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Appendix 9.1

Questions and most supported responses of the “Citizens’ Questionnaire on Fundamental Law” (Number of responses: 920 000)

<i>Question</i>	<i>Number of answer options</i>	<i>Most popular answer</i>	<i>Policy impact</i>
Q1: Some people say that the new Hungarian Constitution should only declare the rights of citizens and not obligations. Others argue that, in addition to securing rights, the most important civic obligations that express our responsibility to the community (work, learning, defence, protection of our environment) should be included in the document. What do you think?	3	In addition to rights, the new Hungarian Constitution should also include civic obligations. (91%)	Yes
Q2: Some people suggest that the new Hungarian Constitution should limit the level of indebtedness of the state, thereby taking responsibility for future generations. Others argue that there is no need to require such guarantee. What do you think?	4	The new Hungarian Constitution should set a maximum level above which public debt should not rise. This limit should be respected by all future governments in all circumstances. (53%)	Yes
Q3: Some people suggest that the new Hungarian Constitution should protect common values, such as family, order, home, work, and health. Others do not think this is necessary. What do you think?	4	In addition to the protection of human rights, the new Hungarian Constitution should protect commonly accepted social values (work, home, family, order, health). (91%)	Yes
Q4: Some people suggest that in accordance with the new Hungarian constitution, parents who raise a minor child, may exercise their children’s right to vote in some way. What do you think?	3	According to the new Hungarian Constitution, parents or families with minor children should not be entitled to exercise further voting rights. (74%)	No

(Continued)

<i>Question</i>	<i>Number of answer options</i>	<i>Most popular answer</i>	<i>Policy impact</i>
Q5: Some people suggest that the new Hungarian Constitution should not allow Government to tax the costs of raising a child (i.e. the cost of raising a child should be recognised by the tax system). Others argue that this is not necessary, and that governments should be allowed to tax these costs. What do you think?	4	The new Hungarian Constitution should not allow the Government to tax the costs of raising children. (72%)	No
Q6: Some people suggest that the new Hungarian Constitution should commit to future generations. Others say that no such commitment is required. What do you think?	3	The new Hungarian Constitution should include a commitment to future generations. (86%)	Yes
Q7: Some people suggest that the new Hungarian Constitution should allow public procurement or state support only for companies with transparent ownership structure. What do you think?	3	According to the new Hungarian Constitution, only those enterprises should be allowed to get state support or to take part in public procurement opportunities, whose ownership structure is transparent and all owners can be identified. (92%)	No
Q8: Some people suggest that Hungary's new Constitution should express the value of national cohesion to Hungarians living beyond the borders; others do not think it is necessary. What do you think?	4	The new Hungarian Constitution should express the value of national belonging to Hungarians living beyond the borders and oblige the Government to protect this value. (61%)	Yes
Q9: Some people suggest that Hungary's new Constitution should protect the natural diversity of the Carpathian Basin, animal and plant species, and the Hungaricums. What do you think?	4	The new Hungarian Constitution should protect both the natural environment and traditional species. (78%)	Yes
Q10: Some people think that the new Constitution should protect national wealth, especially land and water resources. Others do not consider it important. What do you think?	3	The new Hungarian Constitution should protect national wealth. (97%)	Yes

(Continued)

(Continued)

<i>Question</i>	<i>Number of answer options</i>	<i>Most popular answer</i>	<i>Policy impact</i>
Q11: Some people suggest that Hungary's new Constitution should allow courts to impose actual life imprisonment for high-severity crimes. What do you think?	3	The new Hungarian Constitution should allow the courts to impose actual life imprisonment for crimes of high severity. (94%)	Yes
Q12: Some people suggest that Hungary's new Constitution should make participation compulsory for anyone summoned to a hearing by a parliamentary committee of inquiry and to impose a penalty on those who stay away. What do you think?	3	The new Hungarian Constitution should make participation compulsory for a person who is summoned to a parliamentary committee of inquiry. (83%)	No

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Appendix 9.2

The questions presented by President Duda in the referendum request, July 2018

- Q1 Are you in favour of:
- a the adoption of the new Constitution of the Republic of Poland?
 - b enacting changes to the current Constitution of the Republic of Poland of April 2, 1997?
 - c leave the Constitution of the Republic of Poland of April 2, 1997 unchanged?
- Q2 Are you in favour of the Polish Constitution, making it obligatory to hold a nationwide referendum on the request of at least 1,000,000 citizens and for the result of such a referendum to be binding, if at least 30% of those eligible to vote take part?
- Q3 Are you in favour of:
- a. a presidential system, i.e., strengthening of the constitutional position and competencies of the President of the Republic of Poland elected by the Nation?
 - b. a cabinet system, i.e. strengthening the constitutional position and competencies of the Council of Ministers and the Prime Minister and election of the President of the Republic of Poland by the National Assembly?
 - c. maintaining the current model of executive power?
- Q4 Are you in favour of constitutionally regulating the election of members of the Polish Sejm:
- a. in single-member electoral districts (majority system)?
 - b. in multi-member electoral districts (proportional system)?
 - c. with a combination of both (mixed system)?
- Q5 Are you in favour of emphasising in the Constitution of the Republic of Poland the importance of the Christian sources of Polish Statehood and the culture and identity of the Polish Nation? Yes/No
- Q6 Are you in favour of the constitutionality of the Republic of Poland's membership of the European Union and NATO, with respect for the principles of national sovereignty and the primacy of the Polish Constitution? Yes/No

- Q7 Are you in favour of guaranteeing the protection of Polish agriculture and Poland's food security in the Polish Constitution?
- Q8 Are you in favour of a constitutional guarantee of the protection of the family, maternity and paternity, the inviolability of acquired family rights (such as the benefits of the 500+ programme) and the entitlement to special health care for pregnant women, children, the disabled, and the elderly? Yes/No
- Q9 Are you in favour of a constitutional guarantee of special protection: of work as the foundation of the social market economy and of the right to a pension, acquired at a statutorily defined age (60 years for women and 65 years for men)? Yes/No
- Q10 Are you in favour of regulating the division of local government units into communes, districts, and voivodships in the Polish Constitution? Yes/No

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