



THE PRESIDENT AND THE CONSTITUTION

**Speech by
the President of Iceland
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The Revision of the Icelandic Constitution

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From the outset, the President of Iceland has taken an interest in constitutional matters, the position of the head of state in the constitutional structure and the possible need to revise the Constitution, and not least the section dealing with the Presidency, its powers and its responsibilities.

Before we consider the situation as it is today, I think it is appropriate to say a few words about the position adopted by our earlier presidents and their involvement in these issues. Sveinn Björnsson became Governor of Iceland in spring 1941. While in that position he did not consider it proper for him to comment publicly on the proposals for a new constitution that were then being made in the Althingi. Behind the scenes, on the other hand, he spoke about 'attempts to grab as much power as possible for parliament' and said he would hardly be prepared to occupy the position of head of state under the drastic terms that were in the offing.

At the beginning of 1944, Sveinn proposed instead that a national convention be appointed to draw up a new constitution for the Republic

of Iceland. But this idea did not get off the ground. The Althingi had its way, the nation at large agreed with it, and no national convention was called.

None the less, Sveinn Björnsson became President when the Republic was established on 17 June 1944. And, as President, he made no attempt to hide his opinions when he spoke about the Constitution of the Republic, insisting that from the onset it had been considered a temporary measure that needed revising at the earliest opportunity. In his New Year address in 1949 Sveinn said:

And now, four-and-a-half years after the foundation of the Republic, there is still no sign of the new constitution which we need to have as soon as possible, and which the people and the political leaders were generally in favour of having enacted at the earliest opportunity. In this regard we are still using a patched garment that was originally designed for another country, with other attitudes, a whole century ago. ... It is to be hoped that the adoption of a new constitution will not be put off for much longer.

Sveinn Björnsson made his presence very much felt in the political sphere. Nevertheless, he was seen by Icelanders as a 'symbol of unity'. Regarding that role, there was not a single word in the Constitution; in these matters, perception, rather than wording, was the decisive factor.

In many respects, Ásgeir Ásgeirsson, elected after Sveinn Björnsson's death in 1952, followed the same path as his predecessor. Before he became President, Ásgeir had said, regarding the Constitution, that either any changes to it would have to be as small as possible 'or, alternatively, really radical so as to inspire people'. However, all plans for the revision of the Constitution came to nothing during his presidency. The political parties were not wildly keen on making changes, and nor was the general public. Admittedly, an important part of the Constitution was amended when new constituency boundaries were adopted in 1959. This amendment was the subject of bitter confrontation both within the Althingi and outside it.

Apart from that, nothing much happened in the history of the Constitution and the office of President during Ásgeir Ásgeirsson's presidency. The Socialists were always antagonistic towards him, but during his final years at Bessastaðir, Ásgeir was an uncontroversial figure, a symbol of unity outside the arena of political conflict.

Revision of the Constitution was still planned during Kristján Eldjárn's presidency in 1968-1980. A new constitutional committee was supposed to submit a bill on constitutional reform in 1974. This did not

happen and the committee members complained that the people ‘had failed regarding the constitutional issue’. They said they had received little or no response to their approach to organisations and the general public regarding constitutional change. People seemed to be happy with their Constitution.

Kristján Eldjárn himself mentioned the revision of the Constitution in public. His choice of words was cautious, however, as it always was. In his third and final inaugural address, in August 1976, he said:

Everyone who has read the Constitution knows that at first glance, the President may seem to have considerable power, but it transpires that this is more in theory than in practice, since the President entrusts his authority to ministers and his executive acts are their responsibility. ... A constitutional committee is currently at work in Iceland. I imagine it will examine, amongst other things, how successful the provisions on the role of the President have turned out to be over the years. I do not know whether amendments will be proposed in this area, or whether such proposals would be adopted. I think people will probably be mainly curious to see whether proposals will be made concerning a change in the part that the President plays in forming new governments; this is an area in which he is expected to play an important role.

Early in 1980, after nearly two years of almost constant cabinet crisis and complex attempts to form a government, Kristján Eldjárn asked himself whether the President should not play more of a role in this area. He read the following comments into his tape-recorded diary: ‘I’m beginning to find this rather an odd situation, this role of the President as a theatre director where in fact he doesn’t make any active proposals, ... I think it could be worth considering just proposing some particular pattern to these people, so giving them some moral support.’

However, Kristján Eldjárn stuck to his praiseworthy position of not trying to determine who should and who should not take part in government. To this extent, he was certainly a non-political president. He lived up to the title of a unifying symbol, and that was the sort of head of state that the people wanted at the time.

Vigdís Finnbogadóttir knew this. As President from 1980 1996, she read the Constitution as meaning that ‘the President was above politics’. She stated this view formally when she approved the Act on Iceland’s membership of the European Economic Area at the beginning of 1993:

Ever since the establishment of the Republic of Iceland, the office of the President has been in the process of formation. In this, one principal element in the office has been steadily growing stronger: to be independent and above party politics and partisanship, and at the same time to be a common denominator for Iceland's national culture and our educational and cultural policy, a symbol of unity and not disunity.

Constitutional committees were still at work during Vigdís Finnbogadóttir's time as President, and now various amendments found their way into the Constitution: the lowering of the voting age, the abolition of the bicameral structure of the Althingi, an amended provision on the dissolution of parliament and a new human rights chapter. However, as before, a comprehensive revision of the Constitution still did not come about.

Ólafur Ragnar Grímsson was the fifth President of the Republic, elected in 1996. He was the first to exercise the power to refuse to approve legislation; meanwhile, constitutional committees continued their work. Up to the banking collapse in 2008 there was not much to indicate that they would produce any great results, but the economic crisis proved to be a watershed. National conventions were held, a Constitutional Law Committee was appointed and a Constitutional Convention was elected; this was later re-named the Constitutional Council. In summer 2011 the council submitted its proposals on a new Constitution to the Althingi, and when parliament was convened that fall, the President expressed his view of the proposals in a way that aroused attention: 'The proposals by the Constitutional Council entail important changes to Iceland's constitutional structure,' said Ólafur Ragnar; 'In effect, they would be the basis of a new constitutional structure, a democratic system different from what the nation is used to, very different from the one we have known for decades.'

More than five years have passed since the Constitutional Council's proposals were unveiled. I cannot predict what will become of them. On the other hand, history shows that those who occupy Bessastaðir have had to express their views on the position of the President in Iceland's constitutional structure. They have gone to varying lengths in doing this, and in response to different situations. Each president has shaped the office according to his or her own wishes, the spirit of the times and the needs of the moment, within the framework set by custom, tradition and the constitutional structure itself.

This summer another milestone was reached with the election of a new head of state. In the run-up to the presidential election, I described my position on constitutional change in these words:

The President should promote consensus regarding the Constitution of Iceland. It needs to include provisions on the right of a specific number of voters to demand a referendum on legislation from the Althingi. Also, the powers and responsibilities of the President of Iceland need to be better clarified. On these questions, the President should adopt his own official standpoint, since they have a direct bearing on his position.

In my inaugural speech on 1 August, I drew attention to the responsibility that rests with the Althingi in these words:

If parliament is incapable of responding to calls from large numbers of voters and the declared will of the political parties for Constitutional reform or review, then we are in trouble. In this connection I stress the value of settling for partial victories and making compromises.

I repeat this call now. Politics is the art of the possible.