

(Of the challenges of) Institutionalizing Deliberative Democracy: the 'Tuscany laboratory'

by Antonio Floridia and Rodolfo Lewanski¹

'The future of deliberative democracy also depends on whether its proponents can create and maintain practices and institutions that enable deliberation to work well'
(Gutmann and Thompson 2004, 59)

Deliberative initiatives amount to 'paternalistic imposition'
(Neble *et al* 2010, 566)

Summary

Though deliberative theory has attracted considerable and increasing attention from many quarters, a relevant question that has not yet received adequate consideration is whether it can -and should- be institutionalized (Fung *et al.* 2005), and, if so, how and to what extent. Although there have been many successful 'one shot' experiences of deliberative participation, there are not many examples of institutionalizing it as a routine practice. This in turn raises a number of issues, one being the relationship of deliberative processes with representative institutions and processes.

Though compared with other developed nations, Italy traditionally has not been a leader in the use of public participation practices², a number of local administrations and of regions have become increasingly active in this field over recent years.

At the end of 2007 the Region of Tuscany passed Law no. 69 defining "Rules on the Promotion of Participation in the Formulation of Regional and Local Policies"³ (henceforth the Law or Law no. 69/07), an innovative legal provision explicitly aimed at pro-actively promoting citizen engagement in local and regional decision making. Thus, the law institutionalizes citizen participation; furthermore, it does so by incorporating a number of features explicitly derived from deliberative theory⁴.

Thus, Tuscany has become a remarkable 'laboratory' for empirically testing the validity of

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² A recent overview of significant participation practices is offered in Dipartimento della Funzione Pubblica 2007.

³ The text of Law no. 69/07 can be found at <http://www.regione.toscana.it/partecipazione>. The section on participation also contains all the documents regarding the process undertaken for the formulation of the Law, including texts and video recordings of events to which reference is made in this article.

⁴ According to Carson and Lewanski (2008), 82, it is possible to relate the Law to the four core principles of the Brisbane Declaration, considered a best practice description of deliberative democracy):

- 1) Integrity – where there is openness and honesty about the scope and purpose of the engagement
- 2) Inclusion – where there is opportunity for a diverse range of values and perspectives to be freely and fairly expressed and heard
- 3) Deliberation – where there is sufficient and credible information for dialogue, choice and decisions, and where there is space to weigh options, develop common understandings and to appreciate respective roles and responsibilities
- 4) Influence – where people have input in designing how they participate, when policies and services reflect their involvement and when their impact is apparent.

deliberative participation in the real world, verifying the effects and possible benefits of institutionalizing it, and applying a specific model aimed at making representative government and mini-publics not only co-exist alongside each other, but actually become complementary and mutually re-enforcing. One way or the other, the results will be of relevance to those – be they scholars, practitioners, politicians or polities- interested in such democratic innovations:

Law no. 69/07 might well offer some valuable teachings on citizen engagement well beyond the Tuscan borders, in Italy and internationally. At this stage, an analysis of the strategy and 'tools' set out by the Law offers a stimulating opportunity to reflect on how authorities might go about actively promoting and institutionalizing citizen participation.

Though it is not yet possible to offer an in-depth analysis of the outcomes of the Law, this paper offers some initial insights: it examines the reasons that brought about the Law and the -also participatory- process through which it was designed; it illustrates the goals of the Law and how these have been translated into legal provisions, with specific attention to the role the administrations (including an *ad hoc* independent Authority) entrusted with the implementation of the Law; it highlights the deliberative traits of the Law; and finally it offers a preliminary discussion of the implementation of the Law during its first three years of existence (2008-2010), illustrating the activity carried out and some of the causes of the implementation deficits encountered.

1. Institutionalizing participation

The term 'participation' carries a great deal of semantic ambiguity -especially in the discourse of such actors as politicians, stakeholders and lay citizens-, which makes it difficult to pinpoint precisely its meaning in discussing the topic. Following Verba, Nie and Kim (1978), political participation broadly speaking is any act intended to influence the behavior of those empowered to make decisions, or political processes in general. Similar definitions however are too broad for the purposes of this discussion. Instead, here participation is used in a more limited and specific meaning, referring to the involvement of citizens and/or stakeholders in discursive/dialogic (in the general, greek sense of conversation between persons) interactions somehow connected to issues of public or collective relevance (often, but not necessarily, perceived as problematic) on which choices are in order.

Traditional forms of political participation -be it enrolling in a party or simply casting a vote- appear to be undergoing a steady decline over the last decades in many Western countries, connected to a loss of legitimacy and trust towards the polity. Social movements since the '60s have drawn the attention to the contradiction between democratic principles and actual practice, by which policy choices are perceived to reflect the influence of elites and interest groups rather than the will of the people. In the face of the disaffection of many citizens towards representative democracy, there has been growing interest (amongst scholars, but, more importantly, politicians, such as G. Brown in UK, G. Papandreu in Greece, S. Royal in France, B. Obama in the U.S.) towards engagement in the attempt to 'bring the people back in' (after all, 'democracy' means 'power of the people'). Hence, the quest for new modes of participation, and the development of innovative ways to engage people, in different polities and cultures, from anglo-saxon to South American to European (for illustrations see Sintomer and Allegretti 2009; Bobbio and Lewanski 2007; Hartz-Karp 2007, 4): new approaches have been proposed, tested and developed by professionals, political leaders, public administrations, academics, societal associations and ordinary citizens alike, often fruitfully

cooperating in the endeavor.

The interest for citizen engagement, especially by segments of the polity, however poses a delicate issue: should participation be institutionalized -meaning that public authorities establish modes, conditions, rules and procedures on such crucial aspects as when, who, what, how? (Fung, Gastil and Levine 2005).

Institutionalization -and thus regulation to some extent- of public involvement is favored by some and feared by others, on the basis of arguments that appear to mirror each other from opposite perspectives: opponents fear that encapsulating participation will suffocate societal spontaneity, if not offer opportunities to outright manipulate participants, processes and outcomes, thus emptying participation of any substantive significance. On the contrary, those who support institutionalization maintain that it can enhance qualitative standards of participatory processes as well as upgrade their chances to exert some actual influence on choices and policies. Both visions probably hold some truth; rather than approaching the issue dogmatically, it's more useful to verify the effects of institutionalization solutions empirically in specific contexts.

Participation institutionalization takes many forms: cities (eg Montreal)⁵, regions (e.g. Catalunya⁶) and nations (e.g. *Office of Public Engagement*⁷ set up by the Obama Administration, albeit without much effect until now) have created *ad hoc* offices, departments, or authorities (such as the French *Commission Nationale du Débat Public* - CNDP). Others have set up specific policies to promote and support engagement activities (in Italy, the Puglia Region⁸); others still have allocated resources to support such processes (the Latium Region for example passed a provision -art. 50 of Law no. 4/06- allowing the Region to allocate funds to municipalities willing to experiment citizen 'engagement mechanisms' in decision making). Finally, others have pushed institutionalization even further by passing legislation specifically aimed at pro-actively promoting citizen engagement. This is the case of the Tuscany Region that passed Law no. 69/07, followed by the Emilia-Romagna Region (Law no. 18 of February 9, 2010).

2. Law no. 69/07

Five main features of Tuscany' Law no. 69/07 should be highlighted.

- 1- It is, at least as far as we know, the first law in the world passed at the '*meso*' (regional) level of government, aimed at pro-actively promoting citizen engagement.
- 2- It is also one of the first attempts to translate deliberative theory into institutional practice (Florida 2008), being quite explicitly inspired by its normative principles (this aspect is discussed in 4.2.3).
- 3- It was itself passed through a meta-participatory process that, alongside with the formal procedures typical of regional legislation, also involved deliberative societal participation (discussed in 3.2).
- 4- The implementation is widely (but not entirely) entrusted to an independent Authority (4.2.2).
- 5- It is a 'sunset' law, having a pre-determined duration and automatically expiring at the

5 *Office de Consultation Publique*; www.ville.montreal.qc.ca/consultation.

6 www.gencat.cat/drep.

7 www.whitehouse.gov/ope.

8 www.pugliattiva.regione.puglia.it.

end of 2012, unless the Regional Assembly decides to explicitly pass it again (as is or modified) (art. 26). This is perhaps a unique feature in the Italian legislative panorama and reflects the pragmatic approach adopted: after five years of experimentation the Tuscan Region and society, involved through another 'meta- participatory' process, will decide on the actual added value of the Law and the policy it expresses in the light of the assessment of its results. Thus, Tuscany is at the moment a laboratory where deliberative theory and methods are actually tested in a variety of contexts and in reference to a number of topics.

3. Law no. 69/07: the formulation process

3.1 The reasons: social capital and civiness at risk

What are the reasons that brought about this innovative Law in Tuscany? A background factor is certainly represented by the erosion of social capital, coupled with the decline of the role of political parties.

Tuscany⁹ has always been one of the best equipped regions of Italy in terms of social capital and civiness¹⁰ (Putnam 1993; Cartocci 2007). It has been a very cohesive region in social terms, with a distinctive and solid political culture inspired by the values of democracy and solidarity, very high levels of political participation and a rich grass-roots associations network.

Nevertheless, starting the late '80s the Region underwent major transformations of its left-wing political subculture, as we shall see shortly, within the context of an overall crisis of the Italian political system. Though the left has continued to gain high electoral support and to govern the region, the social and cultural context has deeply changed. As elsewhere, Tuscany too has experienced the crisis of accountability and responsiveness circuits, the erosion of traditional forms of civic participation, the weakening of political parties, and the detachment from and mistrust towards political institutions.

The loss of trust can be seen quite clearly in the falling turn-out rates during elections, that in Tuscany was always well above 90% from the end of WWII until the '80s; in the first half of the '90s it decreased slightly, but still remaining around the 90% threshold; in 1995 elections voter participation dropped to approximately 85% and continued to decrease -albeit with roller-coaster ups and downs- until 2008; in the last regional elections of 2010 turnout rate fell dramatically to 60.7%, the second lowest result amongst all regions, with a decrease of more than 10% as compared to the previous 2005 elections¹¹. Furthermore, whereas Tuscany's turn-out was always higher by (3-5% approx.) as compared to the national rate, in recent years the difference has become less significant, if at all.

Further eloquent indicators of the state of 'social capital' are offered by a recent survey carried out among a sample of 1,000 Tuscans (EMG 2011):

- only 34% are interested to some extent in politics;

⁹ Tuscany has 3.5 million inhabitants.

¹⁰ According to Cartocci 2007, Tuscany has the second highest social capital among Italian regions.

¹¹ The result however is also justified by the very low level of uncertainty about the final outcome since the victory of the left was quite clear, as stated by Istituto Cattaneo, *Elezioni 2010: un astensionismo senza precedenti*
http://www.cattaneo.org/index.asp?l1=pubblicazioni&l2=comunicati_stampa

- only 29% feel near to apolitical party;
- only 15% trust national political parties;
- only 5% are enrolled in a political party, 18% in a trade union;
- only 10% have taken part in initiatives promoted by political parties (whereas 12% in public protests);
- 58% trust local and regional governments (whereas 85% express trust in NGOs and 82% in the President of the Republic);
- as far as participation is specifically concerned, only 25% say they would be interested in taking part in local initiatives concerning their community.

Three aspects should be specifically underlined.

1- The change in the role and features of grass-roots associations. Tuscany has a tradition of citizen involvement and social capital, that was broadly expressed by associations embedded in the prevailing political subculture (Florida 2007). In a political subculture such as that of Tuscany, the main mass party (the former PCI-Italian Communist Party-, now *Partito Democratico* -PD-) historically fulfilled a central role of coordination of the dense local grass-roots associations network. In the last decades, this role increasingly weakened, resulting in a growing autonomy of such associations from the political and cultural framework.

At the same time, new forms of mobilization have emerged in Tuscany, as elsewhere, giving rise to 'spontaneous' movements -such as citizen committees-, often focussed on very local and specific issues (mainly environmental and urban safety), strongly critical towards public authorities and policies. During the formulation of the Law, if a part of the more active civil society supported the idea of a law on participation, other quarters suspected it would be a means through which the regional government would instrumentally try to silence dissent and opposition movements. More broadly, one could say that the Law represents an attempt to offer an institutional alternative channel to the 'committee phenomenon', social movements and local conflicts (Della Porta 2004).

2- The crisis of political parties. Historically, Tuscany was part of the so called 'red regions' where the socialist movement set root in the last decades of the 19th century; after WWII, these regions located in the central part of Italy (including also Emilia-Romagna, Marche, Umbria and Liguria) were constantly governed by the left -namely the PCI, either alone or in various coalitions with other smaller leftist parties-. In this context, political parties largely fulfilled their role of articulating social demand, thus providing a linkage between society and the institutions. This role appears now to be widely compromised.

3- The new institutional structure of local governments and the evolution of the model of regional governance. Local institutions are trying, with increasing difficulty, to fill in for the role left vacant by parties, but they have their own problems to cope with. The institutional arrangement of local government was reformed in 1993 with the introduction of the direct election of the mayor; as a consequence mayors are stronger being politically legitimated by popular vote, but often they are also more isolated and called to tackle contradictory social demands.

On the regional level, as a great deal of political economy research has shown (Demos & Pi 2008), the existence of a context of trust and established mechanisms of social cohesion, as

well as of strongly legitimized local institutions, has been an essential component to the 'Tuscan way', characterized as it was by mechanisms for governing regional development based essentially on industrial districts of small and medium sized enterprises. Over time, these mechanisms have evolved into a formal system of regional governance centered on a complex architecture of social and institutional negotiations between the government and major interest groups, guaranteeing social regulation and cohesion. Nevertheless, such mechanisms appear to be increasingly inadequate, also because of the above mentioned crisis of representation also affecting regional organizations of social and economic interests.

Summing up, the situation Tuscany faces today thus seems quite contradictory. On the one hand, its still rich network of grass-roots associations, an inclination towards socio-political participation and specific forms of mobilization of civil society continue to represent genuine expressions of civicness. However, increasingly, this potential for civic commitment no longer finds a channel of expression or, more importantly, of significant interaction with decision-making institutions. The participative and associative resources already present in the area could constitute a favorable ground for trying out innovative solutions; the 'antibodies' are still active and, at the origin of the political project was the belief that it would be possible to revive them, and that political institutions should have a major role in accomplishing this.

On the other hand, the traditional dynamism of civil society produces movements taking the shape of single issue protests claiming visibility for specific interests and often arising from fear, suspicion or even radical insecurity regarding the consequences of collective choices made by political institutions for the life of a community. Movements, citizens committees (Della Porta 2004) and protest, which at the same time derive from-and in turn fuel-disillusionment and detachment from political life-,often arise in the attempt of exercising some kind of veto power.

In proposing the Law on participation, Regional policy makers were aware¹² of the overall legitimation crisis of political representation in the eyes of society and that there was an *impasse* in the traditional democratic circuit. The Law was originated against such background featuring both change and persistence, difficulties and opportunities. It quite clearly represents an attempt to offer a -however partial- response to the described downward spiral, which tends to feed distrust and deteriorate the linkage between society and political institutions, putting at risk the traditional heritage of the Region's civicness. The strategy is to offer a 'space' where the participative potential of Tuscan society can express itself, encouraging the creation of areas for public deliberation in which all social groups and viewpoints could interact with public institutions within actual decision-making processes.

More broadly, the new Law aimed at re-activating three virtuous circuits: firstly, between participation and representation; secondly, between participation and decision-making; and, finally, between sectoral and general interests.

3.2 The process: institutionalizing participation through meta-participation

Law no. 69 passed after a rather lengthy process lasted two years. One noteworthy aspect of the Law is the meta-participatory character of its formulation process, i.e. it was drafted using the kind of citizen participation that it advocates, engaging approximately one thousand individuals across the region. Also, the process merged participatory democracy with the

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As clearly stated by A. Fragai at the kick-off meeting in January 2006 <http://ius.regione.toscana.it/partecipazione>

mechanisms of representative democracy, since the Law had to be passed by the Regional Assembly.

Claudio Martini, the President of the Region at the time, originally proposed the idea of legislation to enhance citizen involvement in his 2005 election campaign; the idea was included in the program presented by the centre-left coalition for the regional elections. Martini was supported by advocacy groups such as the association *Rete Nuovo Municipio* (the 'Network for a new municipality'), which is committed to citizen participation in local government. He was joined by the *Assessore* (Minister) responsible for local government and institutional reform Agostino Fragai. Martini and Fragai's political strength sufficed to ensure the successful approval of the Law, but not to eliminate the skepticism of many members of the Regional Government¹³ and Assembly -even though belonging to the same majority party (PD) that passed the Law in the end-, nor the doubts about the efficacy of public participation coupled with the belief that representatives were elected after all to take the responsibility to make decisions. Also, Martini could not run in the up-coming regional elections because legal provisions prevented him from serving a third term. As we shall see, the consequences of the lack of convinced support from the start by the political majority itself and the increasing political weakness of its policy entrepreneurs (i.e. Martini and Fragai¹⁴) fell upon subsequent implementation of the Law.

The innovative character of Law no. 69/07 of Tuscany lies not only in its specific content, but also in its original formulation process in which, alongside the ordinal institutional process normally required for passing regional legislation, a large number of institutions, stakeholders and ordinary citizens contributed significantly to defining the goals, contents and features of the Law itself. It was an original route, later defined as 'an interesting case of meta-participation, i.e. of citizens deciding how citizens should participate' (Lewanski 2006, 9).

In fact, some one thousand individuals are estimated to have, in various forms and on different occasions, contributed to the legislative text as it was being drafted. This choice proved effective not only for its contribution to the outlining of the Law, but also because it enabled the Law's content to be influenced by the manifold participation experiences that already were taking or had taken place throughout the region and elsewhere.

The process started on January 13, 2006 with a crowded region-wide meeting, the very title of which -'The routes to participation. Towards a regional law on participation'- conveyed a message of openness and enquiry. The meeting was attended by organized groups and institutions potentially concerned with the Law in progress: municipal councillors and managers in charge of participation, professionals in the field, grass-roots groups, associations and interest groups, as well as academic scholars.

This preliminary stage culminated in an international conference, held on May 19¹⁵, that discussed various models of participative democracy. It is worth noting that this was the first and most comprehensive scientific meeting held in Italy on such topic. If, up to that point,

¹³ Personal communication to Lyn Carson by President C. Martini, Sydney, March 1, 2008, in Carson and Lewanski 2008, 74.

¹⁴ *Assessore* Fragai belonged to the minority wing of the PD, and was not proposed by the party as a candidate in the elections of May 2010, eloquent proof that his initiatives -including citizen involvement- did not enjoy wide support within his own party.

¹⁵ The conference was coordinated by one of Italy's major experts on deliberative democracy Luigi Bobbio of the University of Turin; the speakers, coming from different countries, were: G. Allegretti, L. Carson, D. Della Porta, R. Lorenzo, Y. Mansillon, E. Negrier, Y. Sintomer, N. Wates; their speeches are available at www.regione.toscana.it/partecipazione.

there had been a political-cultural approach to the issue, largely focussed on the experience of Porto Alegre, in this occasion other approaches took the floor, such as the mentioned French CNDP, deliberative experiences with *randomly selected* citizens, or the British models of *participatory planning*; not only did little known experiences reach the debate, but suggestions based on the theoretical model of deliberative democracy were also put forward.

After this conference, a broader 'listening stage' targeted towards civil society began: numerous open meetings were held across Tuscany; the discussion focussed on the possible aims and instruments of the Law. Local governments most committed to these matters often promoted these meetings.

The Region decided to conclude this phase by actually putting theory into practice, i.e. applying a deliberative methodology¹⁶ in order to discuss and decide the contents of the bill itself. The topics and questions that had emerged during the consultations were fed into a large-scale 21st Century Town Meeting¹⁷ that took place in Carrara on November 18, 2006. Participation to the event was open (information about the event was broadly spread out through various channels); of the 500 citizens who voluntarily enrolled, 408 actually showed up (many arrived on a special train that collected them from areas throughout the region) (Freschi and Raffini 2008). Rather than 'ordinary' citizens, the event mainly attracted participants who were already active in public life or in local administrations. Additionally, a small group of 20 were randomly selected from the population¹⁸. According to the conveners (Bobbio 2007, 97), there was a broad span of socio-demographic representativeness (gender, age, geographic origin), but the event attracted mostly members of associations from the left of the political spectrum, whereas rightist associations were absent, perhaps out of mistrust in the process.

The role and tasks of the participants were not perfunctory. At the opening of the event, President Martini explicitly made the commitment that participants' recommendations would be included in the Law.

One major indication emerging from the discussion the idea that, contrarily from what one might expect considering Tuscany's rich association tradition, the new Law could and should act not as an undifferentiated aid to participative processes and local associations, but rather as a factor encouraging and spreading innovative forms of participation structured in phases and according to specific methods¹⁹.

Once societal consultation was over, the more institutional phase began: the conclusions of the Town Meeting and the first indications concerning the Law's content were discussed at a meeting of the regional government (*Giunta*) and, subsequently, regional offices began to work on the first draft of the bill.

¹⁶ In this respect, it is interesting to note that the large majority of those attending, as the final questionnaire showed, appreciated the novelty of the event they personally experienced, also confirming that many are by now weary of traditional forms of participation such as assembly-type meetings: 74% were 'very' or 'quite satisfied', the most appreciated aspect being the 'discussion in small groups'.

¹⁷ The event followed the AmericaSpeaks model: www.americaspeaks.org

¹⁸ To the question asked at the beginning, "on behalf of whom are you participating?", one third replied that they were there "for themselves", 35% "on behalf of an association", 25% were from local government and the remaining 5% were randomly selected citizens.

¹⁹ The most common answer to the question "in your opinion, a participative project should be financed...", was "yes, provided it is structured according to precise stages, and uses a participative method" (37%). Likewise, questioned on "how should debate on large public works be carried out?", 42.7% responded that it "must be structured, facilitated by an external body and take place within a set deadline", whereas 33.8% showed a certain distrust of external "facilitation" ("must be structured but carried out autonomously on the basis of clear information about the issue at hand"). Only 12.9% replied that public debate "should not be structured but should be open to all the possible forms of participation; and it should only end when all the matters have been discussed".

At the same time however, given that a need for continuity had been brought forward, the external consultation was extended. At the end of the e-TM a delegate from each of the 48 tables was elected by the participants themselves to represent their collective views, to maintain links with the Region and to inform the TM participants about the developments of the legislative initiative. In the following months, these delegates reconvened twice (in the months of February and March) to assess the preliminary documents and the first draft of the bill. These meetings were also interesting by virtue of the method used: small discussion groups, reports in plenary session and then a speech by the regional Minister Fragai, who assessed the contributions emerging from the discussion, drawing indications for the amendment of the text. When alternative solutions were put forward during the debate, the Minister also took on the political responsibility for the choices made between the various options.

The bill was then discussed in a seminar internal to the Region itself, with the participation of managers and officials from all departments of the regional government. On May 24 a preliminary draft of the Law was further discussed during a seminar attended by jurists, political scientists and sociologists, resulting in a fruitful exchange of expertise in the different subject matters and useful suggestions for the better solution to outstanding issues. In July consultations were held on the draft bill, as prescribed by regional rules on normative output, with representatives from local governments and social and economic actors.

Lastly, on 30 July 2007, the regional Government finalized the draft and sent it to the Assembly; the Institutional Affairs Committee discussed and passed it on December 6, introducing further amendments to the text, several of which were significant, but not to the point of modifying the outcome of the process in any substantial way. Other changes were discussed and agreed with regional Government departments, especially as regards to a more effective coordination with existing laws regarding the environment and the management of the territory. The Assembly, as already mentioned, passed it on December 19, 2007 with a broad support (it obtained the votes of the centre-left majority, whereas of the majority of the centre-right opposition abstained; only one councillor of the right voted against).

Summing up, the Law was the result of quite an un-typical route as compared to the standard legislative circuit, which is usually based on a draft proposal presented by the executive offices to the concerned stakeholders only. In the case of Law no.69 the role played by both societal and institutional actors was intertwined and implied to some degree at least the empowerment of societal participants. Also, it underwent constant public scrutiny, as witnessed by the large number of accesses (160.000 in 2006 alone) to the pages on the participation section of the Region's website, where all the acts and documents pertaining to the bill were regularly available.

Finally, there was a systematic use of so-called "back-talk": at each stage: documentary material such as 'maps, histories or salient episodes of the deliberative process' was re-inserted into the process and 'made available to participants as new subject for discussion and assessment', creating new 'opportunities for reflecting on the critical events and aspects of the deliberative process' (Lanzara 2005, 67). Thus, discussion never resumed from scratch; each stage was documented and the various contributions were always taken into account, even if they were not actually used in the texts of later stages.

4. Law no. 69/07

As mentioned above, Act no. 69/07 is probably the first instance in which the normative principles of deliberative democracy have been transposed into an legislative framework. As we shall see, many of the requirements a participative project must display, in order to be admitted to regional support, are those typically prescribed by such principles. Also, it provides an interesting solution to the challenging task of linking public deliberation with institutional decision-making processes and, more generally, participative with representative democracy. The following sections deal with these aspects.

4.1 Law no. 69/07: the goals

Law no. 69/07 aims at pro-actively promoting citizen involvement 'as an ordinary form of administration and government ... in all sectors and at all levels' (art. 3.1 b; it asserts its legitimacy in this by referring directly to the Regional Statute -artt. 3 and 72-). More specifically it aims at (art. 1):

- renewing democracy and its institutions by integrating it with practices, processes and instruments of participatory democracy;
- increasing and regenerating social capital and cohesion (Florida 2007);
- empowering citizens' possibilities to contribute to public policies; the Law states that participating to local and regional policy making constitutes a political right of Tuscan citizens; the fact that citizens are entitled to requesting financial support to participatory processes (even in conflict with administrations) represents a practical recognition of such right;
- improving ties between the governments and society/citizens;
- giving voice to diffused interests;
- pursuing social equity: processes thus should be organized in ways that in fact favor active participation with equal opportunities for diverse cultural and social groups, physically disabled individuals, and promote gender equality and inclusion of weaker members of society;
- tapping into the knowledge, skills and forms of civic engagement already present and active in Tuscan society.

4.2 Law no. 69/07: the design

The Law encourages and supports but does not impose public participation. As Regional President Martini stated, 'one cannot order participation by decree' (Bobbio 2007): participation cannot be imposed upon free citizens, nor does the Region have the legal power to demand local authorities adopt participatory processes.

Thus, Tuscany's strategy is to provide incentives, support, assistance and, not least important, legitimation to societal and institutional actors who are potentially motivated towards citizen engagement. In promoting concrete experiences throughout its territory, the Region aims at disseminating the idea that civic engagement, as quoted above, can be a normal way of deciding on public affairs.

4.2.1 Two types/levels of processes: regional and local

The Law introduces two distinct types of participatory processes, one concerning large

infrastructure projects having a significant environmental or social impact on a regional scale, the other enhancing citizen engagement in relation to local policies, decisions and issues.

In the first case, the Region aims at dealing pro-actively with decision making processes related to the siting of projects that typically, in Tuscany as elsewhere, give rise to considerable conflict, in which ad hoc 'spontaneous' citizen committees emerge as actors. Existing decision-making procedures (such as environmental impact assessments) have proven to be ineffective in dealing satisfactorily with such intractable conflicts, and Law no. 69, as discussed, was originated also as a response to this phenomenon.

In such cases Law no. 69 (articles 7-10) introduces a process somewhat along the lines of the French *débat public*. In the initial phase of the project (when options are still open, in order to avoid the DAD -Decide, Announce, Defend- syndrome) proponents, local authorities or citizens (at least 0.5% of all Tuscans above the age of 16) can ask the Regional Participation Authority -discussed shortly below- to set up a public debate. Thus, rather than taking place 'behind closed doors', the discussion occurs in the public sphere. The Law however does not specify minimum financial or physical thresholds of the projects that should be the object of such processes, leaving a large (excessive? Ciancaglini 2008: 9) discretion to the Regional Authority, who must decide on the actual relevance of the project. Once the process (lasting six months, except when there are grounds for an extension) is complete, the person in charge of the process (nominated by the Authority) publishes a report on the process and its outcomes. It is important in this respect to point out that the public debate does not imply any obligation for the proponent who, within three months of the publication of the report, faces three options: a) cancel the project entirely or present an alternative project; b) modify the project, detailing how this will be done; or c) pursue the initial project, justifying the reasons for this choice. In any case, the Region in defining its programs for the construction of public infrastructures, gives priority to those projects that have undergone such a participatory process.

During the first three years of the Law's implementation, no request of carrying out a public debate has yet been forwarded to the Regional Authority.

The 'second leg' of the Law aims at promoting participation at the local level, i.e. with reference to a part or the entire territory of a specific local administration -e.g. a municipality, a province, etc.- or of several administrations jointly.

Such processes can be proposed by four categories of actors:

- a) local authorities;
- b) residents (meaning both Italian citizens and foreigners, provided regularly residing within the affected area) above the age of 16; in such cases signatures of a percentage (from 0.5 to 5%, depending on population) are required;
- c) schools;
- d) firms, in the case of new projects having relevant social, economic or environmental impacts (in such cases also the signatures of citizens as indicated above are required).

Proposals can be submitted three times per year, at the end of March, July and November respectively.

To the proponents, Law no. 69/07 offers various forms of support: financial, methodological - by the Regional Authority-and logistical (such as the possibility to use its electronic network

and technology).

The main form of support is obviously financial. The relevance of this aspect cannot be stressed enough. Sources -such as foundations and donations- funding participatory processes are less accessible in Italy as compared to other Western countries. Thus, funding by the public sector is essential if 'high quality' participation is to be promoted. Tuscany's Law does not constitute a symbolic policy insofar as it allocates substantial -however insufficient as compared to requests, as we shall see- resources to fund the implementation of the Law, i.e. one million euro for the years 2008, 2009 and 2010. Of this sum:

- 150,000 euro are allocated yearly to the Regional Government for regional scale participatory processes²⁰.
- Further 150,000 euro per year support training activities and the drafting of information materials targeting regional civil servants, local authorities (both political and bureaucratic personnel), and civil society at large (e.g., associations, teachers, students). The aim is twofold: to contribute to the growth of a participation culture within administrations and to develop in-house capacities by spreading relevant skills and know-how.
- The remaining 700,000 euro²¹ are managed by the Regional Authority for the tasks entrusted to him, the main one being offering support to local processes (as mentioned, no regional public debate has yet occurred).

4.2.2 The Regional Authority for Participation: a pivotal role

Neutrality is fundamental for the credibility of participation processes in the eyes of both participants and society at large. For this reason the implementation of the Law -with the exception of the activities indicated above- is by and large entrusted to an *ad hoc* independent Authority²², somewhat inspired by the French CNDP²³ that has the role of 'an independent administrative authority'. In the Tuscan case, however, the Authority is a 'monocratic' body (i.e. at the same time both an individual and an entity), rather than a commission as the CNDP. The 'independence' refers to the neutrality of Authority; to ensure this and avoid suspicions that parties in power might use participation for a hidden agenda or to manipulate consensus to their advantage, the Authority is nominated by the Regional Assembly according to a complex procedure aimed at nominating him/her, insofar as possible, on the basis of a bi-partisan agreement of the entire body²⁴. Also, candidates for the position must be experts in the field of political science or public law, or have an established experience in the field (interestingly, Italian citizenship is not required); thus, according to the Law, at least, the prevailing criterium should be professional competence (rather than political affiliation). It is worth noticing that, in this respect, the Tuscan model differs considerably from that of other European Regions (such as Puglia and Catalunya) that have entrusted the task of carrying out the promotion of participation to offices depending from the executive power, and thus from

²⁰ In November 2007, for example, Tuscany held a 21st Century Town Meeting about its health policies.

²¹ In fact, at present the compensation and some minor costs of the Authority are subtracted from the 700,000 euro budget meant to support local participatory processes.

²² The full official name in Italian is '*Autorità regionale per la garanzia e la promozione della partecipazione*'; the text of the Law and information on the activity of the Authority can be found at: www.consiglio.regione.toscana.it/partecipazione; the email is: [partecipazione/consiglio.regione.toscana.it](mailto:partecipazione@consiglio.regione.toscana.it).

²³ On the French experience of the CNDP, see: www.debatpublic.fr.

²⁴ In fact the Authority was voted by the Assembly almost unanimously (only a few Councillors of the extreme left abstained from voting), but with a 8 month delay; the Authority took office on October 1, 2008.

the political majority in office at the moment.

The Law however omits to indicate a number of aspects that are essential in guaranteeing actual independence of the Authority in carrying out its activity, such a budget and a staff for the its office and activities. worth noticing is also the fact that the staff of the office is formed by only one administrative staff. So the actual independence of the Authority *de facto* is quite limited since its operational capabilities depend entirely from the Regional Assembly and Government.

The Authority, within the context of the overall goals of the Law discussed above, is entrusted with a number of tasks:

- Assessing and deciding on funding of both public debates on large projects and local participatory processes.
- Formulating criteria for the management of local participatory processes.
- Evaluating the performance and the effects of participatory processes.
- Presenting an annual report on its activities to the regional Assembly; the Report should also outline the outcomes of such processes. The annual Reports should provide the feedback for the overall evaluation of Law, to be carried out at the beginning of 2012.
- Spreading knowledge and documentation -accessible also through web- concerning the processes carried out within the region and their results.

In fact, assessing and funding proposals of local participative processes has constituted the main activity carried out by the Authority (whereas the remaining tasks have somewhat suffered from the lack of sufficient operational capacity).

The Law itself spells out a set of principles and conditions for allocating regional support to local processes:

- Topic: participatory processes must deal with well-defined and circumscribed matters.
- Duration: processes must last no longer than six months (except when grounds exist for an extension of no more than three additional months). In this, the Law aims at avoiding that some actors might use processes to stalemate decisions from being made, and also puts some 'stress' that can be useful to encourage participants to move ahead, but does allow for some flexibility if required.
- Participation is part of a broader decision making process: projects must thus indicate the phase in which participation specifically fits.
- Methods and instruments must be appropriate for the goals and context of the process.
- Process management must ensure neutrality and impartiality.
- Procedures used must be inclusive ensuring same chances of making themselves heard to all points of view and same access to meetings.
- All voices relevant to the process, including those from hard-to-reach social and cultural groups, must be included.
- Actions to ensure dissemination among the public of relevant information -even technical- before, during and after the process is carried out.
- Economic costs must be indicated (if the proponent is a local administration, it must also contribute economic resources²⁵, whereas schools, citizens and firms are requested only to contribute organizational resources).

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The Authority requests local administrations to commit a minimum contribution of 15% of total costs.

Furthermore, priority is given to those processes that:

- Involve vulnerable, disadvantaged or disabled individuals.
- Take place in areas featuring particular social or local difficulties.
- Concern policies or projects perceived to have high impact on the environment or on the landscape.
- Favor equal gender participation.
- Present the best ratio between overall costs and resources made available by proponents.
- Use innovative process design.
- Are requested by a large number of citizens (above the minimum required).

These lists of criteria show the extent to which the Tuscan Law is inspired by the normative provisions of deliberative democracy theory and practice, containing evident reference to a number of traits commonly associated with it such as public discussions prior to decision-making and influence on policy making, inclusion -spelled out both in reference to *who* participates and *how* participation takes place-, methods structuring debate and ensuring inclusion, neutrality and impartiality of the process, dissemination of information.

The Authority is entrusted with the task of verifying the existence of the listed criteria and priorities. However the Law avoids defining too precisely the features of the processes, leaving this to the methodological support provided by the Authority, who therefore has a pivotal role in developing criteria for participatory processes to be funded (art. 5.1 c), giving methodological advice (art. 14.6 b), and negotiating the contents and design of the projects with the proponents (art. 17). Thus he enjoys considerable discretion in making his decisions based on professional judgement (rather than on political criteria).

On this basis, the strategy pursued by the Authority has been to gradually (it is, after all, an on-going learning process and as such requires time) steer design towards features further enhancing the dialogic-deliberative quality of the processes. These are discussed in the following section.

4.2.3 The deliberative traits in the provisions of the Law and in its implementation

Deliberative participation features six main traits: open and free discourse, structured interactions, balanced information, neutrality, inclusion, influence.

Dialogue and deliberation

Contrary to usual discussions in the political sphere -aimed at asserting *a priori*, polarized and partisan positions-, deliberation is based on dialogue (implying active listening) and significant interpersonal communication (Holman 2006) that, by fostering comprehension of differences, can induce individual preference transformation as well as joint building of social meanings and of relationships (Pearce 2002, 8), in a search for shared choices and consensus. Discursive interaction among participants should favor weighing pros and cons of different options and of their respective implications ('deliberation' in its etymological sense of *libbra*, balance).

Appropriate conditions have proven effective in achieving such features, that otherwise are rarely present 'spontaneously' in conversations. Actual dialogue occurs in contexts in which participants perceive that they are adequately 'guaranteed' that their opinions and arguments

are respected and taken into consideration by others, and that relationships are characterized by reciprocity and symmetry, insofar as possible. *Ad hoc* methods or techniques²⁶, basic rules, and neutral facilitators are commonly used to steer discursive interactions in the direction of dialogue and deliberation.

Law no. 69/07 contains explicit reference to such aspects by stating that 'special attention should be given to those conditions capable of ensuring equal possibilities of expressing all points of view' (art. 15.1 f). Furthermore, the 'management of the process should be entrusted to a neutral and impartial actor', in any case, the process must be carried out so as to ensure 'neutrality and impartiality' (art. 15.1 e). It is also interesting to note that such methods should be tailored according to the specific aims of each process and to the context in which it takes place (art. 15.1 d).

In implementing such legal provisions, the Authority has fulfilled his role indicated above of offering methodological advice -and used his 'bargaining leverage' in deciding which projects should be funded- by discussing specific methods to be employed with proponents and their consultants in relation to such variables as the object of the process, the context in which they take place, the resources available. The processes funded by Law no. 69 have experimented with a variety of methods such as eTMs, World cafés, EASW, Citizen Juries; more importantly however, the Authority has tried to avoid the 'mechanical' use of such methods, but rather favored a tailor-made approach adapting and even transforming methods according to each specific situation.

Also, the Authority has introduced further devices capable of ensuring neutrality and credibility of processes, such as the establishment of *ad hoc* committee' supervising processes and validating relevant process aspects. These bodies are formed in such a way as to be balanced and to confer credibility in the eyes of -often skeptical and mistrustful- citizens (e.g. politicians of both majority and minority in the Assembly, stakeholders, opinion leaders, ordinary citizens).

Information

In stark contrast with 'raw' opinions (such as those merging from traditional polls), deliberative participation aims at fostering opinions that, in a balanced way, incorporate available relevant information and knowledge. This becomes all the more essential when the issues at the center of the process are of technical-scientific nature, as often occurs in contemporary societal debates. The assumption of deliberative democracy is that better decisions can be produced by the interaction of both expert knowledge of specialists and experiential knowledge of lay citizens, who can offer expertise in singling out both problems and solutions²⁷. As U.S. President B. Obama's Memorandum of January 21, 2009 states, 'public engagement enhances the Government's effectiveness and improves the quality of its decisions. Knowledge is widely dispersed in society, and public officials benefit from having access to that dispersed knowledge'.

As previously mentioned, tapping into the knowledge and skills present and active in Tuscan society represents one of the explicit goals of Law no. 69/07. And it repeatedly emphasizes

²⁶ Literally hundreds of such methods have been developed over recent years; see www.iaf-methods.org.

²⁷ An interesting example of this occurred within the public debate that took place in 2009 to decide the route of a new highway crossing the city of Genoa, ordinary citizens singled out a route that substantially reduced impact as compared to the options proposed by the proponent; the Mayor spoke of a case of 'popular engineering'; <http://www.urbancenter.comune.genova.it>.

this point: specific action should be undertaken to ensure maximum dissemination among all citizens of information, even technical, before, during and after the process (art. 15.1 h); local authorities must ensure access (also using information technologies) to all relevant information (also in non-technical language) on the topic as well as on the process itself (art. 15.4 c; art. 16.2 f and d).

However, deliberation goes beyond the purely 'technical' dimension insofar as it should also incorporate opinions, preferences, values of individual citizens, institutional actors and societal stakeholders; citizens actually are the only 'experts' when it comes to weighing values and preferences (Lukensmeyer and Torres 2006, 22) and attributing social meaning to facts and data. Though deliberation aims at enhancing reason (Gutmann and Thompson 1996) and argument, processes should also be able to recognize and accept non-rational inputs (emotions, experiences), often present in the personal narratives of participants. Appropriate methods fostering dialogic conversations, as discussed above, play a fundamental role in allowing for such dimensions to emerge and to be 'incorporated' into deliberation.

Inclusion

'Inclusion' refers to a crucial node of deliberative theory, i.e. that all relevant 'voices' - especially those often ignored in more traditional processes- actually can make themselves heard and are listened to.

Every choice -or choice not to choose- on who should or should not be included obviously has relevant implications, influencing the substantive outcomes emerging from the process; also, it is relevant for the legitimation of the process and its outcomes in the eyes of the public and of the decision-makers.

Thus, the choice of the criterion used in each process for participation selection constitutes a crucial 'meta-decision'. Assuming that the actual and effective (dialogic) participation of all citizens in contemporary societies is in practice (simply for numerical and logistic reasons) unattainable -even in a small community-, in essence there are three ways to go about participant recruitment in deliberative practice.

1- Participants can be -and often are- 'collective' actors, i.e. pressure groups, organizations, associations representing diffused or specific interests. This approach is well known, grounded in traditional consultations frequently used in policy making processes; whatever its merits, there is not much novelty to such approach. More importantly, consultation of such actors is precisely one of the reasons lying in the background of the loss of trusts of citizens in representative institutions because of the 'opaqueness' of the processes producing suspicion about the actual intentions and reasons of policy choices. Additionally, these actors often access and influence decisions and policies by means of privileged channels, through non formalized consultations procedures. If this is true, then bringing organized actors into the process by labeling it as 'participation' misses the target and cannot generate the added value for representative democracy and social capital expected from participation. Finally, engagement of such actors can hardly present the features typical of deliberation; in fact, they usually have fixed preferences reflecting their 'egoistic' interests; thus they can hardly be expected to transform their preferences as a result of exposure to information and dialogue (typically instead, they can work out agreements by exchanging stakes: but that's negotiation and bargaining).

2- Participants are individual citizens. The traditional approach in this case is based on the so-called 'open doors' principle: participatory events are advertised, and anyone interested is welcome. Self-selection however implies that two types of individuals are likely to be motivated enough to come: citizens who are 'active' in general on social and political topics, or those who feel directly affected or threatened by the issue at hand (for example the siting of a socially or environmentally undesirable project). Whatever the case, these individuals however only represent their personal positions and speak for themselves.

More interestingly, the trend over recent years seems increasingly oriented towards the random selection of stratified samples of inhabitants (Sintomer 2009); if appropriately recruited, these individuals can be representative under a socio-demographic profile (age, gender, area of residence), thus constituting a microcosm (Fishkin 1997) of the entire community. Though it must be recognized that self-selection to some extent occurs also in a random selection approach (not all invited individuals actually accept or show up), this approach certainly sheds more credibility on the process and legitimacy on its outcome as compared to the 'open-doors' approach.

Of course, in practice various combinations of the above recruitment criteria are also used. In any case, the debate on this decisive topic within the 'deliberative community' is on-going.

Law no. 69/07 does not address the issue of representativeness of participants. However, as mentioned above, it does express several indications related to the inclusion principle, requesting the involvement of 'weak and disadvantaged' (including physically disabled) individuals (art. 16.1 a) as well as persons from 'diverse social and cultural groups' (art. 15.1 g); furthermore, special attention should be given to practical conditions (choices of timing and locations) that can favor actual participation of women, thus favoring a balanced gender presence (art. 15.1 f).

On the issue of 'who' should the participants be, the Regional Authority has chosen to 'broker' the idea of random stratified samples of the affected population. The approach has met some resistance and criticism initially since it runs counter to the consolidated idea that participation is either focused on organized stakeholders or based on the 'open doors' approach. Random samples however have been used increasingly in time and most processes at present use it. Both participants and proponents (usually local administrations) seem to appreciate it, though it has not always been easy to recruit participants.

In applying this innovative approach, the Authority has recommended not to exclude stakeholders entirely: their consensus is important for the success of the processes and the subsequent implementation of the outcomes; also, they represent a form of relevant social capital that should be preserved. The solution is therefore to give them specific roles, such as having opportunities to express their positions to the participants (an 'informed opinion' should be based also on this) or being included in the above mentioned 'supervisory committees' of the projects so as to verify the quality -and hopefully develop a sense of 'ownership'- of the processes.

Finally, an aspect that deserves mentioning is the use of information technology. Individuals who would like to participate sometimes cannot do so directly for reasons such as time (probably the scarcest resource of all). There is much discussion in using K2K interactions rather than F2F to tackle such constraints. Most projects carried out in Tuscany under Law no.

69 have set up *ad hoc* websites or dedicated pages within the sites of local administrations, allowing citizens to access documents concerning on-going processes, and in some cases to provide inputs.

Influence

The previously mentioned definition by Verba, Nie and Kim (1978), though far too broad to be useful in this context, is still relevant here insofar as it associates participation to 'influence' on decisions. The 'Spectrum' adopted by the International Association of Public Participation (IAP2)²⁸-a simplified adaptation from the well known 'ladder of participation' proposed already at the end of the '60s by S. Arnstein (1969)- distinguishes among various forms of participation according to the degree of influence exerted. 'Participation' often is actually only top-down information on decisions already taken, and thus can hardly be considered as participation (Carson 2008); the second step of the ladder is 'consultation', a rather traditional form of involvement that, as discussed above, presents a low potential in re-vitalizing representative democracy. As one moves up the ladder, the degree of empowerment of participants increases. Rigorous public participation implies actual impact of citizen involvement on public policies²⁹.

Law no. 69 aims at promoting citizen participation in the 'formulation of local and regional policies' (art. 1.1); thus, it is not a merely symbolic exercise, but sees participation as a part of the overall decision-making processes defining public policies and collective choices (in fact, art. 15.1 b specifies that requests of financial support must indicate the phase of decision-making process in which participation takes place) (Florida 2008, 106).

For this reason, the time dimension is critical; imposing deadlines (6-9 months as maximum duration) to the deliberative process is a direct consequence of the choice to view it as *a stage* in the decision-making process and not as *the* locus for decision-making. Not setting a time limit, paradoxically, would have attributed a purely consultative dimension to participatory processes, indeed allowing the decision to be made elsewhere and otherwise. While enhancing participation, Law no. 69 also aims at ensuring rapid and effective decision-making ('because democracy needs concrete results, otherwise it corrodes' as stated by President Martini).

Thus, Tuscany's Law aims at empowering participants, i.e. transferring portions of political power to a group of citizens. 'In these cases, institutions give up, albeit in part and temporarily' and on a specific topic, 'their power to decide according to the standard procedures of representative democracy, and choose to play a different role, that of promoters of a discussion and guarantors of its fairness' (Bobbio 2005a, 69).

Deliberative democracy, as rightly highlighted (Carson 1999), aims at reinforcing the voice of the citizens, but also the willingness of institutions to listen to that 'voice'. Deliberation, if it is to deliver its promises, can be effective only if the outcomes are taken into serious consideration by policy makers and exert some type of actual influence. Many citizens doubt that participation has any political effectiveness; in this respect, it is interesting to note that

²⁸ static.qwad.com.au/iap2/files/IAP2%20Spectrum_vertical.pdf.

²⁹ As stated, for example, by the Brisbane Declaration;

www.getinvolved.qld.gov.au/share_your_knowledge/un_conference/documents/pdf/brisbane_declaration.pdf

the previously mentioned survey (EMG 2011) highlights that 22% of Tuscans consider the participatory processes that many local administrations are undertaking with skepticism since they believe politicians do what they want anyway; 35% think these processes are useful provided the administrations take the outcome in account, and 16% agree provided decisions have not already been made.

Citizen empowerment through participation raises the relevant -and delicate- issue of the relationship between deliberative procedures and representative institutions³⁰. Deliberative theory has long lost its original antagonistic character, becoming an idea that society and institutions find increasingly acceptable (Stilgoe 2007, 18). The challenge today is to integrate deliberative democracy with the processes and institutions of representative democracy, or, following Barber (1984), to 'deepen democracy' (as explicitly stated by art. 1.3 a of the Tuscan Law).

However, Law no. 69 aims at promoting participation, but it does not impose the adoption of participatory processes in local policy decision-making, which in any case it would not even have the authority to do, given present constitutional limits³¹ (not to mention political considerations): regional laws cannot impose procedures undermining the autonomy of local governments. Instead, the Region must tread lightly on mandates devolved to provincial and municipal authorities. The Law's strategy therefore, as mentioned, is to seek the voluntary cooperation of local administrations keen on activating citizen engagement and to offer them financial incentives and methodological support. Regional support however is subordinated to an exchange, by which the Region requests local authorities to sign an inter-institutional *entente* agreement (*Protocollo d'intesa*; artt. 15.4 a and 18) in which local authorities voluntarily accept the principles of the Law and its procedures. Furthermore, by doing so they not only in the specific process for which they ask for funding, but express the intention to use participation regularly in their decision-making processes. The agreement, therefore, represents a sort of *precaution* by the Region to prevent potential opportunistic behavior by local authorities eager to take advantage of the Law when it suits them, but ignoring it should the situation become 'uncomfortable'. Also, according to the commitment, local authorities agree to suspend the adoption of any formal decision on the issue until the participatory process is completed.

Thus, local authorities are required to officially declare that they will take into serious consideration the results of the participation process. Should they however, for whatever reason, judge the outcomes totally or partially unacceptable (for example contrasting broader community interests or their electoral mandate), they can override them under the condition that they explicitly and publicly provide the motivations of their decision.

Thus, the autonomy of local administrations is fully respected: they are free, firstly, to decide whether they are interested in signing the agreement with the the Region or not; they are even free not to respect the agreement they committed to. The responsibility of the final decision remains in the hands of the competent administration.

³⁰ In the debate on deliberative democracy, the subject of the translatability of its legal paradigms within institutional procedures is taking on central importance: 'how can the scale of deliberation be increased, and how can it be institutionalized?' (Fung, Gastil and Levine 2005, 281). This is also one of the questions raised by the Deliberative Democracy Consortium at the end of its 2003 congress, when including the problem in the 'common research agenda'.

³¹ Somewhat simplifying the complex relationship between the different levels of government in Italy, one can say that though the Regions have autonomous legislative powers in a number of areas, local administrations and their powers are largely regulated by national legislation and the Constitution itself, thus limiting the possibilities of the Regions to regulate them.

But, on the other hand, a substantive participatory process to some extent politically 'compresses' the discretionary power of the administration (Ciancaglini 2008: 6) *at the very least* accepting to account and respond for its decisions in front of its own citizens. Law no. 69 in this respect is based on an institutional device of 'pre-commitment' that, according to Elster (2004, 90-1), is a preventive form of 'self-binding' to take into account the outcome of discussions or publicly justify why they have been rejected, which can affect individual as much as collective behavior. One reason for preventive self-binding could be found in the 'strategic time-inconsistency' of the (in our case, institutional) player and can rely on the 'device' of imposing costs -here, the political costs deriving from failure to abide by, or even simply ignoring, the outcome of the public debate-. 'Strategic time-inconsistency' in this case implies that the institutional player does not have stable preferences and that it finds itself in a condition of uncertainty regarding future decisions, fearing to be proven wrong or ineffective at a later time; hence the choice of binding the institution to the results of a participative process. This, in any case, allows for the adoption of more widely shared choices and the reduction (or distribution between several players) of the costs of choices that should turn out to be wrong. Decision-makers might also have more definite and stable preferences, but they see greater political benefit in publicly debating other options; in this case, the 'preventive constraint' is nevertheless accepted and they will be open to changing their choices, if these are not accepted, in as much as the political costs of failing to comply with the results of the debate might be greater than the hypothetical advantage of adhering to their initial intentions.

All in all, this 'device' appears to be an original, balanced and workable solution to the relationship between deliberative and representative democracy, enabling at a minimum some influence exerted by participation (in fact, influence appears to have been substantial in many cases)³².

Of course, this will occur only if a local authority is willing to actively liaison with citizens, relinquishing a part of its monopoly over decision-making.

Beyond what is requested by Law no. 69/07 and the Protocol, to guarantee actual participant empowerment the Authority requests local administrations applying for funds to make two further commitments:

- a) all processes must include constant feedback ('*restituzione*') of the outcomes of meetings to participants, as well as to the community at large;
- b) all processes must have create ad hoc committees (usually formed by representatives of the participants themselves) that monitor the subsequent developments during the implementation of decisions and policies.

5. Implementation

Though Law no. 69/07 appears to have considerable potential in relation to its goals, its implementation has encountered a number of difficulties. A first order of problems arises from the legislation itself, that does not contain clear indications on several aspects, leaving them to be sorted out by the Authority. One example is presented by the public debate process to be applied to 'large' infrastructures: the Law does not indicate specific thresholds allowing to clearly identify the cases in which the provision is applicable. Up to now no

³² Neither are public debates on large projects imposed by Law no. 69; however priority will be given to projects that undergo such participatory processes in defining regional plans (art. 1.5).

request of carrying out a public debate has yet arisen, so the problem has been avoided.

An issue that instead has arisen in the implementation of the Law is the provision, discussed above, allowing ordinary citizens to request funds to carry out a local process. In this, the Law aims at offering an institutional channel to citizens to express opinions and preferences, also in situations of conflict, some times even against local administrations.

Upon receiving such requests, the Authority is requested to contact the local administration asking for its advice. If its positive, no problem ensues. Should instead the local authority disagree, maintaining that the debate is of no purpose, that its ideas regarding the matter are already made up, the Authority would find himself in a difficult situation, to which Law no. 69 offers no avail.

In fact, should the Authority choose to fund such request, he would be putting the Region up *against* the Province or the Municipality, creating an institutional conflict. Furthermore, if the local decision-makers refuse accept the process and its indications, the deliberative procedure would not exert any influence on the decision itself. On the other hand, if local administrations have a *de facto* veto power because the Authority abides to their advice, what sense would it make to provide citizen with participation rights? Also, prevention and management of local conflicts are exactly one of the original goals of the Law: so, not admitting the participatory process would go against such goals and the spirit of the Law itself.

Such situations in fact already arose in a couple of cases. In the case of a siting conflict concerning a small airport, intensive bargaining with the Mayor allowed to reach an initial agreement on the process taking place (but then the citizens pulled back their application and preferred to go to court, where they won ...); in another siting case concerning a port, the Mayor was clearly unhappy with the process, but did accept it, and at the final meeting publicly stated that some of the outcomes at least were acceptable for the Administration.

Also, from a juridical perspective there are numerous overlaps with legal regulations (EU, national and regional) which already require the promotion of information, consultation and participation in a number of policy sectors; the procedures introduced by Law no. 69 have not been well coordinated with these, thus risking to generate duplications, losses of time and contradictions, thus undermining the credibility of citizen engagement overall.

Finally, the Law has divided the activities it foresees among two different bodies, the Authority (responsible for local processes and public debate) and the Regional Government - namely the Participation Office of the *Assessorato* -Ministry- in charge of participation- (responsible for regional participatory process and training according to the Law). Whatever the reasons for such choice, there are obvious ties between these activities and their fragmentation misses the opportunity -in a situation in which available resources are scarce- to create synergies among the activities carried out. Especially training of personnel in local and regional governments appears to be of strategic importance to promote the diffusion of participation as an ordinary practice (as stated by the Law).

However the major obstacles encountered in the implementation of the Law are connected to the lack of sufficient operational capacity and resources of the Authority to carry out the tasks entrusted to him. According to the Law, the Authority is to be based in the offices of the regional Assembly and is guaranteed the means and staff necessary for carrying out his tasks (such as monitoring and evaluating funded processes). An agreement, signed between the

Assembly and the Government to provide such resources, was never implemented, leaving the Authority without the necessary staff. Furthermore, the fact that the 'independent' Authority depends on other institutions to be able to carry out its tasks obviously considerably weakens his actual independence.

Also for this last reason, as mentioned above, assessing, offering methodological advice and funding proposals of local participative processes has in fact constituted the main activity carried out by the Authority. As shown in table no. 1 (in the Annex), out of 127 requests in the period 2008-2010, 68 (i.e. 53 %) processes have received funding. These processes have received a total of approximately 2.1 million euro (25% of funding requested totaling more than 8.2 million euro). The average economic contribution by the Region to each project thus amounts to approximately 31,400 euro.

Schools deserve some further clarifications: the number of processes funded is quite low as compared to requests (6 out of 28). The reason is to be found in the low quality of the proposals: many have little connection with (deliberative) participation, and are rather focussed on educational/pedagogical goals; though the distinction is often problematic, the Authority has indicated two criteria for school projects: 1) that they use dialogic-deliberative methods in order to offer students the possibility of personally experiencing new ways to discuss collective issues; b) that students actually decide on a specific issue, and the school commits to accepting the outcome.

As far as the status of the 68 funded processes is concerned, by March 2011 44 processes were completed, 19 were still under way; in three cases funds were repealed because the processes had not started within the maximum duration indicated by the Law (6 plus 3 months), and in two cases the processes aborted before being completed.

Table no. 2 shows funding requests in the period 2008–2010 by type of proponent and by geographical distribution within Tuscany by province.s It is quite clear that two thirds of requests come from local administrations, and mainly from municipalities (69 out of 86). In comparison, requests from citizens are much fewer (n=13) (so the fear that the Law would be used by societal actors against institutions appears to be widely unjustified).

Geographically, requests appear to be concentrated along the 'arch' Arezzo-Florence-Pistoia-Pisa and Lucca, whereas the other provinces appear less active in this policy area. Though no clear patter can be inferred from these data, they probably reveal a higher degree of 'openness' towards this innovation of local administrators in some parts of the region.

Table no. 3 shows the number of processes that actually received funding, by type of proponent and by province. It emerges quite clearly that local administrations (and especially municipalities) are the main beneficiaries of the Law (57 processes out of 68); the remaining processes are promoted by citizens and schools, whereas firms are completely absent.

There appears to be a broad spread of topics (Tables no. 4 and 5): though a large number of processes are focussed on urban renewal projects, land planning, participatory budgeting and health policies (plus education, concerning processes presented by schools), other topics such as economic policies, infrastructural project siting, environmental policies are also represented.

Tables 6 and 7 highlight the relationship between the topics of requested and funded

processes to the categories of proponents: obviously in many cases the topics are determined by the mission and competences of proponents when they are local authorities (thus Health districts are interested in topics in the field of health and social services, schools in educational processes, municipalities in land planning and urban renewal). Processes concerning infrastructure siting decisions are not numerous (6 requests, 4 funded): it is not clear whether this is due to a lack of such projects, or to the choice of not tackling them by means of citizen involvement; in any case, interestingly they are proposed to the same extent by administrations and by citizens.

For the purpose of evaluating the Law, the number of processes -the output- has a limited relevance, whereas it would be more significative to verify the actual impacts of the individual processes and, thus of the overall policy. The impression from our privileged 'observation point' is that in a number of cases processes have exerted at a minimum some influence on decisions and on local social capital. But systematic empirical evidence, obviously essential in this respect, is at the moment lacking, for a number of reasons. Firstly, because time elapsed since the conclusion of the processes in most cases is still too short to verify the influence on the specific decision or policy at hand. The second reason is much more 'practical': the lack of resources has not allowed to monitor and analyze systematically and directly funded processes (though a few have been or are presently being observed by students or research projects³³).

6. Conclusions

Tuscany has pushed the process of citizen engagement further than other regional and local governments active in this field by passing an ambitious and innovative piece of public policy pro-actively promoting citizen engagement in decision-making process. The Law creates a new structure of opportunities, opening spaces to grassroots society, and calling institutional and social actors to commit to the quest for new participative practices.

In doing so Law no. 69/07, with its emphasis on the principles of inclusiveness and discursive rationality, its methods founded on processes of collective learning and the forming and transforming of opinion, its techniques which stimulate the involvement of ordinary citizens, structuring public debate and shunning the traditional participative dynamics, clearly moves beyond superficial consultation and pursues quality standards inspired by deliberative democracy theory. Also, the Law expresses two 'souls' of deliberative theory: the goals listed above quite clearly refer to a specific perspective of deliberative theory focussed on production of social capital and civiness; on the other hand, the presence in the Law of the public debate process for large projects and the time limitations for all types of processes indicate the co-presence of another perspective, more instrumental and oriented towards efficient *conflict-solving*. The deliberative traits of the Law *per se* represent a somewhat surprising outcome considering that participation in Italy is traditionally rather 'shallow' and *top-down*, often a symbolic exercise ratifying decisions already taken elsewhere.

Rather than applying a rigid legal framework to such an elusive phenomenon as participation, the approach the Law -wisely- adopts is pragmatically flexible and open to experimenting

³³ Two processes are presently being studied by a group of scholars from five different universities within a research project on 'The quality of deliberation' funded by the Ministry for Universities and headed by Luigi Bobbio of the University of Turin; both authors are members of the project. Also, descriptions of four processes followed by students were published within a broader monitoring report on Law no. 69/07 published in 2011 by IRPET, a regional research institute.

with innovative approaches and practices. For this purpose, it also sets up an *ad hoc* actor – the Regional Authority-, whose neutrality is aimed at enhancing trust in the processes.

The Law is innovative also insofar as it offers a balanced solution to some of the questions of institutionalizing participation in such respects as the relation between representative and deliberative democracy.

It is innovative also in its 'experimental' character aimed at verifying its added value, as demonstrated by its 'sunset' provision, thus introducing criteria based on empirical rather than political rationality.

Nor is Law no. 69/07 meant to be a merely symbolic provision: substantial financial (though largely inferior as compare to requests, as shown by data in table no. 1), and some administrative, resources have been allocated. Almost seventy local processes have been funded up to now, with a contribution from the Region of approximately 2.1 million euro. According to some rough estimations, half of all the participatory processes taking place in Italy in the last years have occurred in Tuscany alone thanks to the Law.

Though the number of processes funded by the Law is limited, the 'bet' is that these will contribute to disseminating participation culture gradually by igniting the interest of other administrations.

On the other hand, as many innovations, the Law has encountered a number of difficulties in its implementation, the main being the lack of sufficient political backing, that in turn has negatively influenced the operating capacity of the new Authority. As mentioned, the Law passed thanks to a unique window of opportunity, namely the support of the Regional President and of a Minister, that however subsequently did not translate into substantive and long lasting support from the Assembly, and especially from the majority party (PD) that had passed the Law in the first place; and, after the exit from the regional political scene of the two key policy entrepreneurs who had fought for it, what was missing was a political player acting as 'fixer' of the implementation game (Bardach 1977) and strong enough to keep the momentum. Perhaps, even the fact that the Law was passed also through an un-typical meta-participatory process itself, failed to create a sense of 'ownership' of the policy on behalf of the Assembly.

The more interesting -for theory and for polity- questions will need some time before they can be given evidence-based answers to such questions as: does institutionalization cause 'sterilization' of participation or does it on the opposite enhance it?.As the Law is implemented and evaluated, the 'Tuscan laboratory' might offer some insights in assessing to which extent the normative provisions of deliberative democracy, transposed into the language and practice of the Law, have succeeded in enhancing efficient and effective processes, influencing decisions (without claiming to replace representative institutions), increasing the sense of civic engagement, generating social capital (however defined), and thereby improving the overall quality of democracy.

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Tab. 1 - Requests of funding on the basis of law no. Ir 69/07 and processes funded (2008-2010).								
YEAR	CALLS	No. REQUESTS	No. PROJECTS FUNDED	A TOTAL AMOUNT OF REQUESTS	B TOTAL FUNDING GRANTED	% B / A	TOTAL POPULATION AFFECTED* - REQUESTS	TOTAL POPULATION AFFECTED* - FUNDED PROJECTS
2008	31 March + 31 July	35**	0	€1,868,100			1,432,000	
	27 October	23	20	€1,749,892	€684,700	39%	1,798,321	1,807,902
TOTAL 2008		23	20	€3,617,992	€684,700	19%	3,230,321	1,666,490
2009	30 November	14	8	€719,965	€244,000	34%	1,190,992	384,004
	31 March	10	7	€455,564	€262,775	58%	1,595,841	295,271
	31 July	13	6	€722,840	€200,500	28%	1,863,645	1,357,067
TOTAL 2009		37	21	€1,898,369	€707,275	37%	4,650,478	2,036,342
2010	30 November	20	8	€ 985,354	€ 238,500	24%	742,131	323,821
	31 March	8	4	€ 302,900	€ 142,300	47%	124,564	103,422
	31 July	39	15	€ 1,654,204	€ 366,000	22%	1,432,000	680,491
TOTAL 2010		67	27	€ 2,942,458	€ 746,800	25%	2,316,158	1,107,734
TOTAL 2008-10		127	68	€8,458,819	€2,138,775	25%	10,196,957	4,810,566

NOTE- * Figures refer to the entire population living within the territory of the local administration; in the case of schools the figure refers to the number of students.

**35 projects presented during the period March-July 2008, before the Authority was nominated; since many of them were submitted again in October after the nomination, these are not counted in the total of 127 requests.

Average cost of funded projects 2008-2010	€ 31,453
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Tab. 2 - Requests of funding on the basis of law no. Ir 69/07 by proponents and provinces (2008-10)

Proponents/ Provinces	Local authorities							Citizens	Schools	Firms	TOTAL
	City districts	Municipalities	Mountain Communities	Provinces	Park authorities	Health districts	Consortia of Municipalities				
AREZZO	2	9	1					1	4		17
FIRENZE		19	1	2		1		5	3		31
GROSSETO		6	1						3		10
LIVORNO		5							1	1	7
LUCCA		3	1	1					6		11
MASSA		3		1	1			2	1		8
PISA		7				1		3	6		17
PISTOIA		13				1			2		16
PRATO	1	1		1					1		4
SIENA		3					1	1	1		6
TOTAL	3	69	4	5	1	3	1	12	28	1	127
sub-total	86							41			

Tab. 3 - Processes funded on the basis of law no. Ir 69/07 by proponents and provinces (2008-10)

Proponents/ Provinces	Local authorities							Citizens	Schools	Firms	TOTAL
	City districts	Municipalities	Mountain communities	Provinces	Park authorities	Health districts	Consortia of municipalities				
AREZZO	1	6	1					1	1		10
FIRENZE		11		1		1		1	1		15
GROSSETO		4	1								5
LIVORNO		3							1		4
LUCCA		3	1	2					2		8
MASSA		2			1			1			4
PISA		4				1		1			6
PISTOIA		8				1					9
PRATO		1		1					1		3
SIENA		2					1	1			4
TOTAL	1	44	3	4	1	3	1	5	6	0	68
sub-total	57							11			

Tab. 4 – Requests of funding on the basis of law no. Ir 69/07 by provinces and topics (2008-2010)

Provinces/ Topics	AREZZO	FIRENZE	GROSSETO	LIVORNO	LUCCA	MASSA	PISA	PISTOIA	PRATO	SIENA	TOTAL
BP	5	1	1		1	1	2	3		1	15
IP			1			2	1	1		1	6
PA		1	1		2						4
PE	4	2	3	1	6	1	6	2	2	1	28
PRP		2					2	3			7
PS		7				1	1	1			10
RU	3	11	2	6		2	4	6	1		35
SE		3				1				1	5
SU	5	4	2		2		1		1	2	17
TOTAL	17	31	10	7	11	8	17	16	4	6	127

Legend: BP = Bilanci Partecipativi - Participatory budgets; IP = Infrastrutture e Progetti - Infrastructural projects; PA = Politica Ambientale - Environmental policies; PE = Progetti Educativi - Educational projects; PRP = Partecipazione/Regolamento - Regulations on participation/decentralization; PS = Politica sanitaria/sociale - Health/Social service policies; RU = Riqualificazione urbana/Progettazione Partecipata - renewal of of public buildings or urban areas; SE = Politica sociale/economica - Economic-Social policies; SU = Strumenti urbanistici e di governo del territorio - Land planning.

Tab. 5 – Processes funded on the basis of law no. Ir 69/07 by provinces and topics (2008-2010)

Provinces/ Topics	AREZZO	FIRENZE	GROSSETO	LIVORNO	LUCCA	MASSA	PISA	PISTOIA	PRATO	SIENA	TOTAL
BP	3				1	1	1	1		1	8
IP						1	1	1		1	4
PA		1	1		2						4
PE	1			1	2			1	1		6
PRP		1					1	1			3
PS		4				1	1	1			7
RU	3	7	2	3		1	2	5			23
SE						1				1	2
SU	3	2	2		2				1	1	11
TOTAL	10	15	5	4	7	5	6	10	2	4	68

Legend: BP = Bilanci Partecipativi - Participatory budgets; IP = Infrastrutture e Progetti - Infrastructural projects; PA = Politica Ambientale - Environmental policies; PE = Progetti Educativi - Educational projects; PRP = Partecipazione/Regolamento - Regulations on participation/decentralization; PS = Politica sanitaria/sociale - Health/Social service policies; RU = Riqualificazione urbana/Progettazione Partecipata - renewal of of public buildings or urban areas; SE = Politica sociale/economica - Economic-Social policies; SU = Strumenti urbanistici e di governo del territorio - Land planning.

Tab. 6 – Requests of funding on the basis of law no. Ir 69/07 by proponents and topics (2008-2010)

Proponents/ provinces	Local administrations							Citizens	Schools	Firms	TOTAL
	Districts	Municipalities	Mountain Communities	Provinces	Park authority	Health districts	Consortia of municipalities				
BP	2	11	2								15
IP		3						3			6
PA		2	1	1							4
PE				1					27		28
PRP		7									7
PS		2		3		3		2			10
RU	1	27						5	1	1	35
SE		2			1		1	1			5
SU		15	1					1			17
	86							41			
TOTAL	3	69	4	5	1	3	1	12	28	1	127

Legend: BP = Bilanci Partecipativi - Participatory budgets; IP = Infrastrutture e Progetti - Infrastructural projects; PA = Politica Ambientale - Environmental policies; PE = Progetti Educativi - Educational projects; PRP = Partecipazione/Regolamento - Regulations on participation/decentralization; PS = Politica sanitaria/sociale - Health/Social service policies; RU = Riqualificazione urbana/Progettazione Partecipata - renewal of of public buildings or urban areas; SE = Politica sociale/economica - Economic-Social policies; SU = Strumenti urbanistici e di governo del territorio - Land planning.

Tab. 7 – Processes funded on the basis of law no. Ir 69/07 by proponents and topics (2008-2010)

Proponents/ Provinces	Local administrations							Citizens	Schools	Firms	TOTAL
	Districts	Municipalities	Mountain Communities	Provinces	Park Authorities	Health districts	Consortia of municipalities				
BP	1	6	1								8
IP		2						2			4
PA		2	1	1							4
PE				1					5		6
PRP		3									3
PS		1		2		3		1			7
RU		21						1	1		23
SE					1		1				2
SU		9	1					1			11
	57							11			
TOTAL	1	44	3	4	1	3	1	5	6	0	68

Legend: BP = Bilanci Partecipativi - Participatory budgets; IP = Infrastrutture e Progetti - Infrastructural projects; PA = Politica Ambientale - Environmental policies; PE = Progetti Educativi - Educational projects; PRP = Partecipazione/Regolamento - Regulations on participation/decentralization; PS = Politica sanitaria/sociale - Health/Social service policies; RU = Riqualificazione urbana/Progettazione Partecipata - renewal of of public buildings or urban areas; SE = Politica sociale/economica - Economic-Social policies; SU = Strumenti urbanistici e di governo del territorio - Land planning.