Deliberative constitution-making in Norway?

Norway: Population 5, 3 mill.
Regime form: Unitary parliamentary constitutional monarchy,
Not EU member, but part of the EU internal market through the EEA agreement between the EU and the EEA EFTA States (Norway, Iceland and Lichtenstein).

The Constitution of Norway

Consists of a written constitution ("Grunnlov") together with customary constitutional law.

The Grunnlov was adopted on the 17th May 1814, after Danmark ceded Norway to Sweden in the Treaty of Kiel. The constitutional assembly was first initiated by the Danish crown prince, in an attempt to keep Norway in the union. Instead Norway entered into a personal union with Sweden, one that lasted until 1915, but gained its own Parliament and Constitution.

The Norwegian Grunnlov is it is the second oldest single-document national constitution in Europe (after Poland), and the second oldest in the world still in continuous use (after the US).

A) The formal amendment procedure:

Only members of Parliament can formally propose changes to the constitution.

The Parliament's Standing Committee on Scrutiny and Constitutional Affairs makes recommendations, and subsequently reviews constitutional bills.

Changes must be accepted by 2/3 of Parliament, with at least 2/3 of its members present. There must also be a general election between the submitting of a proposal and the adoption of the proposal by parliament.

No referendum is required for constitutional changes. Four consultatory national referenda have been held where constitutional issues were at stake: 1905: on dissolution of union with Sweden, and new monarchy. 1972 and 1994: on EU membership

There have been 315 formal changes to the written constitution since 1814, and a big overhaul in 2014 in connection with the constitution's 200-year celebration. This was initiated by the government.

Assessment:
The requirement of supermajority in Parliament and a general election promotes both (formal elite) deliberation, as well as qualified representative democracy, and electoral control.

There has been little public debate about most amendments, in spite of attempts to create an interest by politicians.

No institutionalized procedures for lay input.

Electoral control has been weakened by the fact that political parties have not always bound themselves on constitutional bill proposals before elections. We saw this in 2014.

B) Process of evolving constitutional custom and norms

The Norwegian Supreme Court has wide powers of constitutional review, but has traditionally been attuned to the will of the Parliament, and emphasized the prior deliberation and preparatory works of new laws. The Court's review competence evolved as customary constitutional law, and was first included in the written Grunnlov (§89) in 2015.

There have been few high-profile constitutional cases, one recent exception is an ongoing case testing the oil industry in relation to the constitution's environmental paragraph §12 .

Assessment:
In general there has been little popular awareness of the constitution, or little public debate about it. There was for long a large body of customary constitutional law (including parliamentarism), and several sleeping and antiquated paragraphs in the written constitution. Also the written constitution was written in old Danish and was in practice incomprehensible to ordinary citizens. This improved with the rehaul of the constitution in 2014/15. Yet, Norwegian politics and constitutional law is *de facto* shaped by EU law, and the ECJU in a way that is still not fully acknowledged in the constitution, or widely discussed in Norway.

C) Deliberative instances and experiments

Several at the local level.

Few or none at the national level, at least not on constitutional issues.