

# **Electoral systems: strengthening democracy in the 21st century**

## **Forum for the Future of Democracy 2009 Session**

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## PREFACE

The Council of Europe Forum for the Future of Democracy (the Forum) aims to promote democracy at all levels of governance and further pan-European reflection on its multifarious aspects. It takes an integrated approach to the main political issues facing Europe today by associating all the stakeholders in a genuine democratic society: parliaments, governments, local and regional authorities and civil society, as well as the media and academia.

As a result of its inclusiveness, shared ownership and horizontal approach, the Forum is a unique and well-established feature of the Council of Europe's work.

The Council of Europe's Committee of Ministers, Parliamentary Assembly, Congress of Local and Regional Authorities, Conference of International Non-Governmental Organisations and European Commission for Democracy through Law (Venice Commission) play a leading role in this ongoing process. The Forum also provides an opportunity for active dialogue with the European Union, the Organization for Security and Co-operation in Europe (OSCE), the International Institute for Democracy and Electoral Assistance (IDEA) and other international partners.

The fifth session of the Forum with the theme "Electoral systems: strengthening democracy in the 21st century" was held in Kyiv (Ukraine) from 21 to 23 October 2009. Some 300 participants discussed the linkages between electoral systems and democratic governance as a whole.

The central message of the 2009 Forum for the Future of Democracy was that "in a genuine democracy, the citizen is sovereign and the voter decides". The Forum highlighted the need to get the public more involved in election processes, to increase voter turnout and to ensure at all stages that procedures are entirely democratic.

*Electoral systems: strengthening democracy in the 21st century*

In the light of the crisis of public confidence in political institutions, the conclusions underline the need to reinvigorate democratic practices by credible and inclusive decision-making processes that strengthen political culture. Furthermore, faced with challenges to their traditional role, political parties will have to take similar steps. Although there is no single ideal electoral system, the Council of Europe's aim is to make its space the largest "free and fair" election zone by uniting its member countries around a set of shared core democratic principles.

The Forum conclusions are consequently being considered by the key stakeholders at the Council of Europe and its member states to transform the Forum's output into concrete action.



## CONCLUSIONS BY THE GENERAL RAPPORTEURS

### **“In a genuine democracy, the citizen is sovereign and the voter decides”**

1. This was the main message of the 2009 Forum for the Future of Democracy, held in Kyiv (Ukraine) from 21 to 23 October under the general theme “Electoral systems: strengthening democracy in the 21st century”. The Forum addressed the linkages between electoral systems and democratic governance as a whole. When examining practices and their impact at the local, regional and national levels, the participants considered ways to strengthen the democratic character of electoral processes by identifying the respective roles of public authorities, civil society and the media. The Forum also broached issues such as the means to combat disenfranchisement and disengagement, enhance representativity, increase inclusiveness for disadvantaged groups and promote equal opportunities for women and men.
2. The objective of the Forum was to share experiences and identify measures to improve electoral legislation and processes; to ensure equitable, efficient, transparent and accountable electoral administration; to reverse the trend of declining electoral participation and confidence in the institutions of representative democracy and to reinvigorate democratic practices through credible and inclusive decision-making processes that strengthen political culture.
3. Democratic elections are essential for ensuring that the will of the people is respected in the shaping of the legislature and government at all levels. The process of translating the outcome of elections into political mandates should take place in a fair, impartial and trustworthy manner. Citizens must be sure that their collective will has been respected and, in turn, they will accept the verdict from the ballot box.
4. There is no unique type of electoral system which could be recommended as the best model for every country. Each system carries advantages and disadvantages and the choice depends on a number of factors

such as historical context as well as party and political systems. The Council of Europe's objective is to establish a common understanding of all the principles which qualify elections as being "free and fair" in compliance with democratic standards. Those standards must be fully implemented in all elections throughout the Council of Europe member states and in those states aspiring to join the Organisation or engage in a privileged relationship with it. In this way, the Council of Europe space would become the world's largest "free and fair" election zone. This is the target it should fix for the coming years.

5. The five fundamental principles of democratic elections are set out in the Code of Good Practice in Electoral Matters,<sup>1</sup> adopted by the European Commission for Democracy through Law (Venice Commission) and endorsed by the Committee of Ministers, the Parliamentary Assembly of the Council of Europe and the Congress of Local and Regional Authorities of the Council of Europe (Congress), namely that suffrage must be universal, equal, free, secret and direct. This must be accompanied, *inter alia*, by respect for fundamental rights, the organisation of elections by an impartial body, the monitoring by election observers and the availability of an effective appeals system, including access to the courts.

6. Since participatory democracy is complementary to representative democracy, civil society organisations can stimulate transparent and inclusive elections. They can contribute to good electoral practices in the fields of financing, campaigning and open dialogue; candidate and voter education; representing and defending the electoral rights of persons belonging to minorities, vulnerable or disadvantaged groups of the population; electoral observation as well as in the drafting and assessment of electoral legislation.

7. In this context, the Forum welcomes the Code of Good Practice for Civil Participation in the Decision-Making Process, prepared by the Council of Europe Conference of International Non-Governmental Organisations (INGOs) on the basis of the recommendations of previous Forum sessions. This code is a valuable tool for all stakeholders as it aims to underpin the general principles, guidelines

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1. *Code of Good Practice in Electoral Matters. Guidelines and explanatory report*, Council of Europe Publishing, Strasbourg, 2003.

and mechanisms for the active participation of non-governmental organisations (NGOs) in political decision-making processes. The Council of Europe is invited to promote the code.

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In the light of the context outlined above, the Forum concluded the following:

***a. as regards principles and regulatory framework***

8. There is a need for stable and predictable electoral legislation as indicated in the Venice Commission Declaration on Stability of Electoral Law. However, electoral systems, in their broad sense, are not static and should be able to respond to societal changes such as increased citizen engagement in public life and a sense of responsibility, trends towards lowering the voting age, women's increasing demand for more equal participation and rapid developments in information and communication technology (ICT). Nonetheless, changing electoral legislation or rules in the period running up to elections should be avoided, except in order to correct democratic deficiencies.

9. It is only through their impartiality, independence and a high degree of professional competences within their membership that electoral commissions at all levels of governance can achieve transparency, accountability and enjoy the confidence of the public in their work. Therefore, coherent rules governing electoral commissions, the method of appointing their members and their balanced composition, are required and need to be implemented, in addition to relevant training of electoral commission officials.

10. Thresholds, both legal and other, as well as barriers for independent candidates, have a significant impact on access to parliament. The Venice Commission has adopted a report<sup>2</sup> on this subject and is encouraged to continue this work. Similarly, the Parliamentary Assembly is encouraged to finalise its report on thresholds and other

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2. "Comparative report on thresholds and other features of electoral systems which bar parties from access to parliament", CDL-AD(2008)037.

features of electoral systems which have an impact on representativity. These include natural and other thresholds such as disproportionate deposits required to register as a candidate.

11. Women should be fairly represented at all stages of the electoral process. Institutionalised bias should be eliminated and member states and political parties should take measures to improve the conditions for women's participation and representation throughout the electoral process. This should include gender-sensitive civic education and the possible adaptation of electoral systems to make them more open to women's representation in politics, including by introducing gender quotas for candidates.

12. National minorities should be adequately represented in elections. It is therefore important that legal and practical measures are taken to avoid any disenfranchisement and to ensure their participation in elected bodies.

13. Many countries allow their citizens who reside abroad to participate in elections. The conditions for enabling these persons to cast their votes should be facilitated as much as possible, by all appropriate methods.

14. The Convention on the Participation of Foreigners in Public Life at Local Level aims to ensure that foreign residents are able to participate in their locality, including in its electoral processes. Member states are invited to ratify and fully implement this convention.

15. All people need to have equal access to information through the traditional media as well as through new electronic media and communication channels (political blogs, social networks, etc.), notwithstanding the current risk of a digital divide.

16. Equitable access by all competing political forces to the media is a prerequisite for balanced coverage of elections and hence for free and fair elections. Regulatory frameworks should be guided by the principles of equal access, non-interference by public authorities in the activities of journalists and other media personnel and their access to information, as well as editorial independence.

17. The rights of the media are accompanied by responsibilities, in particular as regards high professional standards. This is particularly

important when it comes to opinion polling, as well as the obligation for public service broadcasters and, in principle, private broadcasters to cover election campaigns and outcomes in a fair and balanced manner. These responsibilities and obligations need to be clearly expressed through regulatory or self-regulatory measures and complied with by the media.

***b. as regards practice***

18. Political parties are confronted with a series of challenges and their role in modern society is evolving. However, today, they remain an important vector for the expression of political choices. Therefore, the participation of political parties in electoral processes should be ensured in conformity with the recommendations of the Parliamentary Assembly and the Venice Commission, in particular by addressing the following issues according to common standards:

- intra-party democracy and transparency;
- selection and nomination of candidates;
- clear and fair rules for campaign financing;
- equal access to mass media;
- a complaints and appeals system which provides a speedy procedure to resolve disputes;
- replacement of vacant seats.

19. The Code of Good Practice in the Field of Political Parties, proposed by the 2006 session of the Forum and by the Parliamentary Assembly, and adopted by the Venice Commission in December 2008, should be observed by all political parties throughout the electoral process. The Parliamentary Assembly and all Forum stakeholders should promote political parties' endorsement of the code in Council of Europe member states.

20. Abuse of administrative resources by the ruling forces for campaign purposes is a particularly widespread and recurrent problem in many elections. This ranges from covert "advertising" and the use of official resources for rallies and meetings, to rewards in cash or kind.

21. Lack of, or inadequate, financial disclosure by parties and candidates is also a persistent problem. This needs to be addressed in order to overcome citizens' growing distrust in political elites, which often translates into decreasing membership of political parties and involvement in political life.

22. More generally, the question of funding of electoral campaigns needs to be dealt with and clear benchmarks developed to prevent the exponential escalation in levels of campaign funding and to establish full transparency and accountability. The Council of Europe would be particularly well placed to pursue these issues further, *inter alia*, on the basis of the aforementioned codes.

23. Measures should be taken to increase voter turnout, for example by providing sufficient time between the announcement of candidates and the actual election day. This would ensure that voters are able to inform themselves properly about their voting options. Furthermore, voting procedures should be facilitated for all people, in particular for disadvantaged groups such as disabled persons and persons deprived of their liberty. Public authorities may also consider organising neutral information campaigns to mobilise the electorate and fight against abstentions.

24. There is a constant need to improve voting procedures in all member states. The latter should take effective and comprehensive measures to ensure the accuracy of voter registration systems. They should also consider the use of ICT in this field.

25. The introduction of different forms of e-voting, including remote e-voting via the Internet, was discussed extensively at the 2008 Forum in Madrid, and its conclusions remain fully relevant. Electronic voting, including for citizens abroad, will not develop without a high degree of trustworthiness of the electoral administration. One important element for building a relationship of trust is an independent certification of e-voting systems. The Council of Europe would be well placed to examine this question from a comparative perspective. Moreover, the Forum observes that an increasing number of member states support the introduction of Internet e-voting for many non-political electoral processes, such as on social, business and health issues.

***c. as regards control and follow-up***

26. Election observation is a key element to inspiring trust in an electoral system and the institutions responsible for administering elections. The role of international observation missions for nationwide elections (IEOMs) by institutions such as the Parliamentary Assembly of the Council of Europe, the Parliamentary Assembly of the Organization for Security and Co-operation in Europe (OSCE-PA), the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the European Parliament (EP) is of crucial importance. For its part, the Congress assumes a similar role in respect of local and regional elections, in partnership with the European Union Committee of the Regions and the OSCE/ODIHR. In this context, the role of international NGO observers is also acknowledged.

27. In member states, relevant regulations should ensure the rights of both domestic and international observers and define their responsibilities. They should also offer simple and transparent procedures for the accreditation of observers, for speedy remedies before national and local authorities and for effective appeals procedures. In this context, the Forum welcomes the preparation of an Assembly report on an internationally recognised status of election observers. Furthermore, the Declaration of Principles for International Election Observation and of the Code of Conduct for International Observers, approved on 27 October 2005 in New York, and endorsed by more than 20 organisations and institutions, should be fully promoted and implemented.

28. Domestic – including non-partisan – election observers play a fundamental role in ensuring the electoral process is conducted in a free and fair manner. They can play a particularly crucial role in monitoring media coverage in the run up to, during and immediately following the electoral campaign. The Forum encourages relevant NGOs to intensify their exchanges of experience on election observation. International and national institutions, including the Council of Europe, are invited to develop awareness-raising and training programmes for domestic observers.

29. Confidence in vote counting and tabulation of the results is essential. This implies transparency, namely observers, candidates' representatives and the media must be allowed to be present and have access

to the records. The Forum urges prompt transmission and wide publication of the results, at all levels, including on the Internet whenever possible.

30. The immediate post-electoral period is an integral part of the electoral cycle. It is essential that all stakeholders are committed to ensuring a peaceful confirmation and implementation of the election results through a transparent and fair process, including an effective appeals system.

31. The experience of the Council of Europe's programme on pre-electoral assistance has shown that the deficiencies of the electoral system and electoral legislation in certain member states require a systematic follow-up and monitoring, including media monitoring, throughout the different stages of the electoral process. The Council of Europe, including the Parliamentary Assembly and the Congress through their respective monitoring procedures, is invited to develop or consolidate processes that enable it to take on such a role, in close co-operation with other international actors in this field.

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32. All stakeholders involved in the Forum are invited to combine their efforts to define the most efficient ways of translating the conclusions of this Forum's session into specific action within their respective institutions at European and national level.

33. The Forum expresses its appreciation and gratitude to the President of Ukraine and the Ukrainian Government for the excellent organisation of the 2009 Session and their generous hospitality.

34. At the invitation of the Armenian authorities, the 2010 Session of the Forum will take place in Yerevan, on the theme of "The Council of Europe consensus on the principles of democracy".



## **OBSERVATIONS BY THE GENERAL RAPPORTEURS**

### **Yuri Kluchkovsky**

*Deputy Head of the Committee on State Development and Local Self-Government, Verkhovna Rada, Ukraine*

#### **The choice of an electoral system: some lessons from the Ukrainian experience**

I am honoured to be speaking on behalf of Ukraine, which is hosting this Forum as one of the youngest states and democracies, but is one of the oldest nations in Europe.

It is important to point out that only the western part of Ukraine was involved in the first wave of European democratisation in the 19th century. In most of our country, the first more or less pluralistic elections, although not yet in fact democratic, took place in 1989, just 20 years ago. During its historically short period of independence, Ukraine has been endeavouring to strengthen its democracy, which might explain why we have experimented with four different electoral systems at the national level, with two other systems being tried out at the local and regional levels.

The electoral system is recognised as one of the central elements in democratic government. That is why the various political and social consequences of different electoral systems are widely studied and discussed.

The debate on electoral systems is as endless as the different possible electoral systems are innumerable. However, while there is no such thing as an ideal electoral system, we nonetheless have to consider, discuss and choose the optimum electoral system for a given country in a given situation. The choice of an electoral system often corresponds to specific political aims.

Are there any general limits on this choice? Could some electoral systems be inconsistent with the idea of democracy? Must an

electoral system devised by politicians be approved by the people, by civil society?

My answer to these questions is “yes”. Some requirements have to be considered as preconditions for targeted policy making which must be met if the electoral system in question is to be recognised as democratic and considered by the people as fair.

The first of these preconditions is that all electoral systems must conform to the fundamental principles and internationally recognised standards governing elections. Six of them are set out as underlying principles of Europe’s electoral heritage, in the Council of Europe’s major reference document, the Code of Good Practice in Electoral Matters, adopted by the Venice Commission in 2002. These principles are: universal, equal, free, secret and direct suffrage and also regular elections. The code stipulates that “within the respect of the above-mentioned principles, any electoral system may be chosen”. I would also add the legal requirement of the constitutionality of the electoral system, to be taken into account at the national (rather than the international) level; in particular, the system must respect the constitutional status of the elected body. This is important in devising electoral systems for elections at sub-national levels. Unfortunately, we ourselves made this mistake when selecting the system for elections of regional (*oblast*) and district (*rayon*) councils.

Six principles highlighted by the code are complemented in Ukrainian legislation by a number of further principles. The first is the well-known principle of fair elections. Proclaimed in a number of international legal instruments (beginning with the United Nations Universal Declaration of Human Rights), this requirement is of great importance to those nations which for decades lived under Stalin’s dictum: “It does not matter who votes; what matters is who counts the votes.” Thus the fight against forged voting results and other violations aimed at “correcting” the voters’ will is still the problem that requires the most urgent attention.

The fair election requirement is indirectly guaranteed in the Code of Good Practice in Electoral Matters, as procedural guarantees for the explicitly stipulated principles. These procedural guarantees, in particular, are as follows: firstly, an impartial body must be in charge of

applying electoral law. Secondly, both national and international observers should be given the broadest possible leeway for participating in the election observation exercise. Last, but not least, there must be an effective system of appeal. These would appear to be the main criteria for promoting fair elections. We, in Ukraine, also stress the criteria of personal and one-time voting.

We have generally managed to solve the problem of voting “for that particular person” (which is sometimes referred to as “family voting”), but consider that proxy voting is unacceptable. The fact that proxy voting is used in some European countries was apparently the only reason for excluding the criterion of personal voting from the principles of the European electoral heritage.

The principle of one-time voting requires that the voter can use his/her vote only once and only at one polling station during one set of elections. This is especially vital in the case of electoral systems in which voters have more than one vote (such as hybrid systems) or where two or more elections are being conducted simultaneously. This principle means that any attempt by a voter to vote in two or more polling stations is illegal and must be prevented or punished.

As a minimum, we adopt the principle of optional voting, which means that the voter’s participation in elections is considered merely as the right, not the obligation, to vote. It also means that the state is required to ensure that every voter can use his or her vote without discrimination, *inter alia*, on grounds of place of residence.

We in Ukraine realise the importance of the fundamental principles of elections. Precisely these principles underpinned the well-known decision of the Supreme Court of Ukraine during the last presidential election in December 2004. The court stressed that formal voting and formal counting of votes could not be considered as sufficient guarantees of genuine elections if the main principles of elections were widely violated.

Nevertheless, there can be different interpretations of the contents and modes of application of these fundamental principles (or at least some of them) in different Council of Europe member states. What is needed now, in our view, is to:

1. define the content of the fundamental principles in general but unambiguous terms;
2. establish possible procedures and mechanisms for the positive implementation of these principles;
3. lay down possible procedures and mechanisms for defending them (preventive mechanisms) and dealing with the consequences of any violations (effective appeal procedures).

These three items comprise many special issues affecting the choice of an electoral system.

Even universal suffrage raises problems (for minorities, aliens, detained persons, military personnel, etc.). Apart from these special groups, whose voting rights are discussed at the legal level (with different member states opting for different solutions), there are further problems vis-à-vis the procedural guarantees on the positive implementation of the legally guaranteed right to vote. Clearly, there is no problem for most voters who turn out to vote at the polling stations. However, some voters cannot, for a variety of reasons, travel to the polling station where they are registered. The view that it is for the state to create the conditions for every voter to cast his or her vote means that the state must (legally) provide for additional voting mechanisms. We share the doubts on postal voting expressed in the Venice Commission's code; respect the principle of personal voting, which excludes proxy voting, and consider early voting as an unsafe procedure. This leaves us with problems in terms of voting procedures for at least three groups of voters, namely those who cannot come to the polling station due to illness or disability; those who are absent or far from home and those who are actually abroad on polling day.

I would like to dwell a little on the latter case. States that respect the principle of personal voting must open polling stations outside their sovereign territory. In Council of Europe member states, however, there is no standard approach to opening polling stations in other states. Practices vary widely. Given that there are approximately one million Ukrainian citizens spread across Europe (virtually all of them voters), and realising all the problems that this involves, our country is interested in securing joint recommendations on standardising practice, or at least achieving some basic joint positions on this

problem. The concern about foreigners' voting rights in elections in their countries of residence is very much connected to the issue of their rights concerning elections in their countries of origin and citizenship.

The practical implementation of the principle of universal suffrage necessitates national registration of voters (in Ukraine we can assert that our state voters' register is now operational as an electronic information and telecommunication system). The fundamental principles in this context require every voter to be included in the register once only. This constitutes a large-scale problem for Ukraine, which has more than 30 million voters. We hope that the practical work on the register will solve this problem within the next year or two.

Different interpretations of specific principles affect the mechanisms and procedures for their practical implementation. For instance, the Code of Good Practice in Electoral Matters considers that the equality principle concerns equal suffrage and equal opportunities (for candidates and parties).

Again, equal suffrage can be seen as meaning equal numbers of votes for each voter (the so-called formal aspect) or else equal voting power (the so-called material aspect). Both aspects may influence the choice of electoral system.

In fact, if one wants to use the plurality vote in multi-seat constituencies, the formal aspect requires the use of constituencies of equal size (that is with the same number of seats per constituency). Even uninominal constituencies raise the well-known problem of constituency boundaries, from the angle of the material aspect of equality.

These problems are much easier to solve in systems of proportional representation based on lists of candidates. Using list systems, however, makes it much more difficult to resolve problems of representing different kinds of minority (or under-represented) groups. Quota systems, which are geared to guaranteeing the representation of women, national minorities, etc., must comprise special mechanisms to avoid violating the equal opportunities principle (so-called positive discrimination towards a specific group, which usually means negative discrimination towards another group). Moreover, the criteria for applying positive discrimination to some population groups (other

than women) are unclear. In any case, the open list system (like any other which allows voting for individual candidates) makes any quota system ineffective.

It should be stressed that different principles can be in competition in this field. The prime example is the clash between the equality principle (in the sense of equal opportunities) and free elections (in the sense of the free formation of voters' opinions). In fact, it is no easy matter to harmonise the requirement of equal access by candidates and parties to the media with editorial freedom, which is usually considered as a manifestation of the freedom of expression. Not only advertising, but also so-called editorial comments and political analyses in the media, especially the broadcasting media, have to be regulated so that they do not become an instrument of unfair manipulation of public opinion. Such misuse of the media during campaigns, which is often encouraged by media owners, depending on their political interests, is liable to endanger not only the equal treatment of candidates standing for election and the parties nominating them (the equality principle), but also the genuinely free formation of the voters' will, which is an important aspect of the principle of free elections.

The European Court of Human Rights (the Court) has addressed this problem on a number of occasions. The well-known case of *Bowman v. the United Kingdom* provides a very important position on this issue. While acknowledging that freedom of expression is one of the preconditions for free elections, the Court nonetheless stressed that in some cases two principles (the right to free elections and freedom of expression) may conflict, in which case it might be deemed necessary to place restrictions on the freedom of expression during elections. The aim of such limitations is to guarantee the free formation and expression of the people's will during the elections. The Court left a wide margin of discretion for member states to strike a balance between these two principles. From my perspective, it is time we tried to identify a common approach to this issue that is capable of pinpointing permissible restrictions and also taking account of a variety of circumstances (both domestic and geopolitical), especially in the young democracies. The French experience of state and public control of the media during elections is particularly interesting here.

Some of the mechanisms and procedures for implementing the fundamental principles governing elections are of special interest. They are designed to defend these principles and, more broadly, the integrity of the electoral process. I would like to examine just one of them – election observation, especially by international observers. We in Ukraine have the relevant legal regulations in this field, but feel that it is unfortunate that the legislation and practice of some of the older democratic states lack similar regulations. Of course, supervision of the election process in these countries is probably superfluous, but observing genuinely democratic election processes might constitute an effective school of genuine democracy, an experience of great value to young and emerging democracies.

Any discussion of electoral systems must also embrace their influence on party systems. The traditional doctrine here is expressed by the famous Duverger rule. However, it is interesting that some new democracies show the opposite trend. In Ukraine, for instance, it is the proportional representation system which is consolidating the party spectrum and ensuring the emergence of a number of large, more or less stable parties.

Nevertheless, Ukrainian practice shows one negative phenomenon in the development of our party system – the “leaderist” character of the main parties which, as was mentioned at the Forum, is a problem which does not only affect our country. In our case we consider that it stemmed from the so-called “party imperative mandate” which was introduced despite fierce criticism from the Council of Europe’s institutions. This step was geared to enforcing the “party discipline” of members of parliament, but has been quite rightly deemed incompatible with European constitutional traditions. Reinforced by its combination with a closed party-list electoral system, it makes a charismatic party leader a central, inerrant figure of the party and of its parliamentary faction.

This phenomenon highlights the extremely important role of intra-party democracy. It should be recognised that any party, even one with a highly democratic programme, which lacks real intra-party democracy is insincere, because its activity does not teach party members about democratic behaviour and democratic decision making and does not reproduce democracy at the wider political level. In this

connection, it is important to stress the significance of the Code of Good Practice in the Field of Political Parties, which was adopted by the Venice Commission in 2008, six years after the adoption of the Code of Good Practice in Electoral Matters. It is recognised as a reference document of the Council of Europe and has become the basis for the common formulation and common understanding of the European electoral heritage.

The Forum shows that it is time we analysed our experience with promoting and implementing the Code of Good Practice in the Field of Political Parties, clarified the content of some of the concepts and clauses, and established a number of minimum standards as vital requirements for compliance with the main principles as well as their possible expansion under different electoral systems and other specific circumstances in different countries. It might be useful to highlight examples of current practices which are incompatible with the European electoral heritage.

I might venture to say that such an activity would be especially useful and instructive for new democracies. On the other hand, I am sure that the practice of the newly democratic countries provides many new pointers for analysis and general implementation, thus enriching the common experience. This might help ensure that the diversity of European nations promotes our common future development.



**Hendrik Daems**

*Member of the Political Affairs Committee, Parliamentary Assembly of the Council of Europe*

The word “democracy” consists of two Greek words, “demos” and “kratos”, meaning people and power. Therefore democracy is “power to the people”, as opposed to power to the few.

This has been exactly the issue of this Forum, during which we have looked into the electoral systems that should give the right to decide to the people. That is why for me the noun democracy is more like a verb in that it is constantly in action. We have to work at it because circumstances change, technology changes, society changes and people change. There is no such thing as a static democratic system; it has to evolve with society. That is why we constantly have to work at it. The Forum has made some important conclusions and I will discuss only a few here.

Firstly, one of the main conclusions is that there is no model electoral system. This does not mean that all of our countries can hide behind, for example, cultural differences in order to keep bad elements in their electoral systems. That is why I think that this fourth point on our list of conclusions is very important because there we say that the Council of Europe should establish a common understanding about all the principles that will qualify elections as being free and fair. This basically means that any element that endangers free and fair elections should be banned. So we can no longer hide behind arguments such as “I am different, I am living in a different country, so I can keep some of these elements that I know are not good for free and fair elections”. We should establish, basic, common principles, and enforce them. Why? Because in this way the Council of Europe region would become the world’s largest free and fair election zone and this is the target that we should fix for the coming years.

We have put forward other conclusions relating to principles, practices and control and I would like to highlight a few. I am currently writing a report on behalf of the Council of Europe which concerns thresholds. It includes the issue of disproportionate deposits required to register as a candidate.

In point 11 of the list we conclude that women should be fairly represented at all stages of the electoral process and I witnessed a discussion in which several of our male colleagues were against quotas. I am not directly in favour of quotas, but we should be fair. We had nine rapporteurs and only one was a woman. I would like to see our reaction as men if the next Forum had nine rapporteurs and only one was a man. I would dare to suggest a quota so that in the next Forum half of the rapporteurs are women, or even make it uneven and have one woman more than the number of men. That is what I would suggest and I dare my male colleagues to challenge it. I do not think that they would, so let us hope that in the next Forum we will have as many female as male rapporteurs.

Another interesting conclusion is point 18 which addresses political parties. We know that there are different opinions on this issue and I recognise that parties are very important, but I could not accept a situation where a party stands between the voter and the elected official. To be frank and fair, in many of our countries, including mine, it is not always the voter who elects a person to parliament; it is very often the party that decides on who is going to be in parliament. I believe that we should avoid democracy, power to the people, being held by what I would call “partyocracy” or power to the party. This is a difficult issue, but it would be interesting to explore this in more depth and maybe have rules to guarantee that power resides in the hands of the people and not political parties. We must remember that “demos kratros” means power to the people.

There are also conclusions on the control of elections. An important question to conclude with is: “What is the use of a good report if it is not going to have any impact?” We can go to the press; we can sell it to the people in the audience and we can try to get some articles in the newspapers. That is very important, but I believe we should look into ways of having real impact with the important work that we have done. I have decided that I will introduce the Forum conclusions as a resolution in my parliament. I will force my parliamentary colleagues to vote on this and let them participate in the debate. I will even make it amendable and thus open up the debate so as to identify elements that are sources of disagreement.

*Observations by the general rapporteurs*

I am very curious to see where this debate will lead. I am sure it will be a hard one, but it is something that I am determined to do. I invite my parliamentarian colleagues to do the same in their parliaments because, after all, it is an exercise of the basics of democracy – power to the people. I very much hope that many of my colleagues will introduce such a resolution in their parliaments. In this way the Council of Europe, this Forum, will have a real impact in political life because it is when a politician has to vote on something that he or she starts thinking about it because people will see his or her vote.

Let me end by thanking all the participants at the Forum, thanking you Mr Chairman for chairing the final part of our procedures. But let me finish specifically by thanking the members of the secretariat who have been working until late at night. As I said, democracy is not just a static noun, it is more like a verb, and I think that the secretariat is a vital part of this action by making it visible. They do a great deal of work on the subject and democracy is something we have to work on constantly every day.

**Jean-Claude Frécon**

*Vice-President of the Congress of Local and Regional Authorities  
of the Council of Europe*

When opening the Forum, Keith Whitmore, the Chair of the Institutional Committee of the Congress, very rightly drew attention to the fundamental principle laid down in the preamble to the European Charter of Local Self-Government, namely the “right of citizens to participate in the conduct of public affairs”.

It is during elections that this principle comes into its own. The quality of participation in public affairs through an election can be seen particularly clearly at the time of local elections. In the latter, citizens’ votes are all the more concrete in that they are voting for people they may actually meet, possibly even already know, and whom they can contact more directly and more easily than at national level. The significance of the ballot paper in the ballot box is therefore more tangible than in national or European elections. It is often in local elections that people say that they vote for individuals, not parties.

I note that the issue of participation or turnout in elections was raised in almost all the workshops, either directly or in passing. The problems of abstention and falling turnout are a recurrent issue in most Council of Europe member countries. They concern elections as a whole, at all levels, even though turnout at local level is usually higher and the image of local elected representatives is better. There are many causes and most have been identified or are at least identifiable.

The workshops held during this Forum have highlighted a range of factors that can help make elections more democratic, in particular by ensuring equal access to elections so as to boost turnout and by holding free and fair elections that meet international standards.

Electoral legislation, the voting system, the means employed to make it easier for people to exercise their right to vote and transparent and fair media coverage are the many conditions for restoring voter confidence in the management of elections and involving people so that they will be more likely to vote. We have seen just how decisive the role of political parties, the adoption of a suitable voting system and also the role of both traditional and new media in covering election campaigns can be in this regard.

As a local elected representative and a member of the Congress of Local and Regional Authorities of the Council of Europe, I underlined the importance of good governance in the electoral process several times during the workshops. This means taking account of the fundamental role which can be performed by players from the various spheres of power in local and regional politics. Citizens will only feel directly concerned by an election if they are given a sense of responsibility by the perception that their vote really matters. It is essential that they identify with the main themes of the campaign.

People have to be able actually to exercise their right to vote or to stand for election. In many countries, for instance my own, access to local and regional elections is still not automatic for women. Attitudes need to change here, but this can be speeded up by the introduction of certain types of electoral systems. The Venice Commission made the point very clearly in its recent report on the impact of electoral systems on women's representation.<sup>3</sup>

The Congress adopted a recommendation on equal access to local and regional elections at its 17th Plenary Session.<sup>4</sup> The recommendation covers most of the aspects discussed in the workshops, namely the issue of the equal representation of the sexes in political life, the right to vote and stand in local elections for all people residing legally for at least three years on the territory of a Council of Europe member state, the issue of belonging to a minority group, the involvement of young people in local political life, the establishment of secure alternative forms of access to voting, guarantees of fair and balanced media coverage for all candidates in an election and also the special assistance to be provided by local and regional authorities to voters with physical impairments so that they are able to exercise their right to vote.

This recommendation to the Committee of Ministers could be a starting point for a strong and effective new instrument which the

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3. CDL-AD(2009)029, "Report on the impact of electoral systems on women's representation in politics adopted by the Council for Democratic Elections at its 28th meeting (Venice, 14 March 2009) and the Venice Commission at its 79th plenary session (Venice, 12-13 June 2009)".

4. Congress Recommendation 273 (2009) on equal access to local and regional elections, adopted at the Congress, 17th Plenary Session (Strasbourg, 13-15 October 2009).

Council of Europe, and the Congress in particular, could use in local and regional election observation exercises.

In addition to these standards, I believe that regular meetings such as the Forum for the Future of Democracy are important discussion tools for strengthening the Council of Europe's activities in the area of democracy.

Lastly, I should like to make a comment about electronic voting, which has received much attention as a means of halting the decline in turnout. There is electronic voting in polling stations and there is e-voting (remote voting via the Internet). It is the latter system which I find problematic. Taking part in an election as a voter involves personal action in the form of actually going out to vote and physically demonstrating your involvement in political life. It is a message sent out by citizens, a demonstration of their political commitment, in the same way as they make an effort to go out and be present whenever they want to show their commitment to something or somebody.

We cannot stop the progress of new technology, but voting is a visible, personal act. I fear that voting via the Internet removes this crucial part of the exercise, which is the very essence of participation, namely the display of personal commitment. I therefore do not believe that remote voting via the Internet is a suitable means of improving turnout.

In my view, the workshops have enabled us to identify the electoral processes and guarantees that are bound to help strengthen democracy throughout our continent, provided, of course, that our conclusions and the proposals we have made over the last two days are actually acted upon and taken up as quickly as possible in a text that brings together all our achievements in this area. Our discussions have been most stimulating. It would be nice to think for a moment that the organs of the Council of Europe: the Congress, the Parliamentary Assembly and the Committee of Ministers will put our findings into effect in a manner that is equally stimulating for our democracies.

## OPENING ADDRESSES

### **Thorbjørn Jagland**

*Secretary General of the Council of Europe*

Genuine democracy requires capacity, opportunity and motivation. It requires capacity because people must be capable of making informed choices. They must be able to receive information and form their opinions without undue interference and influence. It requires regular opportunities to exercise such informed choices under free and fair conditions. And finally, it requires motivation to do so.

Somehow paradoxically, in yesterday's Europe, there were many people who wanted to vote, but who were not allowed to vote. In today's Europe, there is a growing number of people who have the opportunity to vote, but refuse to do so.

This, as I understand it, was one of the main reasons which led the heads of state and government of the Council of Europe to launch the Forum for the Future of Democracy, which is meeting here in Kyiv at its 5th session. I should like to use this opportunity to thank the Ukrainian authorities and especially President Yushchenko for the effort invested in the preparation.

If I may return to my introductory thought; many people in European countries which have joined the Council of Europe since 1989 have become disappointed with political institutions because their hopes and expectations for democratic reforms may have been too ambitious and they have become impatient. Political freedom, when it came, did not immediately translate into greater security, a better income and a better life.

But this is not the only reason for the growing disillusion among voters in Europe. Electoral turnouts are decreasing in many countries, in those with longer and in those with shorter democratic experiences alike.

The problems we face, and because of which this Forum was set up, cannot be solved by lowering the expectations of the voters. They will have to be resolved through greater accountability and higher trust in political institutions, processes and personalities.

These are the challenges at which this session, and the previous sessions of the Forum have been looking. Here in Kyiv, we will be looking at electoral systems and trying to identify measures to ensure that elections, as the most important mechanism of public accountability, remain effective, trustworthy and widely used.

We all know that free and fair elections are a vital feature of democracy. They ensure the selection of political leadership based on the will of the people and they are a key element in holding the political leadership accountable for its performance. For this to happen, the elections must be universal, equal, free, secret and direct. They must be accompanied by respect for the fundamental freedoms guaranteed by the European Convention on Human Rights, the organisation of the election by an impartial body and the availability of an effective appeal system. We all know that there is still some way to go before these general principles for democratic elections are fully accepted and respected everywhere in Europe.

What a genuinely functioning democracy also requires is a democratic culture, which takes years to develop. It is normal that some countries with more recent democratic experience will encounter more difficulties and they are entitled to, and will receive, our help.

But this being said, we should not and we will not tolerate that a shorter democratic history is used as an excuse to ignore democratic standards, just as we should not and will not tolerate that long-standing democracies consider themselves immune from any criticism or advice.

The fact is that some of the most critical issues this Forum will tackle, such as the freedom to receive and impart information, the independence of the media and the role of new information technologies in relation to elections, affect each and every member state of the Council of Europe.

We should also critically assess what is the scope of action for international organisations such as the Council of Europe in improving



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electoral standards across Europe and beyond. We should not satisfy ourselves with good ideas, we need good results. The Council of Europe should not be only a think tank; it should be a work horse for democracy in Europe. A good example is offered by the Code of Good Practice for Civil Participation in the Decision-Making Process, which the Conference of International Non-Governmental Organisations has adopted in response to the conclusions of the Forum in 2007. What remains now is to make sure that the code is implemented and also to evaluate what impact it will have in practice.

This is a general principle which I will follow as the Secretary General of the Council of Europe. In this particular case, we have ways to measure our influence, for example through the trends in voter participation. It does not mean that we should claim the credit – or accept the blame – if turnouts in the next elections across Europe go up or down. There are many factors which come into play in these trends and we must strive to be one of them. What we do must be relevant, must be effective, and must make a difference.

**Samuel Žbogar**

*Chairman of the Committee of Ministers of the Council of Europe,  
Minister for Foreign Affairs of the Republic of Slovenia*

It is a great honour for me to speak as Chair of the Committee of Ministers at the opening of this fifth session of the Forum for the Future of Democracy. Since its inception at the Warsaw Summit, the Forum has proved to be a very valuable arena for exchanging experience and confronting views on how to improve the functioning of our democracies.

This session promises to be no exception. Fair and free elections are one of the basic requirements for a democratic society. They are a necessary condition for political representation. Electoral systems, the theme of this Forum, as the rules that govern the conduct of elections, are crucial. They cover a vast spectrum of issues for debate. In these opening remarks I will briefly highlight two angles: firstly, the legal framework and the related social, political and practical conditions needed for free and fair elections; secondly, I will touch on citizen participation and representation.

It has been said that the key test of a free and fair election is whether the will of the majority of voters is expressed freely, clearly and knowledgably, and in secret. For the Council of Europe, free elections are intrinsically linked to fundamental freedoms. They require freedom of speech and association; freedom to register as an elector, a party or a candidate; freedom from coercion; freedom of access to the polls; freedom to vote in secret and freedom to complain. If an election is to be fair, it must take place on a level playing field. This includes impartial administration of the election, universal suffrage and accessible polling places; transparent counting of the vote as well as equitable access to campaign resources and the media.

The above elements must be rooted in proper electoral legislation, which can be a complex and difficult process. There are of course minimum standards which are now commonly accepted in this field, and indeed largely set out in the Code of Good Practice in Electoral Matters of the Council of Europe. These cover a wide range of provisions: from issues related to electoral registers or voting procedures to procedural safeguards in the form of independent

electoral commissions, to mention just a few. However, whilst common standards may prevail, electoral systems do differ. Each state has to fine-tune a system to suit its own particular conditions. This is not always an easy task. But whatever electoral system is retained – be it proportional, majoritarian or other – what is important is that it is implemented with respect for fundamental rights, the rule of law and democratic principles.

Establishing electoral systems takes time and experience. The Council of Europe has gained extensive expertise in the field of electoral standards and processes. The Committee of Ministers has adopted a number of recommendations on this topic. Mention must also be made of the particularly valuable contribution of the European Commission for Democracy through Law (the Venice Commission), which has developed over time a vast number of reference documents in the field of electoral law and whose expertise is widely acknowledged. But the *acquis* of the Organisation comes from all its bodies, including the Court, the Parliamentary Assembly and the Congress of Local and Regional Authorities.

The Council of Europe's work goes much further than setting standards. It has developed its own brand of action plans to assist newer member states with the preparation of elections. These focus on the adoption and implementation of electoral laws, notably through training and awareness-raising activities for public officials, members of electoral commissions, judges and the public at large. Through the Venice Commission, it provides constitutional advice to member states when preparing draft electoral legislation. The Organisation also widely co-operates with other international bodies in this field and, through the Parliamentary Assembly and the Congress, is involved in election observation.

I will mention two other important issues in this area. Firstly, there is the question of the media, which are clearly an important vehicle for enhancing debate and electoral choice. However, the need for fairness, balance and impartiality in media coverage is crucial, as is the need to monitor coverage during election campaigns. The Council of Europe has been very active in this field – in standard setting and in assistance – and the inclusion of media topics on this Forum's agenda is very welcome.

Another integral part of electoral systems is the rules governing political parties in elections. Political parties are the vital link between the state and civil society. If the aim of elections is to be achieved, they must function with transparency and openness, be it with regard to the individual organisation of a party or its funding. Political parties have a great responsibility, together with the media, in interesting the electorate in political life and thus stimulating debate and participation. The Council of Europe has also carried out substantive work in this field, particularly with regard to the financing of political parties, a crucial element in ensuring fairness and transparency. The issue of the role of political parties is not straightforward, but I am sure the workshop on this subject will provide very good food for thought.

The second issue is citizen participation and representation. Even if a country has an excellent electoral system and the results of an election are valid, low citizen participation weakens the democratic legitimacy of those elected. In contrast, high participation that includes all sectors of society immediately brings a strong legitimacy to elected bodies. This in turn promotes political stability.

When looking at electoral systems, it is therefore essential to pay attention to citizen participation and to consider not only who can vote but also who actually votes. Whilst “one person, one vote” may be the ideal in universal suffrage, there is still progress to be made before it becomes a practical reality. Voting behaviour is subject to many different influences – such as social or technological changes, economic and political climates – which must be given particular consideration. If the electorate is disenchanted with politics, why? Can something be done to renew voters’ confidence in the electoral system? Can participation or civic engagement be increased through the progressive use of e-voting or other e-tools? We must always be ready to question what is established to see if things can be improved with a view to strengthening the democratic nature of elections.

Finally, I would mention some groups in society whose participation, and consequently representation, in political life is often meagre. I am referring to vulnerable groups that require specific attention such as national minorities or foreigners legally residing in a given state. In addition, it must be highlighted that women, as a group, have traditionally been seen to be much less implicated in political processes,

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along with youth. These are large sectors of the population. It is important that they are encouraged to participate both as candidates and as voters, and that their interests and concerns are specifically addressed in political campaigns, with the ambition of promoting the participation of these groups in the electoral process.

I will conclude in wishing all those present rich and constructive debates on a topic which is crucial to the notion of democracy, and to all member states. The Committee of Ministers looks forward to examining any conclusions or recommendations that emerge from the Forum.

**Göran Lindblad**

*Vice-President of the Parliamentary Assembly of the Council of Europe and Chair of the Political Affairs Committee*

It is important that parliamentarians are not toothless tigers but that they are active in using the power and possibilities invested in them to make decisions. In all democracies, parliaments should tell the governments what to do and not the other way around. Parliamentarians should not just press the “yes” or “no” button according to what is said by governments. Of course, this is not appreciated by the executive power.

I am very pleased to be here in Kyiv. The last time I was in Ukraine was for the commemoration of *Holodomor*.<sup>5</sup> I was also able to see from a distance the monument to this event and, when I was in the Crimea, I saw an excellent play about this tragic period.

Democracy is an ongoing process. We will never reach the goal of a perfect democracy but we shall never give up trying. Even when the basic principles of democracy are clear, their implementation is dependent on many circumstances and debating the different aspects of the democratic process is undoubtedly beneficial.

This Forum is about electoral systems. It is just a coincidence that it is taking place at this moment; it is not about the Ukrainian elections or the Ukrainian electoral system. However, I hope that Ukraine will gain from the Forum and, like all of us, learn from the different experiences presented by the participants in order to promote good practices in electoral systems.

Politics appear to be pretty lively here in Ukraine and that is very good. After a few more years of effective democracy, Ukraine will probably become more predictable when it comes to political parties. However, I hope it does not become as predictable as my own country, Sweden, as it will then become boring. So be careful, the balance is important.

The idea behind our work is to hold the Forum in the hope that host countries will gain from it. Unfortunately, this has not always been

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5. *Holodomor* is the term denoting the famine of 1932-33 in the Ukrainian Soviet Socialist Republic.

the case. It is sad to say that the Forum we had in Moscow did not help democratic development in Russia. That is, of course, my personal opinion, but I see that as problematic. From the Parliamentary Assembly's point of view, we are a little hesitant when it comes to next year's Forum in Yerevan. We hope, and we think, that the democratic development between now and then will be good enough, in which case I will be happy to go to Armenia.

Since the first meeting in Warsaw in 2005, the Forum process has been established in a more or less formal manner. The Parliamentary Assembly approach means that a rapporteur from the Assembly initiates a report on a relevant issue in one of the Assembly's committees. This year, Mr Daems from the Political Affairs Committee is working on a recommendation on thresholds and other features of electoral systems which have an impact on representativity of national parliaments in Council of Europe member states. This issue is very important because threshold levels should be based on a certain percentage of the vote. However, there can be hidden threshold levels; for example, when there is a direct election between two candidates the threshold level could be 50%.

There are other hidden threshold levels when it comes to financing politics, financing parties and financing the activities of the members of parliament during the campaign period. One must ask if they are able to campaign as they wish. Are they able to be present in their constituencies? What kind of support do they have? I am not happy with the system we have in Sweden where the political parties control all the financing. I cannot even decide who should be my political assistant. That may be a hidden threshold and we shall discuss these issues during the Forum.

We need to discuss how people are elected so as to ensure the legitimacy of parliamentarians as well as that of other elected officials at all levels: local, regional, and European. Different countries have different systems and in some countries the political parties are becoming sclerotic. The average age of the members of the major parties in Sweden is now 68 years. Those members are in primaries electing who will be on the next ballot and that does not help the cause of change when we want more women and more immigrants selected.

At the 2009 Fourth Part-Session of the Parliamentary Assembly of the Council of Europe we examined a report by Jean-Claude Mignon, “The future of the Council of Europe in the light of its sixty years of experience”.<sup>6</sup> His findings are closely linked to how people are elected, to the electoral system and to the credibility of the parliamentarians that are elected to the Parliamentary Assembly. But the credibility and the future of the Council of Europe will be defined by what role we can play in European politics, and maybe also in world politics.

In recent years, the Council of Europe has not been very successful in preventing war. Nor has it been entirely successful in promoting democracy. We should try to be better at that and at the very least we should try to become more of a think tank. Mr Mignon suggested that this Forum should be the “Davos of democracy”, which is an interesting comparison. I met Mikhail Gorbachev in Strasbourg when he spoke at the Council of Europe’s 60th anniversary celebrations; he proposed that the Davos forum and the Political Affairs Committee of the Parliamentary Assembly should organise a joint event. I think this is a good idea.

Finally, we should always try to improve our electoral system and never sit back and say: “Now we have finished, now we have the perfect system”; because there is no perfect system.

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6. Parliamentary Assembly report on the future of the Council of Europe in the light of its sixty years of experience, rapporteur: Jean-Claude Mignon, Doc. 12017, 14 September 2009.



**Keith Whitmore**

*President of the Institutional Committee of the Congress of Local and Regional Authorities of the Council of Europe*

Let me begin by saying that it is a great honour to address you. The Congress of Local and Regional Authorities of the Council of Europe has from the outset been one of the four stakeholders of the Forum, and we are always very happy to participate.

At the Council of Europe's summit in 2005, the heads of state and government reaffirmed that the preservation of democracy and its progress towards participatory democracy – a truly citizen-centred democracy – is a priority for our Organisation. We all know that democracy takes its roots at the local level. It is at the local level that people receive their first lessons and experiences of participatory politics.

The quality of democracy in a country is the sum of its constituent parts. Local communities are the pedestal of the democratic edifice. It is impossible to imagine a healthy political system at the national level if the base is rotten. That base is local democracy.

It is for this reason that the Warsaw Summit identified the Congress as one of the stakeholders for the Forum. As the representative body of over 200 000 local and regional authorities on our continent, the Congress brings the authentic voice of the grass-roots democracy to the Forum.

I am very pleased that this year's Forum for the Future of Democracy is turning its attention to electoral systems. Pluralist elections are the health and strength of modern representative democracies. Elections are the key moment of choice for the citizen. They legitimise the decisions of the local, regional or national government for a period of several years.

It is essential that this choice be made in the best possible conditions. But the act of choosing is not just that of dropping your voting card into the ballot box. The actual vote is one of the last steps in a long and complex process. Citizens need to be properly prepared for elections. They need to have a real choice.

Participation in democratic life is about more than voting or standing for election, although these are important elements. Participation and

active citizenship is about having the right, the means, the space and the opportunity to participate in and influence decisions and engage in actions and activities to contribute to building a better society.

The framework in which elections are organised is paramount. There are many ingredients that need to be present for the election recipe to be a success. Stable and robust electoral legislation is the foundation, the cornerstone for the conduct of free and fair elections. But there also need to be lively and strong political parties, which are properly financed and which present clear and distinct policies. There has to be a strong electoral campaign that is clearly visible. The media play a pivotal role in campaigns and they must be independent and accessible to all parties. The climate of an electoral campaign is crucial. Fear and intimidation have no place in elections.

The Congress has a long record of observing elections and we are here to share that experience with you. Our electoral observation reports, which are regularly published, show that there can be problems in elections anywhere. Democracy is an ongoing process. There is never a time to sit back and congratulate yourself that you have arrived. In my own country, which has a very long tradition of democracy, we know only too well that there is always progress to be made and that the fight is never over.

It is clear, however, that democracy has put down strong roots in some countries, whereas in others the picture is not so rosy. We need to talk about this, about what makes for a proper election. Democracy requires lively debate, a free and frank exchange of ideas. We are here today to contribute to that debate. We should not be afraid to disagree with each other.

It is not for nothing that we have a European Charter of Local Self-Government, ratified by 44 of our member states, which reminds us that “the right of citizens to participate in the conduct of public affairs” is one of the democratic principles that are shared by all member states of the Council of Europe. It is not for nothing that we go to great lengths to monitor the charter and to ensure that its principles are observed and respected, and that we regularly monitor elections.

When we talk about elections, the question of participation is primordial. The Congress has pursued this principle of participation in a

number of instruments. I am thinking of the Convention on the Participation of Foreigners in Public Life at Local Level and the Revised European Charter on the Participation of Young People in Local and Regional Life.

At its 17th Plenary Session, the Congress adopted a recommendation on equal access to local and regional elections which underlines how important it is that no group of persons be excluded from the electoral process. More needs to be done to ensure the equal participation of women. More needs to be done to enable foreigners to play a full role in politics and to ensure that young people, old people and people with disabilities are not left out. The Congress attaches special importance to citizens' democratic participation in all fields.

It was my pleasure to launch the 2009 edition of "European Local Democracy Week". This is an annual European event with simultaneous national and local events organised by local authorities in all Council of Europe member states. The purpose is to foster the knowledge of local democracy and promote the idea of democratic participation at a local level. It takes place every year in the week that includes 15 October, the date that the European Charter of Local Self-Government was opened for signature in 1985.

That fact that we are holding this conference here in Ukraine is symbolic. This is a country which has known more than its fair share of dictatorship. Today, it is a young democracy with a strong thirst for democratic change and good governance. It is a tribute to the Forum that they have chosen to meet here. We have come here for a real debate. It is by combining our energies, by listening to each other in a participative environment that we will ensure the development of our democratic societies.

**Viktor Yushchenko**

*President of Ukraine*

***Summary of the speech***

“There is only one measure of the future of Ukraine as an independent state, and that is if it is democratic. Ukrainian independence can be realised only in the context of democratic policy”, said President Yushchenko at the official opening of the 5th session of the Council of Europe Forum for the Future of Democracy.

He noted that the current political situation in Ukraine was not straightforward. He saw the state facing four main challenges – establishing statehood, confirming the irreversibility of the democratic process, integrating into the European and Euro-Atlantic communities and organising competitive market economy relations.

The president underlined that the challenges to democracy in Ukraine were fairly serious, as there were forces proposing to turn back the clock, and this movement had its backers.

He stressed that in Ukraine’s history there had been only one reason why the country had lost its independence and that was outside interference.

The president believed that in order to guarantee that this history was not repeated, integration into European and Euro-Atlantic political institutions was essential, and that public support for such a course of action was growing. “By forming democracy and creating Ukrainian statehood, we are becoming integrated into the European structures responding to the present-day challenges of security”, said Mr Yushchenko.

A further threat to democracy in the president’s eyes was the incomplete structure of the political system, which had been established by the constitutional reform of 2004, and the system of proportional representation in particular. The president also noted the extreme degree of parliamentary immunity. He reiterated that he had proposed his own constitutional reform, including the introduction of open lists for parliamentary elections and a majority system in local elections. The intention of the reform was for Ukraine to adopt the majority of

democratic procedures found in most Council of Europe and European Union countries, and it had already received a positive assessment from the Venice Commission.

Concerning the present situation, he said: “Today we are seeing the formation of clannish groups with specific moral values substantially rejecting the democratic process and ethics which have to be a part of normal societies.”

The president emphasised that democracy paved the way not only for political freedoms – freedom of choice and freedom of speech – but also for economic progress and the guarantee of social standards. This has been borne out by five-fold growth in foreign investments and a doubling of the state budget and the gross national product. As a result, Ukraine had been rated as a politically free country (in the assessment of Freedom House).

“Freedom of speech and journalistic freedom constitute 50% of our democratic progress. This is the anchor that will ensure that we do not drift in the wrong direction”, he maintained.

Among the successes of the last four years he also referred to closer relations with the European Union in practical terms in the spheres of energy and education, as evidenced by talks on an association agreement and the creation of a free trade area. “There is one message underlying the policy I am pursuing: Ukraine is coming home; Ukraine is coming back to take up its place in the European Union, since Ukraine always was, is and will undoubtedly be a European state”, said Viktor Yushchenko.

The president expressed his gratitude to the organisers of the Council of Europe Forum for the Future of Democracy for holding the event in Kyiv and also to the representatives of the Council of Europe’s member states for supporting Ukraine’s European endeavours.

“I am convinced that, together, we will carry through a policy resulting in an extended collective security area in Europe, and Ukraine will be an inalienable part of that area. We will join forces with the European political institutions framing a single, agreed economic, financial and social policy for Europe”, said Mr Yushchenko.



## **THE CODE OF GOOD PRACTICE FOR CIVIL PARTICIPATION IN THE DECISION-MAKING PROCESS**

### ***Presentation***

#### **Jean-Marie Heydt**

*President of the Conference of INGOs of the Council of Europe*

Civil participation is particularly important at a time when constant reference is being made to people's desire to become genuinely involved in the democratic process. The Code of Good Practice for Civil Participation in the Decision-Making Process, which I should like briefly to present, should not be confused with a legislative text that would be binding on the stakeholders or with a list of good intentions stemming from a hastily convened NGO meeting.

The origins of this code lie in a previous Forum for the Future of Democracy – held in Sigtuna (Sweden) in 2007 – at which the participants from the *quadrilogue* asked the Conference of INGOs of the Council of Europe to draw up a text in this area. I would take this opportunity to extend my warmest thanks to the NGO team which put so much effort into the task.

The Conference of INGOs' constant aim is to pass on the know-how and skills of our pan-European network of NGOs to decision makers. In return, we seek to help promote understanding, at the grass-roots level, of the decisions and action taken by the authorities.

The Code of Good Practice for Civil Participation in the Decision-Making Process was drawn up in line with this approach, which we respect in all our activities. The outcome of our work was presented to the Ministers' Deputies, the Parliamentary Assembly and the Congress of Local and Regional Authorities of the Council of Europe. We then incorporated their remarks and suggestions in the final text, which was approved by the Conference of INGOs of the Council of Europe at our plenary session on 1 October 2009.

The code is based on practical experiences from various countries in Europe concerning relations between NGOs and the authorities, which are based on principles of independence, transparency and trust. Examples of the pooling of good practices and tried-and-tested methods for facilitating these relations have been analysed and set out in an operational document. The Code of Good Practice for Civil Participation is a tool for the relations that can be achieved between civil society and national, regional or local authorities.

The Forum workshops will look at ways to give life to the code, especially when we discuss the desire to build high-quality democratic standards and strengthen the transparency and consistency of the authorities' actions.

Our desire and objective is to engage with elected representatives without the risk of confusion of roles or responsibilities while showing an ongoing commitment to co-operation and complementary action. This role as a link between the authorities and the public is all the more justified since a growing number of NGOs are committing themselves to co-operation with the authorities.

I now therefore submit the code – which the Forum called for two years ago – to you and urge you to draw on it as a resource for this increased co-operation between the authorities and civil society.



## EUROPEAN PERSPECTIVES

### **Arnold Rüütel**

*Former President of the Republic of Estonia*

I am honoured to welcome you to this Forum for the Future of Democracy. The title of the Forum and the topic discussed unite some of the most common keywords of our time: “democracy”, “the 21st century” and “future”. In only two months, the year 2009 will end and one decade will be replaced by another. At first glance, this might seem of little importance but in reality, it will be a significant change. We have reached the second decade of the 21st century. However, there has been no reduction in, or elimination of, problems as predicted by many eminent philosophers and historians at the end of the previous millennium. Thus, humanity is standing at the threshold of the second decade of the 21st century repeating the same keywords that were used 10, 20 or even 100 years ago but is still not able to reach an agreement on the unequivocal meaning of these words.

However, now that 10 years have passed from the beginning of the mythical 21st century, we understand – perhaps even clearer now – that significant changes cannot be expected overnight. Most importantly, nothing happens by itself. The bloody wars of the 20th century and crimes against humanity have taught us that democracy is not a mythical perpetual motion machine, a *perpetuum mobile* which can be set in motion once and for all. We know that the mechanisms of democracy will stop if we do not pay constant attention to its development. Fortunately, many countries have learned from history and have changed beyond recognition when compared to what they were two, five or seven decades ago. Therefore, humanity has learned from its history and we have to bury the thought of the end of history as the solution to all problems.

I dare to believe that this hope is shared by everyone here. In principle, it is very easy to define the task that we are facing today. In my opinion,

it could be formulated as follows: an honest and sustainable development of democracy is an admission exam to the school of humanity for the capacity to learn. If we achieve a free and just society, and are able to hand it down to our descendants, we have passed the exam and should be accepted to the contemporary school of democracy. As this is a school where the common values of free nations are teachers as well as landmarks, democracy is able to provide many valuable lessons to even the most developed societies. But those who do not wish to learn, who prefer illusions to reality, crooked ways to straightforwardness and lawlessness to the spirit of law have no reason to hope for the benefits that democracy has to offer.

We are all happy to have witnessed the extraordinary development that has taken place in Europe, especially in the eastern part of Europe, after the fall of the Iron Curtain. Two decades of freedom have offered many nations unprecedented opportunities to exercise their free will. Five years have passed since the accession of Estonia to the European Union and NATO. The time before 2004, when we were working to meet the criteria of the Euro-Atlantic community, gave us an invaluable opportunity to take a broader and more critical look at our development than we would have taken on our own. We learned that critical introspection, as well as consideration of the experiences and advice of older democracies, could help us to compensate for the years we lost during the occupation and become a state based on the rule of law. In order to restore democracy in Estonia, we added innovation, which is evidenced by the fact that Estonia was the only country at the elections of the European Parliament this year whose citizens were able to cast their votes by e-voting.

To conclude, allow me to thank Ukraine, our host, for the hospitable reception in the true spirit of Ukraine and for the excellent organisation of this Forum. For years, the people of Estonia, myself included, have had the privilege to follow the impressive development of the independent Republic of Ukraine. There has been an open and productive dialogue between our countries and I am pleased to say that, in many cases, you have taken the experience and advice of Estonia into consideration. Democracy and its basic principle of the people's free will to elect and to become elected, as well as the honesty of the election system, are the only possible roads to unite free nations. There is no other alternative.

**Maria Leissner**

*Ambassador at Large for Democracy, Swedish Presidency  
of the European Union*

It is an honour for me to be in Kyiv today at the Forum for the Future of Democracy representing not only my country, Sweden, but also the Swedish EU presidency. I feel humbled in this panel and listening to the previous speakers, as I represent a country where there is no longer a living memory of what it is to fight for freedom. I listened many times to my grandmother telling me about the first time when she was allowed to vote as a woman in Sweden, almost 100 years ago. She is no longer alive and that generation has died. We do not have any living memory yet of what it is to fight and win democracy.

It is therefore a great pleasure to be at this Forum in Ukraine with such an important presence of speakers from central and eastern Europe who can participate and share their experiences and the high level of energy that is found in these countries when it comes to safeguarding democracy, compared to countries like my own.

Nevertheless, democracy and human rights are living values in Europe, both in the Council of Europe and in the European Union. Carl Bildt, the Swedish Minister for Foreign Affairs, said in a speech at the Council of Europe in July 2009 – when he handed over the presidency of the Council of Europe – that the Council of Europe could be seen as the European Union's older sister; an older sister that gave the European Union its basic values. The *acquis* and the institutions of the Council of Europe provide the bulwark of human rights in Europe. They inspire, teach and guide Europe through our journey to improve democracy, human rights and the rule of law.

As the Ambassador at Large for Democracy, and having a colleague who is an Ambassador for Human Rights, I am often asked to define the difference between democracy and human rights. All of us here know that these values are mutually supporting and that they are inconceivable without one another. The way I would like to put it is that democracy is the political system derived and extracted from the principles of human rights. Human rights can only exist within the framework of a democracy. But that does not mean that a democracy automatically fully respects human rights. Democracy is also much more than human rights. There is always more work to do.

Democracy, human rights and the rule of law are all guiding principles in the European Union and in the Council of Europe. They are our core values and they completely permeate all our actions. During the Swedish presidency of the European Union we are giving weight to these values in several ways.

One is by supporting the enlargement process. We sincerely hope that Croatia may soon become a member. My country is very eager to continue the efforts so that Turkey might also in the future become a member of the European Union. The enlargement process is a fantastic and extremely powerful instrument for democracy and human rights. As President Yushchenko has said, it is not only about democracy and human rights, it is interlinked with social progress, with stability and peace and with economic growth.

The fact that Europe has managed to produce all of these things at the same time is part of our building process of the European Union. It is what gives us what many call “soft power”. Many other countries would like to be geographically situated in Europe in order to be able to participate in this project. We have shown that there are strong connections between social progress, economic progress and democratic progress.

It is not enough for us to just rest on our laurels. I believe it is a very important part of being a democrat to be constantly critical and look at oneself. In Europe we certainly have a lot of things to do.

A second ambition of the Swedish presidency agenda is to strengthen the Europe of citizens, including proposals to promote the free movement of people.

The third activity concerns a project which was initiated with the Czech presidency last semester to create a common approach for European Union democracy support. We hope to see the draft European Council conclusions on this adopted during our presidency.

The current “European Development Days” in Stockholm on the theme of citizens and development are devoting one full day to democracy. All of this gives an idea of the importance that my government is giving to these issues during our time of leadership of the various European institutions.

In just a few years, the Forum for the Future of Democracy has grown to become a major event of the Council of Europe. Sweden is proud to have contributed to the development of the Forum; we hosted it in 2007 in Stockholm and in Sigtuna with the aim of increasing participation and creating the conditions for true dialogue between all major stakeholders of a genuine democratic society. The *quadrilogue* approach of the Forum process is important for this and we are happy to have been a part of its development. We would like to express our appreciation to Ukraine as this Kyiv session is further building upon this process developed in Stockholm and Sigtuna as well as in Madrid, Spain.

The theme of this Forum is the future of elections within the context of the challenges facing electoral systems. This is a very essential aspect of the Council of Europe's work in the field of democracy. Often, when discussing democracy one focuses on elections. Many would criticise this and point out that democracy is not only about elections. While this is true, it is also true that elections are the most symbolic moment of a democracy. Elections are when the principle underlying democracy – that all men and women are equal – is demonstrated to each and every voter. My vote is counted, however, it does not count in any way more or less than the vote of any other citizen. Elections are also the moment when the parties and people seeking office have to ask for voters' confidence and have to be accountable in order to regain that confidence.

Another important aspect is the issue of participation. Here I believe it is important to apply some self-criticism. In my role as Chair for the Swedish Delegation for Roma issues, I have come to learn about the alarmingly high numbers of European Roma, in all of our countries, who lack documentation, identity papers and perhaps even citizenship. They are completely excluded from taking part in the democratic process and they are not the only group in European countries unable to participate in the elections. I am convinced that these and many other concerns will be further developed during this Forum.

**Šarūnas Adomavičius**

*Deputy Minister for Foreign Affairs of the Republic of Lithuania*

Firstly, I would like to express my gratitude to the organisers of this session for granting me the opportunity to give this address and thank them for their dedication and hard work in organising this event.

It is very important that the current session of the Forum for the Future of Democracy is organised by, and is held in, a country of eastern Europe. It testifies to me the role that the Council of Europe and this Forum are playing in uniting the continent we live in.

At the 3rd Summit in Warsaw, the participants expressed their belief that effective democracy and good governance at all levels are essential for preventing conflicts, promoting stability and facilitating economic and social progress.

As participants, we declared our commitment to maintain and develop effective, transparent and accountable democratic institutions that are responsive to the needs and aspirations of all. The Warsaw Summit Action Plan, which established the Forum for the Future of Democracy, clearly stated that the Forum's main objective would be to strengthen democracy, political freedoms and citizens' participation.

The success of the previous four sessions proves that the Forum does indeed promote civic participation and is capable of bringing tangible results in this field. I am particularly pleased to note that it is open to all member states and civil society organisations and provides an excellent opportunity to exchange ideas and information, discuss best practices and propose future actions.

Elections have always been the most direct expression of civic participation and this theme is of high relevance for the Forum and its participants. Global economic and financial challenges, social problems, corruption and leaders' lack of competence to resolve these challenges may lead to lower voter participation in elections and to a polarisation of the electorate. Only a fair, transparent and inclusive election process can produce legitimate results and reinforce public confidence in democratic processes.

It is essential that this session discusses the role of all of the key actors in the democratic process, including competitive political parties, the

media and civil society. In order to strengthen the democratic process, we need to find the best ways to respond to the challenges facing each of these actors.

One of the aspects we will discuss is our mutual help through election observation missions. Believing that actions in support of democratisation can make a major contribution to peace, security and the prevention of conflicts, Lithuania will continue to actively contribute by providing its expertise to election observation missions organised by the EU and the OSCE. I am sure that we can and will benefit from the results of the Forum discussions on this sub-topic.

Today, I represent not only the Government of Lithuania, but also the Presidency of the Community of Democracies – a global intergovernmental coalition of over 100 democratic countries, with the goal of promoting democratic rule and strengthening democratic norms and institutions around the world.

The Community of Democracies was founded in 2000 during a ministerial conference in Warsaw, when delegations from all around the world signed the final declaration entitled “Toward the Community of Democracies”, which had a special emphasis on the values that constitute democracy. Lithuania is truly honoured to steer this forum.

To Lithuania and to other captive nations which regained freedom after the fall of the Berlin Wall, democracy meant independence, security, stability and sovereignty. We paid a high price for democracy. We know that democracy can never be taken for granted and that the support of other democratic countries and their people can be crucial to the success of those fighting for democracy.

Lithuania is seeking to revitalise the Community of Democracies by sharing our experience, reaching out to international or regional organisations and other stakeholders of democracy, recreating working groups and launching concrete flagship projects. We will also seek to promote the thematic agenda during our presidency. We are developing a new approach to the issue of women and democracy, building on the recent conference that the community held in Warsaw. We will strengthen the youth segment and we are ready to establish a parliamentary dimension of this organisation.

I see the Community of Democracies as a hub of activities aimed at supporting democracy, with multiple levels of engagement. We have many institutions, initiatives and stakeholders working to develop democracy, but we lack synergy, focus and common action. We need to involve all relevant democracy stakeholders – global, regional or national.

We hope to develop an agenda to guide the work of the Democracy Caucus in New York and Geneva. In addition, we will engage with the OSCE, the Organization of American States, the African Union, ASEAN, the European Union and various other regional organisations that are open and willing to collaborate with the community.

In New York we had a very successful informal ministerial meeting. Mr Khandogiy, Ukrainian Acting Foreign Minister, was also very active during this debate. In Brussels, under the auspices of the European Parliament, we hope to have a first round table between the Community of Democracies and the European Union. I very much hope that a similar meeting between the Community of Democracies and the Council of Europe could also take place in Strasbourg in order to reflect upon the synergy between the Council of Europe democracy building activities and the community.

I also hope that the Community of Democracies will organise in Kyiv a high-level debate on Ukraine's progress and experience in the region.

To conclude, a few words about the coming Community of Democracies' Cracow summit meeting: the Lithuanian Presidency, in close co-operation with our partners in Poland, is working to ensure the success of this meeting which will mark the 10th anniversary of the Community of Democracies. This summit should be a major relaunch of the community, enhancing the synergies of different stakeholders of democracy building. I sincerely hope that we will meet there again and that we can count on Ukraine's active participation in the process.



## **HIGH-LEVEL PANEL DEBATE ON “THE FUTURE OF ELECTIONS”**

### ***Summary of the discussion***

#### **Introduction**

The high-level panel was chaired by Mykola Onishchuk, Minister of Justice (Ukraine) and moderated by Andrey Kulikov, ICTV (Ukraine). The panellists were Dame Audrey Glover, Director, Electoral Reform International Services (UK); Ambassador István Gyarmati, President, International Centre for Democratic Transition (Hungary); Jan Helgesen, President of the European Commission for Democracy through Law (Venice Commission); Professor Pippa Norris,<sup>7</sup> Harvard University (USA), and Bill Sweeney, President, International Foundation for Electoral Systems (IFES).

The panellists discussed the future of elections within a paradigm whereby elections form a major moment in an ongoing process of democratic participation. Whilst emphasising that there could be no democracy without elections, the panellists expressed their concern that if political parties seem too similar to each other they are not able to deliver democracy as citizens will lack a sense of real choice.

The panel set the scene by recognising that very often votes are cast against something rather than for something. As a counterbalance to this, the 2008 United States presidential election was cited as an example where people turned out massively to vote because they felt they could make a difference. However, it should not be forgotten that sometimes people do not vote because they are generally satisfied with the current situation and confident in their democracy.

#### **The role of international organisations in democratic elections**

International standards, conventions and guidelines offer instruments to reinforce democratic processes in elections. For example, the Venice

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7. Professor Norris participated via videoconference.

Commission's Code of Good Practice in Electoral Matters enumerates five principles that define the European electoral heritage: elections must be universal, equal, free, secret and direct. Electoral processes would benefit if these texts were better known and more widely implemented.

International standards need to be applied more systematically if sophisticated manipulations that occur during elections are to be reduced. This is not to say that one standard or system fits all. Different countries have different economic, political and social systems and countries need to feel at ease with a particular approach if it is to be successful. Member states should build on what has already been developed both in their country and internationally.

The indications are that election-monitoring procedures are becoming more professional and that this is improving transparency and openness. For this to be sustained, training of long- and short-term observers is essential and, if a country is to be observed, the relevant monitoring bodies should be present in advance of the election in order to provide advice and support.

After the election, recommendations made by observation bodies should be followed through via round tables, annual reports and by keeping the issues on the political agenda. In some member states the adjudication process for election complaints needs to be more transparent and timely. Tribunals and judges, either within an institutional court or through special courts, should provide the structures to respond swiftly to electoral disputes.

There was concern that in some cases of elections in conflict zones, electoral anomalies are identified but no action is taken. This undermines the credibility of, and confidence in, the election results. Another concern was that election outcomes are sometimes judged not by the fairness of the vote, but by whether or not the winner is the preferred choice of those with power.

### **The key role of the media**

The panel recognised that media independence is a *sine qua non* for free elections and the panellists addressed ways in which the media can help deliver democratic governance. Three ideal roles of the news

media were identified: watchdogs against corruption and powerful elites, agenda setters raising important issues for the country and gatekeepers offering a forum for debate and exchange.

If the media is to fulfil these roles, it must be independent and media professionals need to be well trained and capable of making critical assessments of information, elections and policies. Journalists should be in a position to undertake investigative reporting.

The current transformations of the media in response to political, economic, cultural and technological changes are leaving some media performing, at best, only an information role. Media quality can be undermined by the drive of the private media to maximise market share leading them to focus on soft, celebrity news rather than hard, politically relevant news. The view was expressed that some newspaper owners brazenly try to influence election results and that it is very difficult for journalists to resist this.

To address these challenges, media regulation should be appropriate. It should ensure equal access to airtime for different parties and candidates during an election campaign. Furthermore, genuine public service broadcasters (PSB), which are editorially independent of government and protected against political and commercial interference, can help to foster high standards in the media.

The growing role of the Internet as a space for debate and for the provision of news from independent, blogger journalists is transforming people's access to information and can, in some cases, circumvent censorship. The Internet also offers a means for minority or disadvantaged groups to strengthen their visibility. On the other hand, the Internet poses a threat to traditional media formats and in many instances the sources used by content providers on the Internet are not verifiable. Online social networks are also playing a growing role as a source of information.

### **Electronic voting**

The panellists emphasised the importance of exploiting the opportunities offered by electronic voting (e-voting). They suggested that e-voting has raised new opportunities as well as threats regarding the

electoral process and should always be considered in tandem with traditional means of voting, and not as a replacement.

The opportunities lie in e-voting's capacity to facilitate electoral procedures and thereby reinforce participation. The challenges focus on threats to personal privacy and data security and underlying this is the question of how much trust and confidence citizens have in politicians, governments and electoral authorities. In the case of e-voting in polling stations, there should always be a "paper trail" or physical proof of voting behind the process.

### **Improving representation and participation**

The panellists addressed the need to improve trust, representation and participation, especially for women and disadvantaged groups. They emphasised the need for strong political will if such participation is to be improved. The panel reviewed some mechanisms to improve the representativity of women and disadvantaged groups in the electoral process and amongst electoral candidates. These include examining the composition of electoral commissions, ensuring that party lists represent all sections of society, translating relevant documents into minority languages and developing voter education programmes.

The panellists confirmed that tools to improve voter turnout exist; these include lower voting age, compulsory voting, e-enabled voting in shopping malls and by mobile phone, weekend voting, absentee voting, etc. The number of elections held on the same day is also relevant to issues of participation. Nonetheless, if people are to be encouraged to turn out to vote, there has to be a greater connection between politicians and voters.

## WORKSHOPS

### *Theme 1 – General elections in a modern democracy*

#### **Workshop 1A – Increasing the legitimacy of elections: laws, institutions and processes**

*Issues paper*

**Kåre Vollan**

*Expert on electoral systems, Norway*

#### *Systems of representation*

There is a large family of electoral systems used in Europe and they all meet different criteria. Some of such criteria, as summarised in *State structures and electoral systems in post-conflict situations*,<sup>8</sup> follow:

*Create representative assemblies.* In simple terms this criterion means that a party running in an election shall get a number of seats in the assembly that corresponds approximately to its proportional share of the vote. This is often regarded as the overriding criterion for a fair electoral system, and it is the most important justification for proportional elections. An elected assembly should reflect the political composition of the electorate, as well as other aspects such as geography, gender etc. The decisions made by the assembly should be representative of the opinions of the electorate.

*Support accountability of the elected members.* Another important aspect of elections is the relationship between the electorate and the elected member of the assembly. Elections in single-member constituencies are often justified by the need for strong accountability, since a comparatively small electorate will elect its own member of parliament and maintain direct contact with the elected member.

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8. Jarrett Blanc, Aanund Hylland and Kåre Vollan, *State structures and electoral systems in post-conflict situations*, IFES and Quality AS, July 2006, see [www.ifes.org/publications](http://www.ifes.org/publications).

### *Electoral systems: strengthening democracy in the 21st century*

*Support stable governments.* It has been argued that a fully proportional electoral system may result in an assembly split into a large number of parties, which in turn will lead to unstable coalition governments. The empirical data does not necessarily support this claim, at least not in countries with some kind of threshold for representation...

*Give equal weight to each voter.* This requirement can be interpreted in various ways when applied to different electoral systems. The most general formulation is that voters shall not be discriminated against on account of ethnicity, geography, gender and so on, except for what may follow from valid affirmative actions...

*Resist tactical voting behavior.* A system should support an immediate link between the voters' primary preferences and the result. Tactical voting means that the voters do not vote according to their primary preferences. Instead, they vote according to, for example, their secondary preferences, because they believe they can thereby get an advantage.

*Be simple for the voters.* Systems can be designed to meet many requirements, but could end up being extremely complicated for the voters, both in the sense that it is difficult to cast a valid and effective vote, and in the sense that it is not easy to understand how the system works.

*Be simple for the election administration.* Systems can be very complicated for those implementing them. However, what may seem difficult to implement, need not be complicated from a voter's point of view. A possible example is the single transferable vote...

*Be generally accepted by the parties and the public.* Degree of acceptance should be taken into account when choosing a system. This is particularly important in post-conflict elections, because of the level of mistrust, frequently occurring disorder in election administrations, and the immaturity of the party system. One should not, however, refrain from proposing a system one genuinely regards as good, simply because of fear that it will not be accepted.

*Promote conciliation among different groups.* In post-conflict situations this is an important criterion, and it is the main focus of this report.

*Promote cross-community parties.* This is related to the previous item, but is not exactly identical as a criterion for electoral systems. Community may refer to ethnic, linguistic, religious or sectarian groups as well as geographical areas...

*Promote dialogue and compromise.* The electoral system should in general support dialogue and conciliation in post-conflict situations. Therefore, whenever

reasonable, the system should promote compromise candidates instead of extremist ones. However, there are clear limits to what an electoral system can and should do in this respect. If the voters really support extremist candidates, the system should not prevent these candidates from being elected.

*Be robust against changes.* This may be a fairly technical issue, but a system should be designed in such a way that small changes in some aspect of the system, such as constituency boundaries, will not have a drastic effect on the outcome of the elections. In a system based on single-member constituencies, the drawing of boundaries can significantly affect the outcome, even if it is required that all constituencies be of equal size. If the boundaries are determined through a political process, there is a danger that the present majority will try to perpetuate its power by carefully taking account of how its support is distributed when boundaries are drawn, so-called “gerrymandering”...

*Respond logically to changing support.* Increased support for a party should normally lead to increased representation, with as few unforeseen and illogical side effects as possible.

*Be sustainable.* This means that even though there may be particular needs in a transitional period, the electoral system should be adapted to a normalized situation and should also support the process of normalization. One should keep in mind that systems which are adopted after a conflict, even if they are tailor-made to the current situation, will create precedent, that is, they will have a tendency to perpetuate themselves. This is particularly true if the international community has been instrumental in establishing the system.

The systems being used internationally for elections to parliaments can be summarised as follows (not all of them are necessarily recommended):

*Majority/plurality systems*

- Single member constituencies (districts) (SMC)
  - Plurality (first past the post – FPTP)
  - Majority two rounds
  - Majority alternative vote (AV)
- Multi-member constituencies (MMCs) NB: Not used for parliaments in Europe
  - Plurality based on individual candidates (block vote – BV)
  - Plurality based upon parties (party block vote – PB)

*Proportional representation systems (PR)*

- List PR
  - One single nationwide constituency
  - In MMCs
  - In MMCs with compensation, one or two ballots
- Mixed member proportional – List PR combined with:
  - FPTP
  - Two round systems
  - AV
- Single transferable vote (STV)

*Semi-proportional system*

- Single non-transferable vote (SNTV) NB: Not used for parliaments in Europe
- Parallel systems

The two main groups are the majority/plurality-based systems and the proportional systems. In addition there are a few which fall in between and are often denoted as half-proportional systems.

For parliamentary elections, the majority/plurality-based systems are conducted in single-member constituencies, not (in Europe) in multi-member constituencies (block vote or party block vote) even though such systems are used in some local elections. The characteristic of the latter systems are that in elections with party competition they are very close to winner-takes-all systems and are therefore not used for national elections. It is too difficult for minorities to be represented.

The main qualities of the majority/plurality-based systems and proportional systems are well known: the main reasoning behind the first group of systems is the strong connection between a small electorate and the person elected (accountability) and the main reasoning behind proportional representation is that the parliament as a whole is more representative. The majority of the voters will in most cases elect the majority of the parliament. There are examples, however, where a majority of voters elect a minority of the parliament, even under proportional systems, due to the constituency magnitude, thresholds, distribution formula, etc.



With proportional systems, the parliament may be more fragmented. Governments may often be coalition governments and sometimes minority governments. This is seen by some to be a disadvantage. In countries which have become used to this situation, some see the need for compromises across party lines as an advantage. In some countries, the proportional features are decreased by a high threshold (such as the 5% in Germany) to counterbalance the tendency of party fragmentation.

*Representation as a result of the electoral system*

Representation according to the political (party) dimension is most often seen to be the most important in multi-party democracies. Other dimensions are, however, also important, such as geography, gender, ethnicity or other group identities, age, etc. Such considerations may have different significance in different countries and individuals may put varying degrees of emphasis on them. In potential conflict situations or after conflict, the representation of all groups may be extremely important and the only way of preventing conflict. The groups in conflict need to feel safe that their voices are heard in representative assemblies.

Generally speaking, the List PR system will accommodate representation along non-political better than plurality or majority systems. In plurality and majority systems parties will tend to put forward candidates that appeal to the largest group of the voters. In the List PR system every vote counts and a party can make sure that there is a broad representation on the list. A few extra votes from women or from, for example, a linguistic minority may secure the party an extra seat in the constituency.<sup>9</sup> However, representation can also be improved by other means, such as gender quotas, reserved seats or lower thresholds. These policies should be implemented in such a way that the dimension of political representation is affected as little as possible.

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9. Andrew Reynolds, "Electoral systems and the protection and participation of minorities" (MRG 2006), at [www.minorityrights.org/publications](http://www.minorityrights.org/publications).

### Separate race for a group

A separate race for minorities may either be a race with a separate set of candidates for that race but where the voters are treated equally, or where both the candidates and the voters may be kept separate.

The main problem with a separate race for a group is that it may strengthen the segregation of the society instead of producing incentives for breaking down differences and making the political programmes the most important elements of the elections.

It is also important to keep in mind that minority rights include group rights and individual rights. An individual must, however, be able to decide whether he or she wants to exercise such rights or to be part of the general public. This means that nobody should be forced to vote in, or to stand for, election in a separate race.

### Majority/plurality-based systems

The biggest challenge when implementing guaranteed group representation within a majority/plurality system is to avoid that the party representation is affected. This is illustrated by the system used for the election to the Palestinian Legislative Council (PLC) in 1996 and 2006. In 1996, the election was held under a plurality system in 16 multi-member constituencies (block vote). In 2006 there was a parallel system but still with a component of block vote similar to that of 1996. In both elections there was a quota for Christians in some constituencies. In 1996, seven seats were to be filled by candidates from Jerusalem, two of whom had to be Christians. The non-elected Christian with the highest number of votes would have to replace the candidate who had the seventh highest vote to meet the quota requirement. The seventh candidate came from the party Fida and she was replaced by a Christian from Fatah. In this case the quota system therefore altered not only the religious composition, which was intended, but also the political one. The same thing happened in 2006.

Another way of implementing quotas for minorities within a majority/plurality system is the one used in India in support of representation for so-called scheduled tribes and castes.<sup>10</sup> These groups are supposed to be represented in the Lok Sabha (the principal chamber of the

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10. Underprivileged tribes and castes are defined in the constitution.

parliament) with at least their proportional share of the population (which in 2008 came to approximately 23.8%). The electoral system is a plurality (first-past-the-post) vote in single member constituencies. In order to accommodate the requirement, approximately 23.8% of all constituencies are selected across the country – in particular constituencies where the minorities are concentrated. In these constituencies, all candidates need to come from the scheduled tribes and castes. The regular parties will nominate the candidates and everyone can vote, but there is a restriction on running as a candidate. A person not belonging to the minority may be prevented from running in the district where he or she lives and is known and may be forced to choose a constituency which is less favourable to him or her. On the other hand, it is common for candidates to run in constituencies other than their home one in India (and in most countries with single member constituencies) so the disadvantage is regarded to be acceptable.

#### List PR systems

With List PR systems the country is often divided into multi-member constituencies, but sometimes the whole country constitutes one single constituency. When there are constituencies the system is often applied in a two-tier system where the same votes are first counted at constituency level to decide the distribution of seats locally and then added up to national level to distribute so-called compensatory seats to achieve a nationwide proportional distribution between the party lists.

The need for special arrangements to protect minorities is less articulated within List PR systems than within majority/plurality systems. List PR systems will encourage parties to place minority candidates on the list to attract voters from the minority since every vote counts in the distribution of seats. A minority group may also choose to form its own lists and win seats by attracting votes from only its own constituency. For example in the Netherlands there were Christian Catholic and Christian Evangelic parties that had approximately the same political programme until 1980 when they merged. After that they were able to agree on balanced candidate lists.

A general feature of the List PR system is that it is easy to combine with quota arrangements for minority groups without serious side effects. It is even possible to apply quotas along multiple dimensions

(religion, ethnicity, gender) without disturbing the main political dimension. The calculation and procedure may seem complicated – in particular with several dimensions – but for the voters the process is simple.

A quota system for List PR can be implemented by simple requirements to the composition of lists.<sup>11</sup> One may require that at least a defined proportion of the candidates of a party’s list is taken from the minority group. Since seats won by a party are filled from the top of the list, all the minority candidates cannot be kept at the bottom of the list. There must therefore be requirements both on the number and the placement of the minority candidates on the list.

A common way of doing this is with the following rule (with an example of a Christian quota in a Muslim country):

Among the first five candidates on the list there needs to be at least one Christian, among the first 10 there needs to be at least two Christians, and so on.

The table below shows four examples of how this works and why one should not just state that “for every five candidates there needs to be one Christian”.

<b>Example 1 (legal)</b>		<b>Example 2 (legal)</b>		<b>Example 3 (illegal)</b>		<b>Example 4 (illegal)</b>	
Rank	Christian candidates	Rank	Christian candidates	Rank	Christian candidates	Rank	Christian candidates
1		1		1	C	1	
2		2	C	2		2	
3		3		3		3	
4		4		4		4	
5	C	5	C	5		5	
6		6		6		6	C
7		7		7		7	
8		8		8		8	
9		9		9		9	
10	C	10		10		10	C
11		11		11	C	11	

<sup>11</sup> This is valid in the case of closed lists. For open lists there will have to be additional requirements for the results.

There are also smaller modifications which can be implemented on List PR systems to promote minority parties. One example is from Germany where minority parties are exempted from the high threshold of 5% otherwise needed to compete for the List PR seats. In national elections the rule has not had an effect, but it has helped a party representing the Danish minority to win seats in the parliament of the northern state of Schleswig-Holstein.

#### Mixed or parallel systems

The “mixed systems” are often used as a term covering both the mixed member proportional system (MMP) and the parallel system. Both these system combines two races for the election: one majority/plurality vote (normally in single-member constituencies)<sup>12</sup> and one countrywide List PR election.

When it comes to quotas, the two systems can be treated quite equally. Each race may employ the same quota arrangements as discussed for the majority/plurality and List PR systems respectively. In addition one may draw on the advantages of the List PR system to apply quotas even taking the constituency results into account.

#### *Conclusions*

The system of representation and the system for guaranteeing group representation need to be seen in conjunction with each other. Not only will the electoral system be decisive for the choice of the method used to ensure group representation, but the need for group representation may be just one criterion in the development of the system of representation.

Generally speaking, the List PR system gives broader representation, not only in terms of parties but also in terms of minority groups at large, than majority/plurality-based systems.

If special affirmative action programmes are to be established, which groups should be awarded such extra help by the electoral system? There is no simple answer to this. The society may be composed of groups defined by ethnicity, religion, gender, age, professions, social

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12. In the last Palestinian Legislative Council elections in the Palestinian Territories, the plurality vote was in multi-member constituencies (block vote).

strata, etc., and it is far from given that each such identifiable group should be guaranteed representation in parliament. One obvious example where affirmative action can be useful is in pre- or post-conflict situations. In deeply divided societies guaranteeing representation in parliament may be one measure to reduce tension. Another situation may be where groups are systematically excluded from the political process and where the groups have clear political interests which should be given a voice in parliament. One should, however, be careful not to introduce so many group interests that the voters' choice is unnecessarily limited and the complexity becomes impossible to handle for voters, parties and the public in general.

There are fewer negative side effects when combining group representation with List PR than with majority/plurality systems.

However, it is possible to combine majority/plurality systems with minimum group representation but it may be more difficult to avoid side effects completely.

Regardless of the system used the following should be kept in mind:

- an individual should be able to freely choose if he or she wants to be considered part of a minority group or not;
- if a voter has to choose to be part of a group or not, the choice should preferably be made in the privacy of the polling booth;
- political representation should not be significantly affected by the group representation arrangements;
- the right to vote should not be limited by the rules;
- the right to stand for elections may be restricted to some extent, but it should not be totally removed or made so difficult that the possibility for being elected is substantially limited for certain candidates;
- the system should have incentives of reconciliation and dialogue rather than segregation and division.

#### The challenge of participation

One main challenge in democracies is the generally decreased interest in participating in elections. This is part of a much more fundamental

issue of lack of trust or interest in political institutions and the lack of belief that a change of government can make a difference. The personalisation of politics may also reduce the general respect for politicians and their ability to improve conditions for people at large. These fundamental issues facing democracies cannot be solved by electoral systems. Regardless of how simple and interesting the voting act is, the political challenges will remain.

That being said there is no doubt that the electoral system can have a positive effect. First of all, keeping the emphasis on political parties is important. Parties run on programmes and will be able to define clear governing choices to the voters. The voters need to be convinced that if their alternative choice wins there will consequently be a government of the new political “flavour”.

The electoral process should also try to make it easy for eligible voters to exercise their right to vote. People travelling on election day, in hospital, bedridden at home, etc. should be given good and easy methods of voting.

In some countries this is done by extensive use of advance voting. This may be offered more than a month in advance of election day and a voter may go to a public office and cast a vote during the advance voting period. The challenge is that it requires a lot of resources and it is difficult for party agents and observers to monitor the process at all times. It therefore requires full trust in the election administrators.

Another alternative is postal voting or Internet voting. Postal voting has proven weaknesses in the possibilities for impersonation and fraud and both options have a problem regarding the secrecy of the vote. Internet voting will, generally speaking, have a more secure process than postal votes, but the transparency is more difficult to maintain.

The use of postal and Internet voting, that is voting in an uncontrolled environment, is controversial. When only offered to groups that would otherwise be disenfranchised it is generally accepted but as a general offer to the public the opinions are more divided.

#### Transparency and confidence

The single most important feature of a credible election is probably the public’s trust in the election administrators and in particular the

election management body (EMB). Without such trust the election results will always be disputed.

The lower the confidence in the EMB, the more important the transparency of the process becomes. In societies with little trust, the whole process needs to be monitored by observers, party agents and the media at all times and in every aspect. This gives little room for advance voting, voting over several days, transport of ballot boxes between the vote and the count, electronic voting (in particular through the Internet) and postal votes. With a good and simple system for voting and counting in controlled areas a complete audit trail can be maintained and the process may be credible even if there are doubts about the EMB. There is also an opposite effect: by implementing a fully transparent and simple process, the confidence in the EMB can be strengthened and it may over time lead to support of more advanced voting methods.



**Workshop 1A – Increasing the legitimacy of elections:  
laws, institutions and processes**

*Workshop report*

**Kåre Vollan**

*Expert on electoral systems, Norway*

*Introduction*

The workshop was chaired by Mevlüt Çavuşoğlu (Turkey, EDG), Vice-President of the Parliamentary Assembly of the Council of Europe and moderated by Peter Wardle, Chief Executive, United Kingdom Electoral Commission. The rapporteur gave a short summary of his issues paper before the following presentations:

Srdjan Darmanovic, member of the Venice Commission, Montenegro, on “Legislative measures to improve the legitimacy of elections”; Lydie Err, Parliamentary Assembly of the Council of Europe (Luxembourg, SOC) and member of the Venice Commission, on “The importance of gender balance as a part of strengthening representativity and inclusion”; Prof. Mark N. Franklin, Professor of Comparative Politics, European University Institute, Florence, on “The impact of different types of electoral systems on election outcomes and government formation”; Judge Manuel Gonzalez Oropeza, Judge of the Supreme Court for Elections in Mexico, on “The role of the judiciary in reinforcing citizens’ confidence in elections”; Anna Sólyom, Project Manager, International Relations, The Association of European Election Officials (ACEEEO), Budapest, on “The role of electoral commissions in building public trust” and Jonathan Stonestreet, Senior Election Adviser, OSCE Office for Democratic Institutions and Human Rights, on “Election observation as a prerequisite for government legitimacy”.

The following presents a summary of the most important issues covered in the presentations and the debate.

*The impact of systems of representation on the political outcome*

A large variety of systems of representation are used by Council of Europe member states. The two main classes are the majority/plurality

systems and the proportional systems. These systems each have inherent qualities, and tradition and political considerations have been decisive for the choice of systems in various countries. Even though some systems have features which would classify them as unsuitable in multiparty national elections, the main systems such as first-past-the-post (FPTP) in single-member constituencies and list proportional systems (List PR) or STV are legitimate and common types of electoral systems.

The representation of parties under FPTP and List PR is very different. FPTP will normally over-represent the biggest party and the political spectrum will often be reduced to a few parties. This was illustrated in the presentation of Mark N. Franklin with striking examples from the UK. FPTP in single-member constituencies is normally chosen when personal accountability is given more weight than the system's ability to reflect the overall election result in terms of distribution of seats among parties.

Proportional systems are used where the political mirroring of the electorate in the parliament is regarded as the predominant objective. As they are dependent on factors such as thresholds, proportion systems will tend to have more parties represented in parliament and coalition governments are more common. Srdjan Darmanovic reviewed the advantages and disadvantages of majority/plurality systems and proportional systems in terms of their effect on the party system and on the stability of governments.

#### *The impact of electoral systems on other dimensions*

Other qualities are also important when assessing a system of representation, such as the ability to provide gender balance, promotion of dialogue and reconciliation after (and before) conflict, representation of ethnic, confessional or linguistic minorities, simplicity, geographical representation, etc.

Lydie Err made a strong case in showing that List PR systems would provide for the best gender balance, in particular when applied to large constituencies with large thresholds for representation. She referred

to the revised introductory memorandum<sup>13</sup> of the Parliamentary Assembly on the impact of electoral systems on women's representation in politics, which states in its first conclusions:

... [23]e. changing the electoral system to one more favourable to women's representation in politics, including by introducing gender quotas, can lead to more gender balanced, and thus more legitimate, political and public decision-making.

f. in theory, the following electoral system should be most favourable to women's representation in parliament: a proportional representation list system in a large constituency and/or a nationwide district, with legal threshold, closed lists and a mandatory quota which provides not only for a high portion of female candidates, but also for strict rank-order rule (e.g. a zipper system), and effective sanctions (preferably not financial, but rather the non-acceptance of candidatures/candidate lists) for non-compliance.

Empirically, there is a better representation of women and minorities under List PR systems than under FPTP since every vote counts and parties will tend to include a representative image of the electorate on the candidate lists in order to appeal to all groups of the constituency.

#### *Representation of women and minorities*

Affirmative action, by its very nature, does limit the choice of voters and parties. As a measure to secure the representation of women and certain minorities, such measures are still seen to be legitimate. These measures may be implemented within most systems but there may be unwanted side effects connected to some of the possible methods.

In some countries (mostly outside of Europe) special races for women or minorities have been implemented. The disadvantage is that a separate race may represent a segregation which is not helpful to bridging social gaps in the long run. It is preferable that affirmative action is worked into the electoral system. Some of the methods for this that are presented in the issues paper above should be kept in mind:

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13. AS/Ega(2009)32 rev., "Impact of electoral systems on women's representation in politics", prepared by the Committee on Equal Opportunities for Women and Men of the Parliamentary Assembly.

There are fewer negative side effects when combining group representation with List PR than with majority/plurality systems since the rules can be applied for the composition of each party's candidate list and therefore do not affect the relative strength of parties.

*The requirements for standing for elections*

A balance needs to be struck between the right to stand for election and the need to limit the number of candidates to those with demonstrated public support. The limitation needs to be fair and the possibilities to stand should not be restricted to only those who can actually win seats. The limitation should only touch those candidates who are not serious or who have little support.

The mechanisms for proving support are normally either to collect a defined number of signatures or to deposit a certain amount of money which may not be recovered unless the candidate wins a predefined share of the votes. The requirements for standing for election should not bar genuine candidates. All the measures need to be proportional, with a reasonable number of signatures, a reasonable deposit and a fair threshold for recovering the deposit.

*Improving participation*

Declining participation is a widespread problem in European democracies even though some countries have been able to maintain a reasonable turnout in recent elections. Declining turnout is a symptom of lack of interest and trust in the political system in general. The main remedies would be for the actors in politics to make sure that their message is relevant and important to people, that the outcome of an election matters, that the political process can be trusted and that voters can trust that their votes can make a change.

The electoral system plays only a limited role within the more fundamental issue of decreased citizen participation in public life, but some measures may have a positive effect. For example, the act of voting may be made more accessible to voters through advance voting, Internet voting for special groups (workshop speakers were more sceptical about general access to Internet voting) and appropriate voting days.

Furthermore, voters need to be able to trust the integrity of the voting and counting processes. This can be done by strengthening the

transparency of the process, tasking the election administration to a truly independent election management body (EMB), having a good legal system with an efficient and transparent appeals system, providing easy access for observers to monitor the whole electoral process, etc.

Judge Manuel Gonzalez Oropeza stressed the importance of a transparent and efficient court system as a prerequisite for creating trust in the electoral processes and thereby increasing voter participation. In Mexico, creating a robust appeals process had been key to gaining the trust of ordinary voters.

Regarding electoral management bodies, Anna Sólyom felt that their organisation, their independence (material and immaterial), the composition of their members as well as the publicity of their activities all need to work for the interests of the community and not for those of the different political parties. Transparency of their activities is highly recommended in order to create confidence in elections.

#### *The role of political parties and media*

The importance of political parties in providing clear, relevant and interesting messages and for the media to cover the political scene, including the election campaigns, in a fair, equitable, interesting and critical manner was underlined. These subjects were, however, addressed in detail during other workshops.

The use of new technologies to communicate with voters was also discussed and many felt that when the broader public finds interest in the political messages, all forms of media including the newer ones will be used. E-election is not only about the voting process but about using a whole range of possibilities to underpin the democratic process of competition for power.

#### *Election observation*

Johnathan Stonestreet insisted that election observation is a crucial element of transparency in elections. The transparency that observation provides is a basis for building public confidence in the election administration and in the electoral process as a whole. Public confidence is perhaps the single most important feature of a credible, genuinely democratic election. The absence of public confidence in

elections can cast doubt not only on the legitimacy of those elected but ultimately on the very concept that elections are meaningful. In that sense, election observation is a necessary condition, although not the only one, for a genuine election and for the legitimacy of government.

Of equal, or even greater, importance in ensuring transparency is the role of domestic observation, undertaken by political parties and/or by non-partisan organisations. It is an activity of civil society, broadly construed. Election observation in this context means that citizens – the people themselves – can verify that the law is being adhered to and that the process is delivering the collective result of each individual's free choice. It is unfortunate that the efforts of civil society, particularly NGOs, are increasingly under threat in some parts of the OSCE and Council of Europe regions.

The main challenge related to domestic observation in the OSCE and Council of Europe areas comes in states where legislation or practice presents barriers to effective observation. This takes a number of forms but includes burdensome accreditation requirements for observers, obstacles to the registration of NGOs, and pressure on, or intimidation of, observers.

In order to make observation efficient and credible it is important that elections are assessed according to agreed standards and that the observation itself follows a sound methodology. In an effort to build consensus and professionalism in this field the United Nations has launched the Declaration of Principles for International Election Observation.

In established, older democracies there has often not been a role for observers from domestic NGOs and international organisations. Some countries have changed their laws recently to allow for such observation and it was underlined that this development should continue. Even older democracies can gain from being assessed against international standards and observation provides in itself an invaluable capacity-building measure across borders.

#### *Changes to electoral systems*

Srdjan Darmanovic noted that electoral systems are under continuous reform and these reforms are highly political. He insisted that changes

### *Workshops*

should not be implemented too close to the election day, partly to avoid any possibility of manipulation and also to make sure that all parties have a reasonable amount of time to prepare for elections without sudden changes to the rules of the game. There is a need for continuity in order to avoid that the rules are changed frequently by new parliamentary majorities.

## **Workshop 1B – The role of political parties in electoral processes**

### *Issues paper*

**Peter Ferdinand**

*University of Warwick, UK*

#### *The role of political parties in fostering stability and dialogue before, during and after elections*

One of the strengths of democracy is that it facilitates political change without (serious) violence. It enables societies to adapt to social challenges without traumatic social upheaval by involving all sections of society in dialogue over the best ways of handling them. In that sense it should foster social stability. Political parties can clearly make a major contribution to this as key players in a democratic system. They provide regularity and consistency to political life. They offer (fairly) predictable choices for voters. Their longevity provides a comforting reassurance of stability – provided they do not lapse into corruption or complacency.

Yet political parties face a conflicting set of priorities and objectives. On the one hand they want the legitimacy of electoral outcomes to be respected and regarded as legitimate. So by their behaviour they can collectively contribute to the respectability of the political process. On the other hand they want power, which means defeating opponents. They may be tempted to use any procedures or techniques to win. They need to dramatise their differences from rivals. They may exaggerate differences and misrepresent opponents' views or objectives. They have to operate within the law, but they will often try to find ways of circumventing legal restraints for the sake of winning. However, if they challenge outcomes as illegitimate, they can undermine the legitimacy of the democratic system as a whole, particularly if they take their disagreements and dissatisfactions to the streets. At worst they can destroy democracy, even if unintentionally – though some extremist parties may consciously wish to achieve this. And in some political systems, political parties may wish to accomplish the downfall of the existing state order because they aim at independence for the territories from which they draw most of their support.



One question therefore is how far political parties can be expected to strengthen democratic dialogue and the democratic system as a whole when the outcome of elections may be deeply unfavourable to them. How highly should political parties be encouraged to do this, and what incentives can they be offered?

Possible issues for discussion include:

a. The Venice Commission of the Council of Europe adopted the Code of Good Practice in the Field of Political Parties.<sup>14</sup> How adequately does this address the need to promote co-operative behaviour and how can parties be encouraged to abide by it? How should the recommendations be disseminated?

b. How far can political parties be involved in the policing of the electoral process to prevent serious irregularities? Should they be involved in the work of electoral commissions? Or would that prejudice the legitimacy of supposedly independent commissions?

c. Are there any kinds of political debate or dialogue that political parties should avoid? Is it just a matter of tone, or are there certain subjects that should be avoided as well?

*The rules governing party lists and their impact on representativity*

The legitimacy of a democratic system depends in part upon the conviction of all sections of society that they have adequate access to the decision-making institutions. A political system might be expected to achieve this by allowing easy access for political parties. Yet typically in European democracies parliamentary representatives consist of middle-aged white males. In some countries, there is a prevalence of party candidates being selected who are related by family to current or former incumbents (such as in Ireland, Japan and the Philippines). Does this matter?

Parties might be expected to promote diversity by ensuring the selection of adequate numbers of designated minorities as candidates for parliament. Some parties have experience of doing this, especially in the Nordic countries. So possible questions for discussion include:

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14. [www.venice.coe.int/docs/2009/CDL-AD\(2009\)021-e.pdf](http://www.venice.coe.int/docs/2009/CDL-AD(2009)021-e.pdf).

- a. How open is the political system to new entrants and how easy is it for political parties to become established and then to get elected?
- b. Should any minimum thresholds be placed on the votes obtained by parties before they win seats in parliament (only applies in systems with proportional representation)? If so, what should that level be?
- c. Should parties adopt quotas among their candidates for election to parliament so as to ensure that subsections of society are adequately represented amongst its members of parliament? What rules should parties adopt on this? What has been the experience of systems and parties that have put this into practice? If it is adopted, to which categories should it be applied? Women? The young? Particular ethnic minorities? And what should the level be?
- d. It is easier for parties under proportional representation (PR) to ensure proportionality in their lists of potential parliamentarians. Can parties operating under first-past-the-post do anything comparable? If so, how?
- e. How do parties prevent the emergence of a “political class” or what may be perceived to be one, namely a cadre of public representatives whose careers are based almost entirely upon political considerations and who are, therefore, increasingly untypical of the citizens that they represent the longer that they win re-election?
- f. Should parties practise complete transparency about their internal rules and procedures, so that the public is not concerned about nepotism or corruption?

*The risks of “democracy by opinion poll”, and the personalisation of politics*

Parties are supposed to present coherent programmes of policies for approval by voters. It is part of the notion of the “mandate” that parties supposedly obtain by winning elections. It gives them the authority to introduce such policies that have been approved by the electorate for implementation. Yet parties increasingly turn to indicative polling among focus groups of potential voters between elections to determine whether proposed decisions are likely to prove politically attractive. The attraction of such an approach (apart from helping incumbents

to stay in power) is that it can make democracies seem more flexible and responsive, which is a good thing. On the other hand, this might also be thought to undermine the effective legitimacy of general elections.

In addition, it has usually been assumed that one of the roles of parties is to lead societies that are undergoing change. Excessive reliance upon repeated opinion polling might weaken this role. Instead of leading society, parties might be more inclined to follow it, thereby delaying needed change.

On the other hand, voters have to vote for candidates and people. As the issues paper for Workshop 1A mentioned, a recurring theme of academic analysis of voting behaviour has been the relative importance of voting for candidates as compared with the importance of voting for party platforms. Recent debate has suggested that the end of the Cold War has led to a decline in voters' identification with traditional ideological causes. The result may have been a corresponding rise in the salience of candidates' personalities in voter choices – what can be generalised as “candidate effects”. In the United States voters often support candidates with whom they “feel comfortable”. In states in transition political parties do not benefit from the same historical loyalties that older, established parties in western Europe still retain, so the potential appeal of individual candidates may be correspondingly greater. In general there does seem to be a trend of increasing personalisation of politics.

A further complication is the fact that voters may vote for the personality of a party leader rather than for that of a local candidate. Thus personalisation can be a multilayered process. Already the “old” media contributed to this, especially through manipulation of television coverage of politics – a particular danger when a party leader also owns or controls a media empire. But the new communication technologies may facilitate all this even more.

Yet there is an obvious limit to this personalisation. At the local level it is fairly common for independent candidates to win elections. But at the national level this is very rare. Very few independent candidates win election to national parliaments. However, one of their virtues is that they are much less suspected of corruption – they are not beholden

to any party machine, or (usually) to entrenched interests, except possibly their own. So would democratic politics be better or healthier if more independent candidates stood for election at the national level?

Questions for possible discussion include:

- a. How far should politicians practise this repetitive small-scale polling?
- b. Do such practices undermine democracy? If so, can anything be done about it?
- c. Do voters respond positively to parties that try to lead?
- d. If so, how can politicians be encouraged to take the risks of offering leadership?
- e. Should voters pay more attention to policy choices than to candidates? And what about party leaders?
- f. How transparent should parties be about their internal rules and procedures?

*The role of the new media and information and communication technology (ICT) in political parties' electoral campaigns*

The advent of new communication technologies has shaken up the way that political parties conduct electoral campaigns, in the same way that they have shaken up the traditional media's relation with the political process, as discussed in Workshop 3A. On the one hand, they can enable candidates to establish closer personal relations with individual voters and groups of them. They can be used to mobilise campaign supporters to help with the campaign. Candidates can target particular appeals at selected "swing" groups of voters in their constituency, where the emphasis or priorities may diverge from the party's national campaign. The new technologies can also be used for more direct appeals for financial contributions to campaigns. They certainly proved their worth in the 2008 Obama campaign in all these respects. And in so far as younger generations may be more at home with these technologies, they may also facilitate greater involvement by younger people in politics – a good thing at a time when political involvement by this age group in general has been on the decline. In all these respects they might counter the trend of growing citizen alienation from active participation in politics.

But these technologies might give rise to three risks. Firstly, does their use reinforce the personalisation of politics, because of the more direct link between the candidate and the elector? Secondly, at one extreme this might lead to yet greater “Americanisation” of politics, in so far as American political parties and campaign activists have the greatest experience of ways of exploiting these technologies, and also the largest amount of resources already invested in various means to apply them. European parties could be tempted to tap into this expertise in trying to devise successful electoral campaigns. Thirdly, and conversely, at its most extreme such developments could lead to a consultative authoritarianism, where governments and ruling parties endlessly manoeuvre their actions in a way that conforms to public moods which they ascertain through regular polling, thus making it impossible for opposition parties ever successfully to challenge them and throw them out – through democratic means at any rate.

There is another dilemma and potential danger. On the one hand the advocates of the new technologies argue that they can reduce the costs of effective political campaigning because they can enable parties to achieve more with less political advertising, which can prove very expensive. On the other hand, the use of the new media may create a political “digital divide”, favouring those more adept at applying them and preventing other legitimate parties from competing, namely those that have less resources and/or technical know-how. This is especially a danger since expertise in applying the new media is at least partly a function of the resources that a party can muster. So the richer parties may be able to entrench success. Should this matter? Would its significance as an incentive for all parties, poor as well as rich, to devote more time and resources to making the best use of this technology outweigh the downsides?

This could give rise to the following questions for discussion:

- a. Do political parties have any alternative to trying to make the most of the opportunities offered by the new media technologies? If so, should we be worried about the consequences?
- b. Are there any differences between the ways that parties use the Internet (e-mail, Facebook, Twitter, etc.) and mobile phone texting?
- c. Would it make any sense to try to control what parties do with them at election times? If so, who should do it?

## **Workshop 1B – The role of political parties in electoral processes**

### *Workshop report*

**Peter Ferdinand**

*University of Warwick, UK*

#### *Introduction*

Political parties are in trouble across Europe: that was the most striking leitmotiv that recurred in all the deliberations of this workshop. To some extent, this is a predicament of their own making. They are now held in lower popular esteem than for many years. On the other hand, running effective, large political parties has become more difficult than ever before.

The causes are multiple and may include the difficulties of organising political parties successfully in a post-Cold War, post-ideological era; popular disengagement from party politics and declining membership figures; increased state controls; the spiralling costs of election campaigns and the need for larger party funds as well as the encroachments of the new media into the political field. All of these factors have served to complicate the tasks of party management.

The age of mass parties seems behind us, in western Europe as well as in eastern Europe. Yet whilst parties should not enjoy any automatic privileged position in political life, members of this workshop also found it difficult to envisage democracy functioning without them. The Venice Commission's Code of Good Practice in the Field of Political Parties<sup>15</sup> recalls that the European Court of Human Rights has upheld the view that "political parties are a form of association essential to the proper functioning of democracy". Similarly, the Parliamentary Assembly of the Council of Europe has acknowledged that "political parties constitute a permanent feature of modern democracies, a key element of electoral competition and a crucial linking mechanism between the individual and the state."

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15. CDL-AD(2009)021, "Code of Good Practice in the Field of Political Parties, adopted by the Venice Commission at its 77th Plenary Session (Venice, 12-13 December 2008) and explanatory report adopted by the Venice Commission at its 78th Plenary Session (Venice, 13-14 March 2009)".

The question of how to reverse the decline in people's respect for political parties and how to restore the positive contributions of parties to democracy occupied the minds of most speakers, yet no consensus emerged. In this regard, the future of democracy in Europe appeared clouded in a mixture of hope, uncertainty and pessimism.

*The essential role of political parties*

Three themes pervaded the discussions of this workshop. Firstly, there was recognition of the enduring variety of political parties and the environment in which they operate in different parts of Europe.

Secondly, there was a repeated recognition that parties face increasing challenges in meeting the expectations traditionally placed upon them by citizens. The reasons for their predicament vary widely. This makes it very difficult to arrive at general conclusions and recommendations that can be applied to parties' behaviour throughout Europe.

Thirdly, there was also a consensus that no adequate alternative has yet emerged to replace them in the key roles that parties play in the democratic process: offering citizens choices over alternative public policies, aggregating citizen preferences into policy programmes for government and providing responsible individuals to fill key decision-making posts at all levels of democratic government.

Nevertheless, it is obvious that the democratic environment and traditional roles of political parties are mutating. Coping with all these changes will be one of the big challenges facing European democracies in the coming years.

*The challenges facing political parties*

Most of the presentations concentrated on these different kinds of challenges. Most of them also focused on the general systemic problems confronting political parties rather than on the more specific ones of the role of political parties in electoral processes. One recurring theme was the problem of the various ways in which the reputation of political parties has been eroded and expectations about their contribution to the democratic process have been disappointed.

Professor Carlo Ruzza (Leicester University, UK) emphasised the increasing significance of populism in European politics. This was

especially true of Italy, but was becoming more common in general. Populist political leaders stigmatise what they term excessive bureaucracy in government. They claim to herald a new era, offering a new brand of politics, one that is less corrupted by the dead hand of old political parties, one that relies more upon the direct appeal of party leaders to ordinary voters, over the heads of intermediaries. They try to commandeer the wholesome image and appeal of civil society in support of their political goals. They offer the appeal of novelty, but at the same time undermine the authority of established parliamentary institutions.

Three other presenters expounded similar themes particularly with respect to the former communist regimes of east and central Europe, and the former Soviet Union. Andreas Gross (member of the Parliamentary Assembly of the Council of Europe and Vice-President of the Council for Democratic Elections) remarked that democracy had become “banal”, and that parties have contributed to this trivialisation. All too often parties are mainly “one-man shows” that hector the public, instead of listening to it.

Alexander Iskandarian (Director of the Caucasus Institute, Armenia) commented on the general weakness of “parties” in the former Soviet Union. In fact, there are words used in political life that are translated into English as “parties”, but they actually denote quite different things. As he put it: “In the former Soviet area, there are very few political parties in the Western sense of the term.” Many of the states there have, at best, one-and-a-half party systems, more akin to some states in the Far East than to central Europe. In this type of system, there is a ruling party which is more of “a trade union for public officials and businesses”. Opposing them are limited groups that may be active in the capital, but not in the provinces. If the ruling party is overthrown, the new ruling party eventually comes to resemble its predecessor, which degenerates. In some cases the main opposition comes from NGOs rather than from political parties. This strongly affects electoral processes. Opposition parties use elections as a battering ram against the rulers, and disintegrate afterwards. This is quite different from countries where power rotation through elections is accepted as a normal process.

Igor Mintoussov (Chair of the Board of Directors of the Niccolo M Centre for Political Advice, Russia) echoed this. He outlined the two



different types of political parties found in Russia. The first are “parties of power” which are extremely close to the government executive and attempt to restrict political competition. The others are personalised “family businesses” dominated by their leader(s) and incapable of offering broad policy alternatives that could serve as the programme of a different government. A Polish Member of Parliament added to the litany of complaints from the floor, commenting on the “jelly-like” nature of parties in Poland.

Presenters raised two possible remedies for this sad state of affairs. The first was an enhanced role for the media. It was certainly true that the traditional media in general tended to see themselves as guardians of the public interest and as checks upon malfeasance by public representatives. Yet we were also reminded of the fact that the media had their own commercial interests, the pursuit of which does not always coincide with defence of the public interest.

The second remedy was civil society, which has acquired a radiant reputation because of its role in the downfall of communism. Yet whatever the potential for civil society to enhance democracy, as Mr Gross commented, most people lack the time to become active citizens. Certainly, it would be unrealistic to expect civil society to become the main channel for democratic political engagement and participation in the foreseeable future.

In addition to these challenges facing parties, Professor Rachel Gibson (Manchester University, UK) discussed the impact of information and communication technologies (ICTs) on party politics. There had been a great deal of optimism about the ways in which these technologies might allow citizens to re-engage with democratic political life. There had been hopes that ICTs would make it easier for ordinary citizens to form new political parties and contribute to democratic life. Although it is certainly true that new political parties have emerged using the Internet and have managed to survive, it is not yet so clear that they have made serious inroads into the dominance of more traditional parties.

As for political campaigns, especially at election times, there is evidence that the new technologies have contributed to more professional campaigning, with appeals targeted more precisely at distinct,

varied niche groups of voters – the most striking examples coming from the Obama campaign in the United States. However, has this led to greater mobilisation of voters and more democratic participation? It is still too early to tell and more research is needed.

Faced with all these difficulties, Professor László Trócsányi (deputy member of the Venice Commission, Hungary) presented the Venice Commission's Code of Good Practice in the Field of Political Parties, which establishes a wide-ranging set of guidelines for good practice in European parties to enhance the quality of democracy and raise public trust in political parties. He stressed the importance of greater transparency in the internal statutes of political parties and in their funding arrangements, as well as in the laws regulating party activities.

The more political parties are inward looking, the more they appear to be corrupt and repel potential activists. They need to demonstrate greater accountability for their actions and policy decisions if they are to win the trust of voters. It is vital that parties find ways of opening up their organisations in order to attract more citizens to become members. This could include opportunities for citizens to vote in internal party elections for candidates at the local level. It could include encouraging parties to seek active and formal collaboration with civil society groups to formulate policy. It certainly should include actions to promote greater participation by hitherto under-represented groups in party activities. The above-mentioned code contains numerous examples of different ways in which various parties across Europe seek to promote greater involvement of women as representatives and which could certainly enhance the public reputation of political parties.

However, it remains to be seen whether this code will actually have the effect that is hoped. The provisions of the code are bound to complicate further the management of political parties, and the incentives for individual parties to follow these guidelines remain unclear. Will parties be prepared to abide by these guidelines even if it means that they run greater risks of losing or failing to gain power? Are they likely to lead to greater public participation in democracy in the 21st century? The latter was a question that was posed towards the end of the workshop and left more or less unanswered.

The workshop moderator, David Wilshire (UK, Member of Parliament), encouraged contributions from the floor on four questions. The first was on democracy itself: did the audience believe political parties were necessary for democracy? The second addressed political parties: to whom were they responsible – their leaders, local members, donors? The third question was on the role of candidates for public election who represented political parties: to whom are they, and should they be, responsible – party organisations or citizens? The fourth question looked towards the future: what kind of democratic politics did people envisage emerging in the 21st century?

Most of the debate concentrated on the first issue. One speaker cogently remarked that if politics had acquired a bad reputation, it was politicians as much as anyone who had brought that about; their weaknesses and their scheming were to blame. He also added that it was unrealistic to expect that politicians on their own would do enough to repair the damage.

There was widespread agreement that an active civil society was needed to supplement the activities of parties. Nonetheless, when questioned as to the need for democracy to have political parties, the consensus in the audience was that it was not possible to conceive of democracy today working without them. Political parties ensure, or should ensure, that citizens are presented with choices over alternative public policies. They enable people to achieve things that would otherwise be beyond their reach. However, there is a need to modernise the ways in which they operate.

Regarding to whom political parties are ultimately responsible, there was quite a long, if inconclusive, discussion on this. Because of the dangers of parties misleading the public, there was a suggestion that they should be subject to some kind of state control. But there was no agreement on how that might work in practice, or on how this kind of “good” state “control” would be different from “bad” state restrictions on freedom of speech and association.

The workshop also discussed the separate question of political candidates and to whom they are responsible. With many speakers contributing to this debate, a consensus that emerged was that before being elected, candidates are responsible to their parties and to party

members. Once elected, however, they should be responsible to all the electors in their particular constituency. Indeed, representative democracy rests upon this foundation.

Some speakers also highlighted experiments in different parts of Europe over the selection of party candidates in constituencies by all the voters there as opposed to just party cadres – a practice akin to primaries in the United States. The results of such experiments seem to have been surprisingly positive. Conceivably, they could offer a way to attract a wider range of appealing potential candidates into public life. However, they will not make the task of party management any easier, since candidates under such a system would be more inclined to appeal to the whole body of citizens rather than just fellow party members, even before they had been elected to public office.

## ***Theme 2 – Multilevel elections and participatory practices***

### **Workshop 2A – Reinforcing participation and inclusion in electoral processes, especially at the local level**

#### *Issues paper*

#### **Professor Robin Hambleton**

*Cities Research Centre, University of the West of England, Bristol*

#### *Introduction*

This issues paper outlines five main themes to inform our discussions in Kyiv. The coverage is broad – ranging from some “first principles” through to consideration of some modern innovations in political participation. First, a word of caution is needed. Words like “participation”, “inclusion” and “democracy” are all contested terms and they can also have different meanings in different languages. It follows that this paper attempts to hint at a “grammar” that the reader can revise and develop in the light of his or her own experience. It certainly does not seek to spell out solutions or offer simplistic prescriptions on how to enhance participatory processes. As other workshops are sharply focused on electoral processes, this paper adopts a slightly broader perspective. It discusses representative democracy within the context of shifts in the relationships between the state and society.

The five themes covered are:

- combining representative and participatory democracy;
- from local government to local governance;
- consumers, customers and citizens – three perspectives;
- reaching out to excluded groups;
- innovation in democratic practice.

#### *Combining representative and participatory democracy*

The democratic vitality of countries varies considerably and it follows that we must guard against generalising too freely about political participation and public attitudes to government – local, regional or central. However, our starting point for this workshop is that voter participation in local elections in many countries is in decline and this

is weakening representative democracy. In countries where this is happening we can say that “formal” participation in the local political process appears to be fading. This is worrying for at least three reasons:

- low voter turnout in local elections weakens the political legitimacy of those elected to lead localities (whether these are local councils, cities, city regions or regions);
- low voter turnout in local elections may also undermine democracy at the national level because local government contributes to political education for society as a whole – it is a setting in which democratic habits are acquired, practiced and advanced. If local democracy is weakened the foundations of national and supra-national democracy could be eroded;
- low voter turnout can also damage local accountability. This is because it can make it easier for local elites (or vested interests) to take control of local authorities and, in some situations, can create conditions that promote corrupt practices.

For all these reasons, democratic countries will strive to increase voter turnout in local elections. This is highly desirable as it can strengthen representative democracy. Other workshops explore a range of ideas on how to enhance voter turnout and many of these can be applied at the local level. Legitimate topics for discussion also include: the powers of local authorities (for example, more local power may generate more interest in local voting); the constitutional form of local democracy (such as “presidential” models involving directly elected mayors may increase voter interest); the numbers of councillors per head of population (the “representative ratio” varies significantly across countries); and elected member training and development (elected councillors carry enormous responsibility but training programmes to support them in their role are not always as strong as they should be).

However, strengthening representative democracy is only part of the challenge. This is because “formal” participation in local elections is only part of the process of participation in local politics. In many countries the idea of casting a vote every few years to elect representatives to lead local authorities on behalf of local citizens is seen as a rudimentary form of democracy. Thus, alongside “formal” participation in

elections we have seen, in recent years, a significant expansion in participatory democracy. Sometimes described as “informal” participation, as it can be somewhat unstructured and creative, participatory democracy takes many forms. These “informal” approaches to citizen engagement can be introduced at different stages of the policy process – in needs assessment (such as street videos, focus groups), in planning (participatory budgeting), in policy deliberation (citizens’ juries, for example) and in monitoring/evaluation (such as citizens’ panels).

It is sometimes claimed that representative and participatory democracy are inevitably in conflict. This is not the case. Elected representatives, provided they are given proper leadership training, can exercise a key role in resolving the different perspectives stemming from various participatory processes. Sound approaches to democratic renewal should bring together representative and participatory approaches.

*From local government to local governance*

International comparative research on local government suggests that many countries are moving from an era of “government” to an era of “governance”. These words have different meanings in different languages. For the purpose of this discussion “government” refers to the formal institutions of the state. It refers to the state and to the activities directly undertaken by the state. “Governance”, on the other hand, involves government plus the looser processes of influencing and negotiating with a range of public, private and community-based agencies to achieve desired outcomes. A governance perspective encourages collaboration between different sectors to achieve mutual goals and can be highly effective. According to this definition “government” can achieve much by using a “governance” approach – that is, by influencing other stakeholders in society. Adopting a “governance” approach does not necessarily imply that the state will do more or less than it did before – rather it is about the method used to achieve social and economic goals.

Moving to the local level “local government” refers to the democratically elected local authorities. “Local governance” is broader – it refers to the processes and structures of a variety of public, private, community and voluntary bodies operating at the local level. There

is, of course, a rich pattern of interaction between levels of governance – between the local and higher levels – and this interplay between different levels will be explored further in Workshop 2B.

The important point for our discussion of electoral and participatory processes at the local level is that the movement from government to governance appears to have a significant drawback. In many countries this shift has been accompanied by a reduction in the transparency of the decision-making process. Studies show that these new arrangements for “governance” often involve the creation of “special authorities” or “strategic partnerships”. These new arrangements may serve a particular purpose (such as development of an area of a city) fairly well. But the democratic concern is that the way they conduct their business is often less open to public scrutiny than traditional governmental decision making. Some critics argue that the movement from “government”, with its clear standards relating to public access to information and meetings, to the more opaque world of “governance” is creating a serious and disturbing democratic deficit – in other words, a feeling in the citizenry that unaccountable elites are making important decisions behind closed doors. This, in turn, damages democracy.

As we discuss ideas for improving the quality of local democracy it would be valuable if we could share views on how to bring about improvements in democratic “governance” as well as democratic “government”.

*Consumers, customers and citizens – Three perspectives*

In the last 20 years or so there have been dramatic improvements in public management in many countries. In some situations these improvements have borrowed ideas from respected private sector companies – it is certainly the case that some private management practices can be successfully translated into a public service context. In many situations, however, public service organisations have been creative in coming up with new ways of responding to the needs of the people they are there to serve, ideas that are more advanced than are found in the private sector.



These developments in public management have implications for our discussion of elections and participation as they are bringing about a redefinition of the “server/served relationship” – that is, a redefinition of how public service providers “see” and “relate to” the people they are there to serve. If handled with care this process of redefinition can create new opportunities for empowering users and citizens.

Figure 1 simplifies a complex set of trends and does not provide an accurate map of public service reform in all countries. However, it does help us to understand the new empowerment mechanisms that are emerging in many countries. In the past, local authorities tended to treat people as “clients” – the state would provide services for their needs and politicians and professionals would pretty much decide what was needed. This fairly paternalistic model has been challenged by three variants in recent years.

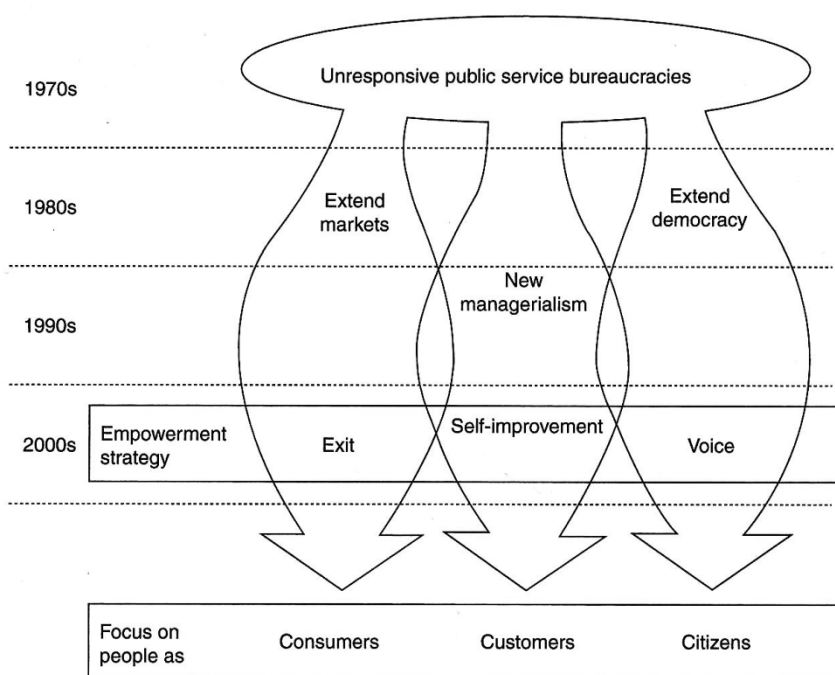


Figure 1 – Public service reform strategies

Source: Robin Hambleton, “New leadership for democratic urban space” in Hambleton, R. and Gross, J.S. (eds), *Governing cities in a global era*, 2007, p. 166.

First is the idea of attempting to bring markets into public service provision. This approach redefines clients as consumers – they are seen as individuals who might be expected to exercise choice in a marketplace. In some countries this approach has led to the privatisation of public services. In this model the consumer has, in theory at least, the power of “exit” – he or she can “leave” one provider and go to another.

A second approach, shown on the right of Figure 1, accepts the diagnosis that unresponsive bureaucracies need shaking up. But, instead of turning to the market for inspiration, reformers following this path have advocated the creation of a wide array of participatory mechanisms, along the lines discussed earlier. In this approach clients are redefined as citizens with rights and responsibilities. Rather than being given choice – as in the first market-based strategy – they are given voice.

The third strategy for reform, shown in the centre of Figure 1, attempts to distinguish a managerial, as opposed to a political, response to poor service delivery. This model, based on private sector practice, redefines clients as customers and it makes use of a variety of managerial techniques in an effort to discover what service users want – market research, user satisfaction surveys, customer care programmes, call centres, interactive websites, etc. This model does not, in practice, grant people much power – it is designed, like a private company, to discover manageable “feedback”.

Local authorities can use this framework to ask themselves questions about their own reform efforts. They can examine how they view their relationship with the people they are there to serve and can also consider options for the future. One clear finding from research on local government is that appointed officers can have a very important role in enhancing the quality of governance as well as the quality of public service. Public management reforms should be integrated with democratic renewal reforms.

#### *Reaching out to excluded groups*

There are many reasons why particular groups may feel excluded from the local political process. Class, gender, race, age, geography, legal rules, language, and familiarity with local custom and practice are

just some of the factors that may come into play. This theme of exclusion and the importance of ensuring rights for minorities is a feature of several of the workshops – notably Workshops 1A and 3B. One of the hallmarks of globalisation is increased mobility. A consequence of this is that an increasing number of localities can expect to experience dynamic diversity – which means the rapid arrival in a particular place of large numbers of people from other countries.

In response to this challenge, local councils, cities and regional authorities throughout Council of Europe member states are pioneering new approaches to inclusive planning and management and this is to be welcomed. The changing demography of many cities requires leaders and managers to come up with ways of working that recognise the different needs of different neighbourhoods and communities. This has important implications for the training and development of both staff and elected politicians as well as implications for electoral processes and public participation.

It may be helpful to return to the distinction made earlier between representative and participatory democracy. “Formal” participation in representative democracy is a matter that is largely determined by nation states in the sense that the nation state normally decides who has the right to vote. Thus, for example, residence requirements for voters vary between countries. Given the rapid movement of people across national frontiers it is clear that national governments should be encouraged to examine their current rules and regulations to ensure that inadvertent political discrimination against certain groups is not taking place.

Turning to “informal” participation, there is enormous scope for local authorities to introduce innovations in the way they reach out to and include groups that may feel marginalised or excluded. Innovations in neighbourhood management and local participatory planning and budgeting are worthy of note as such arrangements can enable the creation of inclusive models of decision making that are tuned to the needs of particular localities.

#### *Innovation in democratic practice*

Reference has already been made to the fact that local authorities often take the lead in pioneering new democratic practices that can

then be taken up by higher levels of government. There are different ways of classifying these innovations and, as a stimulus to discussion three (overlapping) ways of framing the debate are set out here:

#### Spheres of power

This approach distinguishes four spheres of citizen power – the individual, the neighbourhood (or immediate community), the level of local government and the level of the nation state. Reforms can be advanced within one or more spheres. However, a theme that is attracting considerable interest in some countries concerns “place” and place-based leadership. This approach cuts across departmental boundaries as well as the spheres of power.

#### Blending representative and participatory models

This approach reflects the distinction made in the first section of this paper. It focuses on the interplay between elected representatives, citizens and community groups. It embraces community development, community leadership and includes developing a positive interplay between the forces of administrative modernisation (relating to the public management of service delivery) and promoting democratic vitality.

#### New technology and the Internet

Some political scientists and sociologists claim that “social capital” and “civic engagement” are in steady decline. According to this analysis individuals are becoming alienated from government and, indeed, from society. While there may be some truth in this claim – we should debate it – there is also a contrary view that suggests that the nature of “community” and “identity” politics is being redefined. Advocates of this perspective point to the spectacular success of the US presidential campaign of Barack Obama which used the Internet to mobilise tens of millions of volunteers and supporters. New technology can clearly be used to build “political capital” in our “late-modern” world. It can also be used to communicate information to citizens and can improve access to services. It is less clear, however, whether new technology can succeed in improving public participation in decision making.

### Conclusion

There are significant opportunities for international learning and exchange between member states and localities in relation to the strengthening of local democracy. The Kiviniemi report “How to enhance the work of the Council of Europe in the field of local and regional democracy” points to some exciting possibilities.

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**Workshop 2A – Reinforcing participation and inclusion  
in electoral processes, especially at the local level**

*Workshop report*

**Professor Robin Hambleton**

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*Introduction*

The brief for this workshop is to discuss ways of strengthening political participation in modern societies and, in particular, to draw insights from local democracy experiences in different countries. As outlined in the issues paper, this topic concerns more than the design of effective and inclusive arrangements for running elections. It points to the importance of a broader agenda relating to the overall improvement of the quality of democracy.

The workshop received contributions from five expert speakers and there was a lively and productive debate. The purpose of this summary report is to outline the main contours of the discussion and highlight important themes. The report presents a summary of key points from the presentations, a short summary of the main themes emerging in the discussions and a short conclusion.

*Reinforcing participation – The presentations*

Antonella Valmorbida (President of the Civil Society and Democracy Committee of the Council of Europe Conference of INGOs) chaired the workshop. In her opening remarks she identified two themes that were to resonate throughout the workshop: 1) success in improving participation in elections requires a revitalisation of public interest in politics – citizens need to know that voting matters and that the act of voting will make a difference to their quality of life, 2) democracy is “bigger than voting” – people can make an important contribution to democratic life through activism, campaigning and so on. Casting a vote at the ballot box is vital, but it is only a part of the democratic process. She also welcomed the fact that the workshop would focus on innovations in local democracy – local government can make an important contribution to the overall quality of democracy in a country. Hamazasp Danielyan (Monitoring and Evaluation Officer,

International Foundation for Electoral Systems (IFES), Armenia) explained that efforts in Armenia focused on ensuring fairness in elections. The level of voter turnout in local elections was relatively low and this may reflect the fact that local authorities in Armenia have relatively little power. For example, they are very dependent on the central government for financing. However, the country has adopted the European Charter of Local Self-Government (Council of Europe, 1985) and there are signs that local government in Armenia is starting to become more independent of central government.

Anatoliy Fedorchuk (Boryspil City Mayor and Vice-President of the Association of Ukrainian Cities and Municipalities) outlined his approach to civic leadership and local democracy in Boryspil. His aim is to make the local authority more citizen oriented and he outlined a variety of steps that have been taken. The approach is very outgoing – for example, the local authority made a range of efforts to promote understanding of the work of local government during Local Democracy Week; the city supports festivals of food and agricultural products designed to celebrate local life; and the city has created a “youth parliament” to enable young people to express their ideas and concerns. At the same time, the city is keen to enhance the quality of local public service management and was recently awarded an International Quality Management Certificate. Good management needs to go hand in hand with a higher level of citizen awareness.

Professor Yvonne Galligan (Professor of Comparative Politics, Queen’s University, Belfast, and Director of the Centre for the Advancement of Women in Politics) highlighted three points relating to the role of women in politics. First, there is a significant gender gap in politics. Women tend not to be as active in politics as men, fewer women run for office and fewer women therefore get elected. This democratic deficit needs to be tackled by, in particular, education. Second, the gender balance of candidates for office matters. It sends a message and research shows that the relative absence of women politicians discourages women from being interested in politics. Third, women may have different reasons for not voting than men. Because of caring responsibilities and lack of time (if they have paid employment) it seems that many women may end up with less of an opportunity to vote than men. Professor Galligan drew attention to the Council of Europe’s Committee of Ministers

Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision making. This is an important text providing many suggestions on how to strengthen the role of women in politics at all levels of government.

Dr Henk van der Kolk (Associate Professor of Political Science, University of Twente, Netherlands) noted that voter turnout in local elections, in most European countries, has been in decline in recent years. This, in itself, gives cause for concern, but his presentation focused on two important insights that often get neglected in discussions about voter turnout. First, we should recall that voting is a visible, public act – it is an integral part of citizenship. Some of the steps introduced to make voting easier (for example, postal voting, Internet voting) make the act of voting less visible, and this may have the unintended effect of reducing voter turnout. Stressing the importance of voting as a duty and a public act has been found to increase voter turnout and we should not lose sight of this. Second, we should not assume that increasing voter turnout reduces inequality in power and influence. General efforts to stimulate voter turnout may be more successful in stimulating the “already advantaged groups” to vote in yet higher numbers. Improving the equality of turnout between different groups should form part of the agenda for improving the legitimacy of elections – not just an overall increase in turnout.

Paul-Henri Philips (Belgian member of the Council of Europe Steering Committee on Local and Regional Democracy (CDLR) and member of the CDLR Bureau) emphasised the importance of developing the “right to participate”. He drew attention to a range of innovations taking place at local level across Europe that aim to reach out and include groups that may otherwise be excluded. He referred to the important work of the Council of Europe in this regard, and highlighted its publication on *e-Democracy: who dares?* Published in August 2009, this report documents the work of the Forum for the Future of Democracy held in Madrid in 2008 and provides many ideas on how to use electronic communication to enhance public involvement.

#### *Reinforcing participation – Main themes*

This section is divided into four parts. It first provides a summary of the main challenges facing those wishing to stimulate and widen



participation, and is followed by three outline ideas raised in the workshop regarding how to respond to these challenges.

Diagnosing the problem – What is the nature of the challenge that we face?

Voter turnout in many European countries is in decline – in both national and local elections (and in other elections where countries have them). There is a variety of reasons for this: for example, confidence in elected politicians appears to be in decline in many countries, public knowledge of the roles and functions of different levels of government may be poor and certain groups (for example, ethnic minorities, disabled people, women, foreign residents) may feel that voting is, somehow, “not for them”. Clearly, the quality of democracy is undermined if significant groups in society feel excluded from the democratic process.

As explained more fully in the issues paper for this workshop, the central challenge is not just to enhance voter turnout in elections. The more demanding challenge is to enhance both representative democracy and participatory democracy. The first may be thought of as “formal” participation whereas the latter, because it can be somewhat unstructured and creative, can be described as “informal” participation. If the aim is to improve the quality of democracy then successful efforts at reform will need to combine steps to enhance the “formal” representative system of democracy (by increasing voter turnout and other measures) and promote more “informal” participatory democracy (by governments fostering the development of a variety of ways of engaging with citizens and communities).

This widening of the focus of concern beyond a specific concentration on voting arrangements and electoral processes opens up numerous possibilities for civic engagement – from new ways of engaging young people in decision making through to local experiments with citizens’ juries and participatory budgeting. The workshop participants felt strongly that it is essential to adopt a broad definition of the nature of the challenges.

It is important that reformers engage in careful analysis of the specific challenges facing individual countries and, indeed, localities within countries. This is because steps to enhance the quality of democracy

need to be tuned to the local culture and context. For example, it may be that measures to enhance voter turnout successfully increase overall voter turnout. However, this may actually widen inequality between different groups of voters because the better educated may be quicker to respond to these initiatives.

A major issue concerns the incentives for those considering standing for election in local, national or European elections. The role of a politician – whether local, national or European – is a demanding one. The workshop participants felt that elected politicians should more accurately reflect the make-up of the population they are there to serve. For this to be accomplished, active steps need to be taken to encourage and support people from a range of backgrounds not just to stand for election but also to serve effectively if they are elected. Women, disabled people, ethnic minorities and other groups tend not to figure as much as they should in representative political bodies and this is partly because support to elected politicians is not all that it could be.

The workshop chair pointed out that there is sometimes a mismatch between central government declarations and actual practice on the ground. Legislation framing arrangements for strengthening representative and participatory democracy are very important, but implementation of these laws is just as important. At various points the participants identified what might be called an “implementation gap” between stated intentions and the actual experience of citizens.

#### Ensuring that voting and participation matter

The first plank in a strategy to meet the challenges outlined above is to make sure that “voting matters” and that “participation matters”. If there is a lack of interest in voting it may, in part at least, be because citizens feel that their vote will not make much difference to anything. In relation to local government this argument has persuaded some countries to increase the powers of elected local authorities. If locally elected councils have significant powers to tax and spend, they will have more impact on the local quality of life and this, in turn, may increase voter turnout. Apart from being a logical argument, it is the case that countries where local authorities have more formal powers tend to have a higher turnout in local elections.

Governments – whether local or central – that embark on participation initiatives should commit to listening and learning from the people who engage in these efforts. It can set the cause of democracy back many years if consultation and participation exercises lack authenticity.

The participants discussed the importance of holding decision makers to account. At one level, the ballot box fulfils this role – in theory the next election provides an opportunity for citizens to “throw the scoundrels out”. But at another level it seems clear that politicians can do more to make themselves available to citizens during the policy-making process. Thus, citizens can be involved in needs assessment, in planning, in policy deliberation and in monitoring and evaluation.

#### Raising awareness of the importance of democracy

As well as ensuring that engagement with the political process can make a difference, it is important for all levels of government to be active in promoting the value of democracy. In the issues paper for this workshop, distinctions were drawn between the different roles people have in society – people can occupy several roles at one and the same time, including roles as “consumers” (consuming products), “customers” (experiencing services) and “citizens” (exercising political rights relating to public policy). The private sector is very active – all the more so in our rapidly globalising world – in persuading people to become “consumers” and/or “customers”. There is a lesson here for governments. Perhaps the virtues of being a “citizen” need to be more actively promoted – through, for example, civic education in schools, as well as through initiatives like Local Democracy Week and prizes for community-based initiatives.

Several suggestions were made during the workshop to raise awareness of the value of democracy. For example, it would be desirable to pay more attention to the fact that voting is a public, visible act. It carries a symbolic political message demonstrating the link between citizens and their representatives. Some countries have a national holiday on the day of the elections.

### Promoting innovation in democratic practice

The third component of a strategy for dealing with the problems outlined above concerns the promotion of innovation in democratic practice. Innovations can take many forms and the thousands of local authorities across the Council of Europe area can provide a test bed for experiments in relation to both representative democracy and participatory democracy. Some of the ideas and experiences mentioned in the workshop are as follows:

#### Enhancing representative democracy

- Review voting systems for local elections and consider whether experiments with systems that have not been tried locally could be introduced (such as proportional representation);
- Introduce improved arrangements for disabled people such as voting booths designed for wheelchair users;
- Examine opportunities for introducing e-democracy at the local level;
- Consider experience in other countries relating to the rights foreign residents have in relation to voting (practice varies considerably);
- Introduce directly elected mayors in local government to give more visibility and legitimacy to locally elected leaders (this has been done in Germany, Italy and parts of the United Kingdom in recent years);
- Support the development of local leadership programmes for local politicians to enable them to develop their leadership skills;
- Encourage political parties to review the approach they use when selecting candidates for election to ensure a diversity of candidates;
- Strengthen support to elected local councillors so that they are able to fulfil their important community leadership role more effectively.

#### Enhancing participatory democracy

- Local governments can develop decentralised approaches to neighbourhood management that can respond to the different needs of communities on a comparatively small area basis;

### *Workshops*

- Local participatory budgeting can enable citizens to feed their views into the local decision-making process in a meaningful way;
- Local governments can create youth parliaments (or forums) that can enable young people to consider the options faced by elected politicians in the locality;
- Local governments can develop new ways of consulting and engaging the local population – for example, citizens’ juries, citizens’ panels, video feedback booths;
- E-democracy can be tested out through experiments in particular localities.

### *Conclusion*

Two important themes emerged from the discussions in the workshop that cut across the points made above. First, it is clear that elected local governments within the member states of the Council of Europe can make a major contribution to the challenge of improving the quality of democracy by trying out new approaches on an experimental basis. Society is changing quickly and new ways of enhancing democratic practice are needed – local governments can provide an important leadership role. Second, it is also clear that countries can learn a great deal from each other in relation to the theme of enhancing democracy. Traditions and cultures vary and this means that there can therefore be no fixed route to the improvement of democracy. However, it is also clear that international exchange can stimulate fresh thinking and practice. This is a key role for the Council of Europe and it is one that is likely to grow in importance in the period ahead.

**Workshop 2B – Elections at different levels of governance:  
mutual impact and synergies**

*Issues paper*

**Professor Hermann Schmitt**

*University of Mannheim, Germany*

*The complexities of multilevel electoral systems*

*Introduction*

Democracy, political representation, accountability of governments – all of these “good things” in politics require well-functioning elections. In order to understand the conditions under which elections are more or less likely to yield these desired effects or other, conceivably unintended, consequences we have learned quite a bit from comparative election studies (cross-system as well as over-time studies). These comparative studies typically focus on the importance of the context of an election for the aspirations, motivations and behaviour of the different actors that are involved in the electoral process: voters, parties, politicians, and the media.

*Multilevel electoral systems*

Multilevel electoral systems are characterised by the fact that the motivations and behaviours of actors involved at different levels (for example, sub-national, national, European) are not independent, but are related to one another. What does that mean? It may mean, for example, that the electoral choice a voter makes in a sub-national election is motivated by national rather than sub-national political concerns – such as his or her intention to signal his or her dissatisfaction to the national government about its poor performance in the legislature so far.

Signalling is not the only mechanism that might link attitudes and behaviours of voters relating to different electoral arenas, however. Another such link that is prominently discussed in scholarly literature is the balancing tendency of voters in sequential electoral choices. Balancing refers here to a tendency of voters in subsequent electoral choices to pursue a centrist policy line for the overall government. Imagine a (semi-) presidential system in which a left-leaning president

was chosen in the latest presidential election; some of his or her voters are bound to be unhappy with his or her policies and thus, in a subsequent mid-term election, might be tempted to “balance” the presidential course of action by strengthening the opposite political camp in the national parliament (because they know that the consent of the legislature is required to enact important presidential policy decisions).

*The purpose of general elections*

These are only two mechanisms, out of many, that connect different electoral arenas with one another. Why should these, or any other for that matter, be relevant for the assessment of the quality of electoral democracy in a political system? This question leads us to the basic purpose of general elections. There are at least two different views about this. The minimalist one holds that elections are merely about choosing between rival contenders for office and thereby enable citizens to “throw the rascals out”. Another, more ambitious, view claims that general elections are – or rather should be, as this normative claim happens to different degrees in different elections – instruments that allow voters to express their policy preferences in such a way that the majority view is finally translated into public policy.

The difference between these opposite views of general elections is highly consequential. This is due to the simple fact that we can think of a political regime as a “representative democracy” only if elections work indeed as a (however imperfect) transmitter (that is some sort of a translation instrument) of policy preferences of voters into public policy. It should be noted that a representative democracy, in the now dominant view of it at least, is one in which those elected tend to do what their constituents want them to do. If, however, vote choices are governed by considerations that have little or nothing to do with public policy in the political (sub- or supra-) system at hand, representative democracy in those sub- and supra-systems is in trouble.

*Competing factors determining vote choices*

A general note of caution is appropriate here before we move on to a few particularly striking examples of those precarious situations that we have identified above. This note of caution is to remind us that vote choices are rarely fully determined by issue or policy considerations. On the contrary: one of the very earliest scholarly disputes – in

the United States in the 1960s – concentrated on the question of whether issues and policies play any role in voting. At the time, voters’ party identification and the appeals of political leaders – so-called candidate effects – were much stronger determinants of vote choices than anything that scholars could come up with in terms of issue orientations and policy preferences.

Based on today’s hindsight, we know that those early sceptical verdicts about the importance of issue voting (and – implicitly – the possibility and effectiveness of representative democracy) were due (a) to the calm waters in which US politics was sailing in that period, and (b) to the methodological problems associated with the measurement of issue/policy effects.

Here, in particular, the difference between position and valence issues has to be mentioned. Position issues are important to the degree that voters chose the party closest to them on a particular issue – such as abortion, immigration, etc. Valence issues are important to the degree that voters chose the party that they perceive to be most competent in solving a particularly salient problem – such as unemployment, the economic crisis, NATO membership, etc. The latter competence-based mechanism is often more powerful than the one based on issue positions, and the “issue preferences–public policy” nexus thus is certainly not as limited as it first was portrayed.

#### *A potential democratic problem*

From the perspective of normative democratic theory, there is a potential problem with multilevel electoral systems. It has to do with the fact that they can further irritate – in addition to all the competing factors that are affecting vote choices normally – the issue–policy nexus between vote choices and government formation/government action. They do not have to, but they can. The following paragraphs of this short paper will give one example for each possibility.

Balancing tends not to irritate the issue–policy nexus. The core of the matter here is that voters might not support their first choice, that is they vote for a more left-wing or right-wing candidate than they normally would in order to produce a preferred balance between the political tendency of president and parliament, or between president and head of government, etc. While the voting decision is motivated



strategically, it is a strategic decision with a sincere policy goal: to help the preferred policy balance on a general system level to emerge. To the degree that this is indeed the outcome of an election, the issue–policy nexus is not disturbed here (although some voters did not support their first preference).

Signalling does irritate the issue–policy nexus. This case is different because the choice motivations tend to transcend levels of government. Here is a fictitious but not really unrealistic example. Assume German voters are unhappy with the record of their federal government. Because of that many of them, in a mid-term second-order election – say a European Parliament (EP) election – support a federal opposition party rather than the national government party that they had supported in the preceding first-order election. The motivation here is to teach the national government officials a lesson (show them how badly they will do in the upcoming federal election if they do not change their course of action), rather than to contribute to the determination of the policies of the European Parliament. In this way, the EP majority may be said to represent national policy preferences rather than European ones – an argument that is often made to help substantiate the verdict of a democratic deficit of the European Union. We note, however, that the same signalling mechanism could lead to federal policy – rather than state policy – majorities in a German *Landtagswahl* (election of members of a state assembly), in an Italian provincial election, and so on.

Low turnout may irritate the issue–policy nexus because a low-turnout election is likely to misrepresent the policy preferences of the citizenry. Second-order elections – that is how we call all somehow less important elections in a multilevel system – are notoriously plagued with low turnout rates simply because there is less at stake in those elections, and fewer voters can be mobilised to participate than in a first-order election when the decision about central government is to be made. Our problem here is that those abstaining are not a random sample of all citizens, but tend to belong to the poorer, the less educated, the unemployed – the socially and politically more “peripheral”, in the words of the political behaviour scientist Herbert Tingsten. Compulsory voting would certainly solve those problems effectively, but does not easily square with the image of free and fair elections.

**Workshop 2B – Elections at different levels of governance:  
mutual impact and synergies**

*Workshop report*

**Professor Hermann Schmitt**

*University of Mannheim, Germany*

*Introduction*

The main points framing this workshop are that elections are not independent events although this is not problematic in any sense as long as it does not affect the autonomy of elections, that is: their effectiveness in shaping (top-down) and representing (bottom-up) policy preferences of voters and translating them into public policy.

Factors that can affect the relative autonomy of an election are its timing in relation to other elections; the decisiveness and perceived importance of an election and the choice of an electoral formula (some might be more appropriate to a particular arena than others). Possible problematic results of less than autonomous elections are that not all policy preferences of the constituency are equally represented in the election result due to deficient electoral mobilisation and that preferences on “alien” issues – alien to the electoral arena in question – are represented due to contamination effects from other electoral arenas which find their way in the electoral verdict, for example by way of strategic voting behaviour of citizens.

*Summary of the presentations*

Michael Gallagher (Trinity College, Dublin) discussed the interrelation of elections at different levels of the political system with a particular focus on the question of whether the same electoral system should be used at different levels. According to him, this question has gained salience in recent decades due to a process of “hollowing out” of the state. This hollowing out results from the sub-national tendencies of decentralisation and devolution on one hand, and the supra-national process of European integration on the other. The consequence of this is a significant increase in the number of general elections for which citizens are called to participate. Mr Gallagher discussed possible advantages and disadvantages of using different

electoral systems – in the narrow sense of the term, electoral formulas – for different elections of a given polity. A possible advantage would be if the electoral system at different levels could do different things, such as elect a governor/mayor at one level and represent the interests of the citizenry at large at another. A possible disadvantage could result from voter confusion about different formulas applied in consecutive elections.

Sandra Pernar (GONG, Croatia) stressed the importance of empowering NGOs in order to enable them to effectively monitor elections. She explained that this task is not restricted to the very day on which an election is held but rather is of a more enduring nature and that NGOs are indeed able to enact changes. She suggested that there are five requirements for NGOs to be effective in that regard: (1) they need to be independent; (2) their actions need to operate in a fully transparent way; (3) they need to “know the business” (competence), this may include support and training from abroad; (4) NGOs need to “know the opposition”, which is to say that they need to be familiar with the national political system and the actors and their motivations that are operating in it; (5) a fifth and final requirement is visibility: citizens are powerful allies, and good contact with the media is essential for fulfilling the task.

Ola Petterson (International IDEA, Sweden) addressed electoral participation, and in particular the measures that are available and the solutions that are discussed in order to fight turnout decline. He suggested that elections are not one-off events but rather a continuous process extending over the electoral cycle, and that voters need to be involved throughout the whole electoral cycle rather than just on election day. He raised the questions of who does not participate in elections, why they do not participate, what can be done about it, when and how can we assess the impact of any action?

Nataliya Romanova (Chernigiv Regional Council) proposed that turnout in general elections depends most of all on the quality of the democracy in a given polity. She maintained that international recognition has a role to play here and that the electoral process should be closely watched by human rights organisations, which should be given a greater role. Moreover, party lists should be open rather than closed to give voters greater power over party leadership. All forms of “dirty

technology” that are used in the electoral process need to be effectively abolished. Last but not least, representatives, once elected, need to be able to solve people’s problems. All this applies to national and sub-national levels, although the problems are probably less severe at local and regional levels.

*Institutional forms of local government*

One of the themes addressed during the discussions was the institutional form of local government, and in particular whether the introduction of directly elected mayors would harm or foster the quality of the electoral process. While the “presidentialisation” of local government does not *eo ipso* seem to present a problem for representative democracy, divergent opinions were articulated nevertheless.

Nataliya Romanova reported that in Ukraine directly elected mayors enjoy a high level of legitimacy. On the other hand, Sandra Pernar considered that Croatia does not seem ready yet for directly elected mayors as this would require a “higher” political culture. There, pre-electoral campaigns are often characterised by significant struggles between candidates, sometimes with violent outbursts. The result of this seems to be that more and more people do not trust the politicians and that “apolitical” businessmen present themselves as candidates and find some support, particularly at the local level – a process which, however, produces its own technocratic problems. Anatoliy Tkachuk (Deputy Minister of Regional Development and Construction, Ukraine), the Chair of the Workshop, proposed that the direct election of mayors is good for cities.

It was suggested from the audience that one of the very basic problems results from the fact that citizens do not really know the candidates and that voters and candidates should be educated in a way which enables them to better perform their respective tasks. A local politician expressed his concern that NGOs are often prevented from effective election observation because they are not a legal part of the election process. It would be desirable to see relevant election laws amended to allow this.

Pierre Garrone (Secretariat of the Venice Commission) pointed to the Swiss experience according to which the result of local elections not

only depends on the institutional setup, but also on their timing relative to elections at other levels of the overall system of governance. This concurs with findings from European Parliament election studies showing that national governing parties do systematically worse in “second-order” elections.

*Different electoral systems at different levels of governance*

Michael Gallagher reported on the British experience with different sub-national, national and supra-national election laws. According to him, the British example shows that even serious differences do not prevent voters from making informed and reasonable choices – voter confusion is not really an issue. For the election of national parliamentarians Anatoliy Tkachuk advocated a two-round single member plurality system over proportional representation because of the risk from a proportional representation (PR) system of producing unstable results and bringing people to power who are incapable of fulfilling the task.

Regarding the promotion of turnout, it was suggested that compulsory voting is not really a solution because one citizen out of five does not vote even when participation is mandatory. What seems to matter most is the decisiveness, that is to say the gravity, of the likely political consequences of an electoral verdict. Technical innovations that aim at facilitating the act of voting, such as e-voting, must be seen as a complement to more traditional tools. However, politicisation can also be overdone, as Nataliya Romanova explained with reference to the Ukrainian example. Finally, information and civic education can increase turnout, according to Sandra Pernar, if NGOs and political parties and their candidates co-operate rather than hinder one another.

*Conclusions*

The electoral connection is at the heart of representative democracy. It is well understood that this relies on responsible parties that are both distinct and cohesive in policy terms. Distinct parties provide voters with a substantive choice – if parties advocate identical policies citizens do not have any choice. Cohesive parties are required so that once a party is elected into office, it can indeed transform the policy pledges it advocated during the campaign into public policy, which would not be possible with a party divided over important issues.

### Autonomous elections

The workshop participants put another basic requirement of the electoral connection at the centre of their deliberation: the necessary autonomy of an election. Growing sub-national autonomy and supra-national integration have resulted in a “hollowing out of the state” – a process that has led to a growing number of elections for which citizens are called to participate. The same effect springs from constitutional choices in many post-communist democracies of eastern Europe. Semi-presidential systems are the standard in this region and they stipulate, in addition to the general election of members of parliament, the direct election of a (more or less powerful) president.

One possible danger that is associated with this growing multiplicity of elections is that “alien” issues or policies – alien in the sense that they do not relate to the political arena of the election at hand – can determine the result of a particular election. When this occurs, it puts the effectiveness of representative democracy into question.

### Policy content of the electoral verdict

The policy content of an electoral verdict is of central importance here. Electoral systems – in the broader sense of the term – need to be structured in such a way that voters can base their choice on clear policy alternatives for the electoral arena at hand, so that the election result can be understood as a policy mandate for the incoming government. Clear policy alternatives, possibly in conjunction with a close race of government alternatives (candidates, parties or party coalitions), are the best remedy for declining levels of turnout. Voters will vote if they believe that it will make a difference such as when the decisiveness of an election is high.

### Personalisation of electoral politics

The personalisation of electoral choices does not necessarily stand in the way of clear policy content, so the direct election of mayors or presidents may not harm the notion of representative democracy. As long as personal electoral alternatives are associated with distinct policy profiles, personalisation can be beneficial to the quality of democracy because it can help to increase turnout.

### NGOs to replace political parties?

In order to contribute to the democratic quality of multilevel governance, multilevel elections need to be conducted in a free and fair manner. This is less self-evident than it may seem for many. In the new post-communist democracies in particular, the administration of elections is not always in compliance with existing legislation. This seems to result in part from the limited credibility of the electoral process, which in the eyes of many citizens still suffers from its de-legitimisation under communist rule. The extremely unpredictable nature of both voters and parties contributes to a general sense of “anything goes” among relevant actors and the often extreme ideological polarisation between even major parties which turns electoral competition and campaigning into bitter fights between hostile camps of “us” and “them”.

Under these conditions, it makes sense that NGOs should enjoy a higher credibility than political parties – although it should never be forgotten that the electoral connection requires political parties everywhere. Political parties channel and express voter preferences; they organise elections and form governments. However, communication during the electoral process is not a one-way street; political parties also mould the preferences of their voters and actively shape public opinion. These are functions that NGOs, social movements and interest groups can never fulfil in their entirety. Political parties may be held in disregard – possibly for different reasons in different parts of Europe – but there is no substitute for them. Direct democracy is not well suited to taking complex political decisions in mass democracies and populist appeals cannot provide a democratic alternative.

***Theme 3 – Media and civil society:  
key actors in democratic elections***

**Workshop 3A – The role of the media in ensuring fair elections**

*Issues paper*

**Corina Cepoi**

*Project Director, Independent Journalism Center, Moldova*

*Introduction*

This issues paper aims to serve as basis for discussion on the role of the media in elections. It covers several key areas such as:

- the existence of independent and pluralistic media as a prerequisite for fair coverage of elections;
- rights and responsibilities of media in election campaign coverage;
- new forms of media – risks and opportunities.

Additionally, other aspects relating to the media's role in the electoral process will be tackled:

- regulations for media organisations in elections; the role of self-regulation in the process;
- media in its watchdog function during elections;
- bias based on gender, origin or other factors in the media and its impact on voters' information;
- reaching voters inside and outside a country.

*Independent and pluralistic media in elections*

Media organisations play a crucial role in elections by ensuring the flow of information towards the population. As a result, a better-informed public can make an educated choice during elections and directly influence their results. At the same time, political parties can channel their messages via media outlets so that a larger audience is reached.

In the case of public media, funded directly or indirectly by the taxpayers, balanced coverage is extremely important, as it needs to reflect societies' diverse opinions and political choices. All political



parties need to have access to public broadcasting not only through advertising (paid or free) but also in news programmes. Such a balanced coverage is possible as monitoring reports demonstrate.

#### *Rights and responsibilities of the media*

The basic rights of journalists continue during election campaigns, although they focus on access to information and public meetings. Journalists have to be able to access documents and the platforms of parties participating in elections. They need to be able to check candidates' profiles to ensure "clean parliaments"<sup>16</sup> as well as the profiles of other elected officials. The existence and application of freedom of information laws, as well as "sunshine" laws, are compulsory in this matter, even though developed democracies often function without such legal instruments.

The rights of journalists do not come without responsibilities. Journalists have to cover – in a balanced and fair manner – election events without taking sides while opinion writing and editorials can be the places where media organisations endorse (or not) one or more of the candidates.

#### *The new media*

The role of the new media in election campaigns has come into focus in countries where the traditional media fail to deliver a diverse and balanced message. In places where journalists are restrained from covering events, voters, especially young ones, turn to the uncensored (and uncontrolled) domain of the Internet. Western countries have called this flow of information and the consequent events "Twitter revolutions" even though events were triggered by multiple "new media" channels – social networks, mobile phone text messaging, online media and blogs. These youth initiatives had an unexpected impact, even for the organisers. And for the first time these "alternative" channels of information distribution were taken seriously.<sup>17</sup>

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16. Non-profit organisations, media organisations and (investigative) journalists usually come together to conduct "clean parliament" initiatives.

17. Moldovan and Iranian elections in 2009.

The population turns to online media for “live” coverage no matter where they are located and traditional media outlets are responding to this challenge. As a newspaper editor recently complained, the one who posts the information first wins. More resources are being directed towards Internet-based media to respond to the growing need of immediate coverage.

An additional reason to turn to online media is the lack of plurality in the media when concentration leads to several groups controlling all the media outlets in a country. If controlled public/state media are added to the picture then the population has no choice but to look for alternative solutions.

The risks accompanying such “immediate” reporting are multiple. Much information is reported without being verified; often journalists rely on anonymous tips; the content of a story can be modified when the reader is not looking, leading to confusion and misinformation, and the incitement toward hatred and violent actions is not uncommon.<sup>18</sup>

#### *Laws and self-regulation*

Legal provisions for the media cover predominantly the broadcast media organisations as they have the largest impact on the population and use publicly owned airwaves. Broadcast co-ordinating councils (BCCs) enforce those provisions by warning and fining media organisations that do not comply. To be able to do that BCCs also need to have the capacity to monitor broadcast media and in the case they do not, civil society takes over. Monitoring reports serve as a basis to signal a problem to BCCs and for parties to approach election commissions with complaints based on monitoring data.

Additionally, legal provisions are found in press laws, broadcast codes as well as civil and/or administrative codes. Election commissions also play their part by imposing strict guidelines regarding free and paid regulation to ensure access to the media for all candidates and parties.

The implementation of ethical codes for journalists’ unions, other professional associations and internal media organisations’ guidelines,

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18. Especially via forums and comments sections.

known as self-regulation mechanisms, avoid over-regulation of the media by the judiciary and controlling bodies.

*Media as a watchdog*

Elections are monitored through observations, the judiciary and government. Media play their part by not only spreading the message but also by making sure the elections are fair and free and by signalling if illegal actions take place. Often critical coverage is picked up by the opposition parties and/or used by the judiciary to respond to an illegal act. The public is given the opportunity to scrutinise the process and reverse it if the irregularities are widespread.<sup>19</sup>

*Media bias*

Media bias becomes exposed as a result of monitoring. Sources of information for stories are overwhelmingly official ones and rarely refer to the problems of the “common person”. Women are often under-represented both as electoral candidates and as sources of information or expert opinion. Even more complex issues arise when one looks at minorities’ representation in the media. Specific problems pertinent to a minority are not addressed in the press and minority groups do not always understand the language of the media.

*Media reach*

In countries with poor Internet penetration and controlled media, the population often remains without access to vital information which would enable them to make the educated choice mentioned at the beginning of this paper. In the absence of postal or electronic voting methods, those who live outside the country are another group who do not have access to voting. Countries with a significant number of citizens abroad benefit from remittances but do not ensure the right to vote of migrant workers.

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19. Locally covered irregularities and subsequent demonstrations in Moldova led to repeated elections after opposition parties blocked the election of the president. The situation in Iran did not lead to a repeat election but, instead, shook the society to its core.

*Conclusion*

While media monitoring is an important democratic tool in the hands of civil society organisations, it is extremely important in countries with no democratic traditions and shaky democratic performance. Media monitoring allows multiple internal and external actors to verify if the population has the possibility to make an informed choice in elections, both in the pre-electoral period of the campaign and on election day.

## **Workshop 3A – The role of the media in ensuring fair elections**

### *Workshop report*

#### **Corina Cepoi**

*Project Director, Independent Journalism Center, Moldova*

#### *Introduction*

Workshop 3A focused on the role of the media in elections. It was chaired by Konstantyn Kvirt, Executive Director of Internews Ukraine, a non-profit organisation working with journalists and media organisations. Robert Parsons from France 24 moderated the session. After the issues paper with the key points for discussion was presented, the three panel speakers covered specific areas of concern. Pierre Garrone (Secretariat, Venice Commission) spoke about international standards for media and governments referring to a report on the issue prepared by Owen Masters, an expert for the Venice Commission. Barbi Pilvre (member of NENO) focused on the experience of Estonia in the field of public media obligations and pre-election agreements promoted by non-profit organisations.<sup>20</sup> Ljiljana Zurovac (Press Council, Bosnia and Herzegovina) presented the experience of Bosnia and Herzegovina and its Press Council, a new structure aiming to serve as a self-regulatory mechanism for journalists and media organisations.<sup>21</sup>

An overview of the existing international standards developed by organisations such as the Council of Europe's Venice Commission, the OSCE/ODIHR and others to provide guidance to the media during election time was given. The following issues were addressed:

- equal opportunities for electoral candidates in the media, especially the publicly funded media;
- an informed public for an informed choice by the electorate;
- journalists' protection in their professional capacity;
- press councils as self-regulatory mechanisms;

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20. See NENO pre-election manifesto at [www.ngo.ee/28222](http://www.ngo.ee/28222).

21. See the Press Council of Bosnia and Herzegovina's website with some information in English at [www.vzs.ba/en/](http://www.vzs.ba/en/).

*Electoral systems: strengthening democracy in the 21st century*

- covering opinion polls before elections;
- interaction between the media and election observers.

*Guiding principles for the media during elections*

The public media's role was underlined as a crucial one in electoral periods. Publicly funded media organisations are normally the ones that have the most detailed guidelines in elections and try to adhere to them strictly. Of course, the situation differs from country to country but generally the advantages of the public media include:

- organisation and broadcasting of public debates;
- an equal playing field for all political actors because of regulatory and self-regulatory mechanisms;
- suspended or limited appearance of officials involved in the election campaign;
- involvement of the ombudsman who can monitor and negotiate any conflict arising from the activity of the media organisation and the public, including electoral candidates;
- an emphasis on hard news focused on events that influence the life of the citizens versus soft news where entertainment prevails.

The commercial media have fewer obligations with regards to the public as they are not financed through public taxes. Nonetheless, they need to have general obligations during elections. The drawbacks of the commercial media that were discussed at the session include:

- programming focused not on issues affecting people's lives but mostly on personalities;
- commercialisation of the media when it is market driven and profit oriented thereby limiting its informative and educative role;
- predominance of scandalous information;
- availability of unregulated airtime for sale to political parties with budgets of various sizes.

*The need to regulate and monitor the media*

The workshop emphasised that regulation does not mean censorship. The limits imposed on the media have to be appropriate without over-regulation, which could limit creativity and lead to the avoidance of

difficult issues. General rules need to be set up for the commercial media and detailed ones for the media funded from public budgets. In any case, these rules and regulations have to include the right to reply for all those mentioned in news stories.

Developed democracies have relatively smoothly operating self-regulating structures known as press councils while new democracies in Europe are only starting to set up such bodies. In general, self-regulatory mechanisms work when journalists take responsibility for their actions. Examples were provided of press councils working with journalists to remind them of professional standards. Additionally, press councils remind the media that the citizens should be at the centre of events and not the politicians. Similarly, politicians are educated about journalists' roles in society and judges are empowered with knowledge of international standards in order to make fair decisions in cases involving journalists.

Media monitoring is essential to observe how well the media are performing and to address any deficiencies of media coverage of elections. Media monitoring should cover all segments of an election campaign and should take a long-term approach which includes:

- the pre-election stage of a campaign;
- the election day;
- the post-election period.

Balanced reporting of an election campaign is possible and media monitoring can serve to highlight good practices as well as inadequate situations. Methodologies of media coverage of elections are now established, after years of trial and error, and international and national monitoring teams should co-operate to share information and best practices for the benefit of all. Both quantitative and qualitative methods are desirable, to be used in tandem with case studies analysing individual media organisations' behaviour.

#### *The essential role of education*

Good education standards can help to improve the coverage by the media of electoral candidates and elections. Professional journalists who follow high standards of reporting and ethics can only emerge from high quality educational and training programmes. Long-term

programmes, in formal and informal settings, are most effective for students of journalism and for working journalists. Teaching ethics is a key component of any education programme for journalists. Those journalists who have relevant advanced experience (from inside or outside the country) can be trained as trainers for less-experienced colleagues. If the proper education of students in journalism is set up and the continued training of working journalists is organised, there is a good chance that reporters will make sound journalistic decisions in their work.

Investigative journalists can contribute to more interesting journalistic products in elections, so that all segments of society can access quality information from the media. Educating the public about media principles and consumption patterns, thereby highlighting that each society member is individually important, could improve the electoral environment in general.

*The key role played by the new media*

The new media were at the centre of the debates of the 2008 Forum for the Future of Democracy which was devoted to electronic democracy. Nonetheless, as the new media become an instrument for political information and citizen activism but also for public manipulation, they were also addressed extensively during this workshop.

The new media offer significant opportunities for alternative information in countries with restrictive regimes. While it can provide detailed information and offer widespread coverage, several groups of citizens might face problems of accessibility. The following examples were given during the discussions:

- older voters who may not be in a position to follow technological progress because of lack of training and/or financial means;
- certain minorities lack access to new media, for example Roma populations throughout Europe;
- disabled people may need special technical devices and often lack sufficient financial means;
- rural voters may not have access to new media because of poor infrastructure;



– migrant workers may be excluded from the host country as well as their home country's events because they are in very poorly paid jobs and, in many cases, have no legal status.

New media illiteracy also affects many other sections of the population. People sitting in front of their computer have to assess whether the information is reliable and balanced, or not. Despite the seemingly free flow of information on the Internet, restrictive governments have found methods of controlling it via censors or even through co-operation with providers. While media education courses exist and citizens can learn how to evaluate various types of media information, such training is not readily available with regard to new media.

The impact of new media on traditional media is still unclear. Whilst the issue is being debated, traditional media are proving to be slow to respond to the new challenges. In the meantime, citizens are taking the matter into their own hands by covering issues which traditional media misses or in zones where the mainstream media does not fully operate.

The fragile position of the media affects the free flow of information during elections and beyond. Journalists' rights need to be respected so that they can freely access public events, report on issues of public interest and are not prevented from raising controversial issues. Attacks on journalists are pervasive violations affecting not only the profession itself but also the public at large.

#### *Reinforcing the role of women in the media*

Special attention was paid to the issue of women in the media and the need for gender-balanced news coverage. Regardless of the fact that most working journalists are women, men dominate media management.<sup>22</sup> Monitoring shows that the images, sources of information and issues covered by media do not present a gender-balanced view. Instead, media content is dominated by one-sided images of reality that ignore many issues affecting women in society.

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22. Information obtained from a report prepared for the International Federation of Journalists (IFJ) 2007 Congress.

### **Workshop 3B – Civil society as a driver for transparent and inclusive elections**

*Issues paper*

**Cyril Ritchie**

*Council of Europe Conference of INGOs*

Council of Europe instruments and policies have long provided a solid basis – and significant encouragement – for enhancing the roles and responsibilities of civil society organisations in public policy decisions and actions. Elections are a principal channel (national or local) for determining who will make future public policy decisions, and who will have the authority to take public policy actions. The Forum will accordingly discuss the ways in which civil society organisations can manifest their roles and responsibilities throughout the electoral process.

Among the Council of Europe instruments and policies that provide particularly relevant background are:

- The European Convention on Human Rights, with its assertion of the capital importance of freedom of opinion and freedom of association. Those freedoms are the pillars of civil society. Without them, the electoral process can easily be manipulated or distorted.
- The 3rd Summit of Heads of State and Government of the Council of Europe (Warsaw, 2005) stated, *inter alia*, that “democracy and good governance can only be achieved through the active involvement of citizens and civil society”. Free and fair elections – transparent and inclusive elections – are the public face of democracy and good governance. The active involvement of civil society is thus one of the conditions for transparency and inclusiveness, and indeed for citizens’ trust in their governance.

A special reference has to be made to the policies defended by the Council of Europe Committee of Ministers in Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe. This ground-breaking recommendation sets high standards and ambitions for public authorities and for civil society. Going well beyond a narrow legal framework, it explicitly recognises the growing roles and responsibilities of NGOs in public life. Some

of the recommendation's statements that are plainly applicable to the way NGOs relate to the electoral process are:

- In the introduction, the Ministers state that they are “aware of the essential contribution made by NGOs to the promotion of public awareness, participation in public life and securing the transparency and accountability of public authorities ...”. This certainly opens the door to civil society participation in election observation and monitoring; to the promotion of political and citizenship education, including advice to voters on the procedures and meaning of electoral campaigning. The concepts enunciated in the cited text also open up – indeed encourage and validate – civil society's watchdog role in relation to the rules governing elections and the ways in which those rules are put into practice.
- In defining NGOs as voluntary, self-governing and non-profit, the recommendation states that “they do not include political parties” and it continues, “NGOs should be free to support a particular candidate or party in an election or referendum provided that they are transparent in declaring their motivation. Any such support should also be subject to legislation on the funding of elections and political parties.” It is right that those who demand and work for transparency in the electoral process should themselves demonstrate transparency.
- The recommendation concludes with an unambiguous call to governments to “ensure the effective participation of NGOs without discrimination in dialogue and consultation on public policy objectives and decisions. Such participation should ensure the free expression of the diversity of people's opinions as to the functioning of society”. Elections are of course, *inter alia*, formalised processes of consultation and thus require civil society to be genuine participants throughout all stages. In particular civil society organisations are at the least microcosms of the diversity of citizenry and of citizens' opinions. Through their membership and their values they make a contribution to inclusiveness in electoral processes.

Several of the concepts and attributes referred to above also have relevance to the enhancement and “perfectibility” of electoral processes in such areas as guaranteeing women's access and substantive contributions; or ensuring the equitable participation of minorities, foreigners and disadvantaged groups. Civil society organisations

frequently have privileged opportunities to represent and defend all these categories of the population, and can notably be alert to voluntary or involuntary electoral mechanisms or practices that could discriminate against their participation.

The diversity of civil society constituencies and outlooks is also a factor that should encourage greater involvement of civil society organisations in electoral monitoring and observation. For example, patriarchal or traditional cultural patterns may impede or discourage women from exercising their electoral rights. Civil society organisations that work the year round to support and empower women can use their leverage and receptivity to break down barriers or circumvent obstacles to women's participation, and hopefully eliminate some patriarchal stereotypes along the way. The same considerations apply also to people from minority communities, who may more readily put their trust in known civil society organisations to assist them in both combating blockages and overcoming any reluctance they themselves may have to "get involved in politics".

In relation to the overall role of civil society, the Forum will certainly want to take account of the experience of the OSCE. In particular its Office for Democratic Institutions and Human Rights (ODIHR) has a range of election-related activities, as well as work on increasing women's political participation. The ODIHR has a strong and varied set of relationships with civil society organisations, including on election observation, which is so crucial to the guarantee of transparency.

The Forum might indeed wish to consider encouraging the establishment of mechanisms for much more in-depth exchange of experience, notably on election monitoring and observation, among the civil society organisations that work in this domain. The civil society organisations that gravitate around the Council of Europe, the OSCE/ODIHR or the European Union are sometimes identical and are often poor communicators outside their particular sphere. The promotion of transparency and inclusiveness in electoral processes would benefit from wide and regular – perhaps relatively structured – co-operation opportunities among civil society organisations. It should also not be forgotten that there is experience in other regions from which Europe could benefit. To cite just one example, the Election Network in the

### *Workshops*

Arab Region (ENARA) is a specialised organisation grouping more than 50 NGOs from 16 Arab countries, with recent experience covering elections in Yemen, Mauritania, Jordan, Iraq, Lebanon, Kuwait and Bahrain.

Lastly, the Forum may wish to note that the active involvement of civil society in achieving greater transparency and inclusiveness in electoral processes is both a manifestation of participatory democracy and a contribution to strengthening representative democracy. There is no dichotomy here. Each complements the other. Each demands and benefits from the engaged involvement of responsible and competent civil society organisations.

### **Workshop 3B – Civil society as a driver for transparent and inclusive elections**

*Workshop report*

**Cyril Ritchie**

*Council of Europe Conference of INGOs*

#### *Introduction*

The workshop had some 75 participants and was structured around a series of panel presentations, followed by a lively exchange in which over 20 people posed questions and offered views.

The panel session was chaired by Igor Popov (Secretariat of the Ukrainian Presidency) and moderated by Michael Hancock (Parliamentary Assembly of the Council of Europe). The panellists were: Igor Botan, Moldova; Nel van Dijk, Netherlands; Natalia Dniprenko, Ukraine; Ihor Kohut, Ukraine; Konstantyn Kvurt, Ukraine; and Ariane Rodert, Sweden.

The speakers and questioners from the floor included ambassadors and other government representatives, parliamentarians and a representative of the Organization for Security and Co-operation in Europe (OSCE). The civil society representatives who spoke came from a great diversity of programme and advocacy areas, and from countries with widely different experiences (Azerbaijan, Hungary, Turkey, Latvia, Ireland, Spain, Armenia, France, and of course Ukraine as host country to the Forum).

#### *What is civil society and what does it do?*

The workshop examined broad aspects of the role and functions of civil society, particularly, but not only, related to the Forum's theme of electoral systems. It recognised that civil society is a process of co-operation that differs from country to country, but that essentially it provides a mechanism for citizens to organise themselves in order to influence society and improve daily life.

Elections – no matter how transparent and inclusive – are single events in a multi-year cycle. It is throughout this cycle, equivalent to a parliament's term of mandate, that civil society organisations bring forward

proposals for improving electoral processes, for enhancing transparency and inclusiveness in government and parliament, for embedding democratic practices and for encouraging the electorate to become active, involved citizens.

It is important to underline that participatory democracy – the purview of civil society – is complementary to representative democracy – the purview of parliaments. Participatory democracy fuels the debate that is at the heart of representative democracy, and of course civil society activists and workers are also voters.

Civil society organisations function as watchdogs, citizens' advocates and incubators of innovative solutions, and should continuously develop these roles before, during and after elections. One such innovative technique is the Netherlands' *Stemwijzer*, translated as "vote navigator" or "vote match". Put simply, this electronic mechanism, used by several million voters, enables individual voters to identify the extent to which their interests find a match with the policies of the different political parties. *Stemwijzer* helps voters to distinguish among the positions of the parties, and has been identified as an encouragement to casting a ballot.

Civil society organisations foster communication between all societal stakeholders. Civil society is simultaneously a watchdog and a partner vis-à-vis public authorities. It enhances social cohesion and social justice through multiple channels of policy advocacy, service provision, giving voice to citizens, combating discrimination, and promoting women's right to electoral participation at every level. Furthermore, civil society is a source of expertise for all levels of public authorities and for parliaments when drafting legislation.

The workshop looked at ways to enhance the participation of both international and domestic NGOs in election observation and monitoring. It was suggested that the Council of Europe, with the OSCE/ODIHR, could promote an exchange of experience among NGOs involved throughout Europe, as there is already a considerable body of knowledge. At election times, civil society organisations should have no reluctance to form coalitions with like-minded academic and other institutions, to conduct policy research, to monitor exit polls and to take advantage of the mass media.

Civil society organisations are active in representing and defending the rights – including electoral rights – of minorities as well as vulnerable and disadvantaged groups. Linked to this, they are in a position to contribute to improving “low political culture” levels through education for voter awareness.

The workshop asked if there is a “right” proportion for governmental funding of civil society organisations. Are there risks inherent in governmental funding: self-censorship and/or limitations on independence? Should funding only be short term or could it be long term? How long?

Some participants had direct experience of governmental subsidies opening the door to unconnected interference by politicians or bureaucrats in the functioning of NGOs. Such funding may run counter to the guidelines of Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe.

*The Code of Good Practice for Civil Participation in the Decision-Making Process*

The Code of Good Practice for Civil Participation in the Decision-Making Process, requested by the 2007 Forum and presented at the opening of the 2009 Forum, has been welcomed by the Council of Europe *quadrilogue* partners. The code is a valuable tool for all stakeholders, providing support for meaningful co-operation between public authorities and civil society organisations.

The Council of Europe is invited to fully promote the implementation of the code and the workshop participants welcomed the Conference of INGOs’ implementation strategy for the code, based on an extensive interactive database. It was hoped that implementation would be a priority for parliamentarians and local and national government authorities. A significant link exists between the code and the previously mentioned Recommendation CM/Rec(2007)14 in which paragraphs 76 and 77 specifically encourage NGOs’ participation in decision making.

The workshop particularly appreciated that the code does not only aim to promote civil participation by advocacy NGOs, but that it also fosters the role of service-provider NGOs which represent the interests



of a wide variety of user groups including minorities, disadvantaged communities and disabled persons. These organisations should also be consulted in decision making on social and economic policy.

Inspired by the example of this code, it was suggested in the workshop that consideration be given to preparing a code for civil society participation in the electoral process.

*Civil society making the most of Council of Europe acquis*

It is a purpose of the Council of Europe's – to which the Forum for the Future of Democracy is a contribution – to elaborate and enhance European standards and good practices. The engagement of civil society in Council of Europe deliberations and decision making is an indispensable element for ensuring that such standards and good practices are experience based, value driven and understood by citizens across the entire European spectrum. Civil society organisations are a vital interpretative link between policy and reality, not solely at election time but – crucially – between elections.

The workshop looked at Council of Europe standards relevant to free and fair elections. These include the European Convention on Human Rights (the Convention), the European Charter for Regional or Minority Languages, the Convention on the Participation of Foreigners in Public Life at Local Level, the Revised European Charter on the Participation of Young People in Local and Regional Life, Committee of Ministers Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision making. It discussed some ways in which civil society could better persuade other stakeholders to promote and implement these instruments and felt that the Conference of INGOs' Expert Council on NGO Law had a role to play in creating a fruitful environment for the functioning of NGOs, including the strengthening of their legal status.

The Council of Europe Committee of Ministers Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe contains many invaluable pointers and guidance relevant to civil society's role as a driver of transparent and inclusive elections. Indeed, this text is virtually equivalent to a charter for

democracy. It should be noted that the recommendation specifically states that political parties are not NGOs.

The suggestion was made that the Parliamentary Assembly of the Council of Europe could develop specific guidelines to promote common work with civil society on electoral processes and mechanisms. Such a step could help overcome apprehensions among some parliamentarians that civil society constitutes a challenge to the political process. The broader view is that civil society is part of the essential system of checks and balances that undergird the political process.

#### *Conclusion*

Active, responsible and competent civil society organisations are a powerful force that works towards achieving free and fair elections, and for holding those elected to their campaign promises. Let us build upon the Convention's guarantees of freedom of expression, and freedom of assembly and association. These are the pillars of civil society. They are equally the pillars of free and fair, transparent and inclusive electoral systems.

## CLOSING SESSIONS

### **Jean-Marie Heydt**

*Council of Europe Conference of INGOs*

For the Conference of INGOs the Code of Good Practice for Civil Participation in the Decision-Making Process is a vital tool that demonstrates our commitment and our ability to complement public activities.

In the context of electoral systems, the code is entirely in keeping with our shared desire for democracy to be consolidated in the interest of the populations of our member states. I would like briefly to mention the five courses of action that the code offers in the sphere of elections:

- alerting, involving and educating citizens;
- enriching electoral debate through contributions from various sources;
- providing minority groups with an opportunity to be represented in electoral debates;
- helping to monitor electoral processes;
- paving the way for new techniques and practices, combined with technological progress.

As I have suggested on previous occasions, these five activities should be part of a genuine process of complementary action. There should be no confusion about each party's respective roles and responsibilities. By this I mean that NGOs are not, and should never be, a conduit for politicians or trade unionists or for commercial or financial interests. Our commitment is free of all profit making or electoral aims and this means that all our actions and motivations should have no other goal than human well-being, founded on human rights. It is only in this context that we can, and should, be recognised by the national, regional and local authorities.

As I went around the workshops, I heard many very interesting and inspiring proposals, but it is not for me but for the rapporteurs to report on these.

However, some of the ideas I heard make me want to raise the point that, more than any other topic, electoral systems can cause disquiet, creating the impression that NGOs are always opposed to the current authorities, acting out of a desire to replace them. I would like it to be clear that this is absolutely not the case, and that those who behave like this should quite simply leave their NGO and take up politics, refraining from using NGOs to engage in electoral politics.

This does not mean that we should keep quiet – far from it in fact – even though we know that our comments and views will not always be well received by public decision makers. However, what we say should always be dictated solely by a desire to improve human well-being.

To achieve this, we need to be constantly aware of the role of each of the partners involved, namely that of the authorities, civil society – including NGOs – and the media. In this way, we can be a recognised force which is able to take a full part in the decision-making process, and which is both credible and inclusive.

As we know, civil society activities, particularly those carried out by NGOs, are already a key factor in the ongoing democratic process. Moreover, these activities help people to gain or regain confidence, for example by giving them hope that they can influence their future by choosing their representatives. There is nothing new in this, and the idea is simple, but this simple realisation that democracy is first and foremost a question of confidence is something that can be learnt through education and exemplary conduct. And do not think that schools are the only place where this education can be provided! Each one of us should be doing it.

Take a child whose teacher at school explains to the class how important it is for people to vote in the national parliamentary elections. Election day arrives and at home, the child's parents say that there is no point in voting, that politicians only remember their constituents just before the elections and afterwards they do what they like. We have all heard this type of talk. What effect is this going to have on

our children? They will heed their parents' words and all the teacher's efforts will be in vain. It would be just like having your car repainted with a water-based paint – you cannot be surprised when the paint washes off completely the first time it rains.

If we want to use education to encourage future generations to participate more in elections, we need to influence adults today. And there is no more efficient way of doing this than leading by example. Providing examples and encouragement to the public is what NGOs can and will do. This is all the more effective given that we are not standing for election and so we are not active within any political grouping.

The Code of Good Practice for Civil Participation in the Decision-Making Process is the result of concerted efforts and, through the examples it provides, is a source for any partner who wishes to make use of it.

The Committee of Ministers of the Council of Europe has plainly acknowledged this, not only by recognising the importance of the code as a Council of Europe reference document but also by calling on member states to take full account of the code at government, parliamentary, local and regional authority level. On this basis and in the spirit of participatory democracy, the Committee of Ministers calls for the participation of NGOs in this process to be enlarged and for closer co-operation between NGOs and the authorities.

The code was our work, assigned to us in Sweden, at the 2007 Forum for the Future of Democracy. The four pillars of the Council of Europe endorsed it in 2009. It is now for you to take up this code, turn it into a new seedbed of democracy and ensure that it gives a high yield. It is only then that it will come alive for our future democracies.

**Oleksandr Horin**

*Deputy Minister for Foreign Affairs of Ukraine*

Over the five years that it has been in existence, the Council of Europe Forum for the Future of Democracy has become a unique European discussion platform for government officials, parliamentarians, local authority representatives and individuals representing civil society.

It has been a great honour for Ukraine to host this Forum, and one which, in my view, constitutes a worthy contribution by Ukraine to mark the 60th anniversary of the founding of the Council of Europe. The subject this year, “Electoral systems: strengthening democracy in the 21st century” is a highly topical issue, and one that is inextricably linked to the priority objectives of the Council of Europe in the spheres of developing democracy and protecting human rights and the rule of law.

I feel that the main achievement of this Forum is the mobilisation by the Council of Europe of one of the largest bodies of expert knowledge in the world today for the development of universal norms and standards in the electoral sphere. In this context, I would like to place particular emphasis on the role and achievements of the Venice Commission in enriching the European heritage of electoral expertise. This consists, first and foremost, of the Code of Good Practice in Electoral Matters, research into electoral systems and other important recommendations.

At the same time, there are and can be no absolutely ideal electoral systems which might serve as a model. Each society makes its own choice, based on political experience and legal traditions. This session of the Forum should therefore be seen as part of an ongoing process of exchange of information and experience, and also as an important stage in the context of the universalisation of the Council of Europe’s democratic standards in the sphere of electoral systems.

I trust that the conclusions of the Kyiv Forum will set in motion detailed work on the part of all the Council of Europe’s institutions at parliamentary and governmental levels aimed at drafting important recommendations to help extend the experience of the best European electoral practices and optimise their functioning.

In conclusion, I would like to wish you all every success, and to pass the symbolic baton to Armenia, which will be hosting the Forum in 2010.

**Zorab Mnatsakanian**

*Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Armenia to the Council of Europe*

I am here to receive the “Olympic torch” of the Forum for the Future of Democracy and to provide some information on what is proposed for the 2010 Forum which will take place in Yerevan. When defining the proposed subject for discussion in Yerevan, we took into account that the 2010 Forum will be the sixth since the idea was launched in Warsaw in 2005.

The previous sessions of the Forum were successful in addressing specific issues and specific mechanisms in the functioning of democratic institutions. These include civic participation, the role of political parties, e-democracy and electoral processes, which were discussed at this Forum.

In our view, the sixth session represents an appropriate opportunity for stocktaking from the five previous sessions and for us to examine in a comprehensive and forward-looking manner the consolidating factors behind the pursuit of common democratic principles in the Council of Europe area.

We propose to examine the topic of “Council of Europe consensus on the principles of democracy”. We need to revisit the statute of Europe’s oldest intergovernmental institution, the Council of Europe. It does not pursue economic interests, nor is it concerned with matters of trade, energy or security. The Council of Europe provides a platform on which we agree to share principles and to be guided by a set of values in our national, political, social and civic relations. That is our departure point; the consensus is there.

We propose to include in the 2010 Forum a comparative analysis of the implementation of democratic principles in national policies. Examples include elections, various freedoms and institutional arrangements for the separation of power. The issues of elections and political parties were discussed at this Forum; these discussions will be an excellent foundation for what we have in mind for Yerevan.

All aspects of democracy call for the assessment of processes according to defined principles. We also wish to examine how to translate

political principles into legal standards and systems. We believe that this is a rational approach. We propose to engage in a joint analysis of the European conventions and their integration in national legal systems with a view to enhancing and reinforcing their implementation.

Finally, we assume that the challenges and opportunities that define our societies in the 21st century provide a fascinating subject that merits extensive analysis. Today we travel faster and we disseminate and receive information of an unprecedented diversity. We are equipped with tools and devices which make our life more efficient, but which also expand our definitions of freedom and of opportunities. We confront challenges and risks to our security and the burden on governments to deliver security is growing. Do these opportunities and challenges in our contemporary society transform democratic principles or expand them?

In the light of these issues and questions, we would like to propose three sub-themes for the Forum in Yerevan. One would address the political principles of democracy; the second would be concerned with the convention system and democracy, and the third would explore the Council of Europe and democracy in the 21st century.

The defining element of a Forum on these topics is that it is held under the umbrella of the Council of Europe, the benchmark of our shared values and that we bring together political figures, members of parliament, local authorities, academia, civil society and the media. We gather them under a single roof and debate and discuss these issues as 47 member states of one organisation. This represents an unprecedented example of the principle of diversity of experience within Europe.

Such an event is important for my country, as I am sure it is for countries with similar experiences. We expect the Forum to provide us with a necessary degree of visibility and a concrete example of what our common family is. We need to look in the mirror and recognise our diversity within the framework of our shared values in democracy.

We believe this approach is essential to helping our member states know and understand each other better as well as to defy the sceptics, the stereotypes and the dividing lines. This is important for the young



*Closing sessions*

generations of our societies who will carry forward the responsibility of reinforcing Europe's unity; a process that we were privileged to live through. Our generation has been freed from the Europe of incompatible ideologies, and that is, I believe, the defining element of what a consensus.

Holding the torch for the next Forum in Yerevan, we have already begun the preparatory process, which our government is committed to making as visible and as accessible at as early a stage as possible.

I am sure that I reflect the sentiments of all of you here if I express my sincere appreciation of the hard work that has been undertaken by the Secretariat of the Council of Europe. It is they who carry the major responsibility for the preparation of the Forum and they do it admirably. I have had the pleasure of working with them quite extensively since we began our preparations for the 2010 Forum.

I would also like to thank our hosts, the Ukrainian Government, for the excellent preparation and the very enjoyable stay that we have had here in Ukraine during this Forum. I very much look forward to seeing you all in Yerevan in October 2010.

**Lluís Maria de Puig**

*President of the Parliamentary Assembly of the Council of Europe*

As in Madrid in 2009, I simply could not have missed the opportunity to attend this annual meeting of the Forum for the Future of Democracy. Before moving on to the actual content of this year's Forum, I would just like to comment on how successful this initiative has been. The number of participants and the quality of their work alone bear this out. Several hundred people have been involved and many of them have taken part in the debates. They have included politicians and representatives of international organisations, and also a large number of government representatives, experts and representatives of civil society.

Originally, as you may well know, the Forum was an initiative launched by the Parliamentary Assembly, and in particular by Mr Wielowieski, from the Polish delegation, who has put a great deal of effort into it. As President of the Parliamentary Assembly, I am especially pleased that this idea has really taken off.

The Forum is an opportunity to discuss democratic principles and how they can be implemented. The Council of Europe and its Parliamentary Assembly have other instruments in this sphere. These include a debate on the state of democracy in Europe held in the Assembly every two years. However, as it has evolved over the years since its launch in Warsaw, the Forum for the Future of Democracy has been able to avoid the risk of duplicating or overlapping with the activities of the Council's other bodies.

In my opinion, this success can be put down to several factors:

- the Forum has not set up any new bureaucratic bodies;
- it works on the basis of the participation on an equal footing of its stakeholders, namely governments, parliaments, local authorities and civil society;
- the subjects to be discussed have always been relevant and carefully chosen.

Democracy is a never-ending process. It is constantly facing new challenges, which it must meet. The Council of Europe is well placed to discuss democracy. We have been committed to this for the last

60 years, and in that time it has been possible to create a united continent whose countries share the universal values of democracy, human rights and the rule of law.

However, I would like to dwell here on the explicit reference to the future in the Forum's title. We are invited to discuss the future of democracy, and hence to identify the means of preserving and improving the democratic process in European countries, and possibly even outside Europe.

I would like to turn now to the specific topic to which the Forum is devoted this year, namely electoral systems. A commentator once said that "the difference between a statesman and a politician is that a statesman thinks of future generations while a politician thinks of the next elections". In spite of everything, I like this quotation. Firstly, because in politics, people need the ambition to take responsibility for governing and to do this they have to be elected and secondly, because elections are a key feature of the democratic process as a whole and are linked with essential issues such as the representativeness of parliaments and their legitimacy. That is why I am particularly satisfied to read in the first sentence of the Forum's conclusions that "in a genuine democracy, the citizen is sovereign and the voter decides".

It has to be acknowledged that this is a wide-ranging and complex subject. The starting point, however, is simple. Free and fair elections are a prerequisite for any democracy. I was particularly struck by another sentence in the conclusions, which said that the Council of Europe's aim was to make its space the largest "free and fair" election zone by uniting its member countries around a set of shared democratic principles. This is indeed one of our key goals and tasks for future years. Yet, among the 47 member states of the Council of Europe, there are probably no two countries in which the electoral system is the same in every detail. Even where countries fall into the same general category of a first-past-the-post or proportional representation system, there are always a few additional aspects which distinguish them. We talked a great deal about this during the workshops.

All the participants seem to have come to the conclusion that there is no single electoral system which is better or worse than the others.

Much depends on the historical, political and social circumstances of the countries concerned. Some types of electoral system which work well in some countries may not be very well suited to other conditions, other party political set-ups and other traditions.

However, within each type of system and during each type of electoral procedure, there are always features that can be refined and enhanced to ensure that the persons elected are more representative. This relates to the appointment of candidates within parties, the removal of inherent or procedural limits which obstruct representatives from minorities or vulnerable categories of the population, the funding and conduct of electoral campaigns, the establishment of constituency boundaries and other features. These matters were the main focus of our debates during the Forum and are dealt with in the rapporteurs' conclusions.

We now have the much more important task of following up on these conclusions. It should be recalled that the debates held at the Forum are only the first step in a process which involves all the Council of Europe's institutions. Subsequently, each pillar of our Organisation, the Committee of Ministers, the Parliamentary Assembly, the Congress of Local and Regional Authorities and the Conference of INGOs, must accept a share of the responsibility and translate these recommendations into action.

The Parliamentary Assembly is ready to play a major role in this process, especially as it already has significant responsibilities and powers in the sphere of electoral procedures. Election observation in the member countries, particularly those involved in monitoring or post-monitoring procedures, is currently one of the Assembly's most important tasks in the field. Of course, the aim of these observations is to ensure that democratic principles are upheld and the will of the people is heeded. The Assembly never takes sides for or against a party or candidate. Once we have ascertained that the electoral process complies with democratic standards, the results of the election are accepted.

The Parliamentary Assembly has also made a significant contribution in this area by preparing, in co-operation with the Forum for the Future of Democracy, the Code of Good Practice in the Field of Political Parties, which was subsequently adopted by the Venice Commission.

As will be clear from this, the Assembly, which I have the honour of presiding, takes its task of safeguarding and promoting democracy very seriously, and does so in close co-operation with the Council of Europe's other institutions.

In this connection, I would like to present a proposal which comes from the Assembly. At its last session, the Assembly held a debate on the future of the Council of Europe in the light of its 60 years of experience. During the discussion it was pointed out that the Organisation has a series of mechanisms and bodies which are designed to consolidate its pioneering role in this field. These include not only the annual Forum for the Future of Democracy of course, but also the debates that I have already mentioned on the state of democracy in Europe, the Venice Commission and the Summer University for Democracy, which brings young people involved in the Council of Europe's Schools of Political Studies Network together in Strasbourg.

Why then should we not, as the Assembly suggests, reinforce, co-ordinate and give greater prominence to all these activities, using them as the basis to establish in Strasbourg what might be termed a "Davos of democracy" – a testing ground for ideas and regular high-profile debates on democracy? As President of the Parliamentary Assembly, I am ready to support an initiative of this type.

In conclusion, I would like to thank and congratulate everyone who has taken part in the Forum and the organisers, particularly our hosts, the Ukrainian authorities. I would also like to wish every success to those who have the task of organising the 2010 Forum, to be held in Yerevan, Armenia.



## APPENDICES

### *Appendix I*

#### **Programme of the Forum for the Future of Democracy 2009**

The Forum was established by the 3rd Summit of Heads of State and Government of the Council of Europe in Warsaw in May 2005. The aim of the Forum is to strengthen democracy, political freedoms and citizens' participation through the exchange of ideas, information and examples of best practices. The proposals resulting from its discussions about possible future action contribute to enhancing the Council of Europe's work in the field of democracy. After its launch in Warsaw in November 2005, the second, third and fourth sessions of the Forum were held in Moscow, Stockholm/Sigtuna and Madrid, each time addressing a different aspect of democracy.

The Forum is a flagship event in the Council of Europe's calendar. It brings together some 400 participants from the 47 Council of Europe member states and observer states representing public authorities (national parliamentarians, local and regional elected representatives, government officials) and civil society (INGOs, electoral commissions, etc.)

In order to ensure transversality and maximum impact, the Forum process is governed by the Council of Europe's quadripartite stakeholders made up of the Parliamentary Assembly, the Congress of Local and Regional Authorities, the Committee of Ministers and the Conference of International Non-Governmental Organisations. Other major stakeholders in the organisation of the 2009 Forum are the European Commission for Democracy through Law (Venice Commission), representatives of the European Union and other international organisations and academia.

The first day of the Forum begins with the opening addresses and presentations of context from leading European personalities. There will also be a presentation of the Code of Good Practice for Civil

Participation in the Decision-Making Process, followed by the high-level panel debate which will discuss the future of elections within the context of the challenges facing electoral systems. Issues to be addressed include:

- Throughout Europe people are feeling disillusioned with their governments and low voter turnout is the norm. What changes to electoral processes could make them more relevant and help rebuild trust between citizens and elected representatives?
- Citizens are enjoying and expecting more direct participation in decision-making processes and this offers both opportunities and threats to democratic practices. How can we ensure that participation processes are complementary to elections and do not weaken them? Indeed, are we sure that elections, in their current configuration, are here to stay?
- The impact of new technologies on democratic elections is at the centre of much current public debate. How can we best foster the capacity of new technologies to make governments and electoral processes more transparent and accountable?
- Political concerns which relate primarily to national issues often play a key role in voters' choices in local, regional and European elections. What can be done to foster better differentiation between different levels of elections?
- Some European countries are experiencing a growing polarisation of ideas and ideologies whilst others are seeing a de-polarisation of political attitudes. What are the reasons and risks behind these trends?
- An independent, dynamic media is a sine qua non for free elections. Throughout Europe, the media is undergoing transformations in order to respond to political, economic, cultural and technological changes. In this rapidly changing landscape, what measures should be taken to best safeguard media independence?
- How can international standards, and in particular the Council of Europe *acquis* on electoral systems, be better implemented in order to improve electoral standards throughout Europe?

The second day is devoted to the thematic workshops. These are divided into three themes with each theme having a first part in the



### *Appendices*

morning and a second part in the afternoon. Participants are welcome to switch themes between the morning and afternoon sessions. The last day concentrates on reporting back from the workshops and presenting the results and conclusions of the Forum.

***Day One: Wednesday 21 October 2009***

**3-5 p.m. Registration of participants**

**5 p.m. Opening of the Forum for the Future of Democracy 2009**

*Chair and opening remarks by the Council of Europe*

**Thorbjørn Jagland**, Secretary General of the Council of Europe and Chair of the Advisory Committee of the Forum for the Future of Democracy

*Opening speeches*

**Samuel Žbogar**, Minister for Foreign Affairs, Slovenia and Chair of the Committee of Ministers

**Göran Lindblad**, Vice-President of the Parliamentary Assembly of the Council of Europe and Chair of the Political Affairs Committee (SE, EPP/CD)

**Keith Whitmore**, (UK, ILDG), member of the Congress of Local and Regional Authorities of the Council of Europe

*Welcome address by*

**Viktor Yushchenko**, President of Ukraine

**6 p.m. Presentation of the Code of Good Practice for Civil Participation in the Decision-Making Process**

**Jean-Marie Heydt**, President of the Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe

**6.20 p.m. European perspectives**

*Chair* **Mykola Onishchuk**, Minister of Justice, Ukraine

**Arnold Rüütel**, former President of the Republic of Estonia

**Šarūnas Adomavičius**, Deputy Minister for Foreign Affairs, Lithuania

**Maria Leissner**, Ambassador at Large for Democracy,  
Swedish EU presidency

**7 p.m. High-level panel debate: the future of elections**

*Chair* **Mykola Onishchuk**, Minister of Justice, Ukraine

*Moderator* **Andrey Kulikov**, ICTV Ukraine

**Dame Audrey Glover**, Director, Electoral Reform  
International Services, UK

**Ambassador István Gyarmati**, President, International  
Centre for Democratic Transition (ICDT), Hungary

**Jan Helgesen**, President of the European Commission  
for Democracy through Law (Venice Commission)

**Prof. Pippa Norris**, McGuire Lecturer in Comparative  
Politics at the John F. Kennedy School of Government,  
Harvard University, USA (via videoconference)

**Bill Sweeney**, President, International Foundation for  
Electoral Systems (IFES)

**8.30 p.m. Close of the First Plenary Session**

**8.45 p.m. Welcome reception at the Government Reception Hall**

**Day Two: Thursday 22 October 2009**

**Theme 1 – General elections in a modern democracy**

**Workshop 1A**

**Morning session, 9.30 a.m. - 12.30 p.m.**

**Increasing the legitimacy of elections:  
laws, institutions and processes**

*This workshop will examine the ways in which different electoral systems can impact election outcomes and responsible government formation. It will look at how to reinforce public confidence and inclusion through measures to improve representativity (such as thresholds and gender quotas) and ways to optimise the work of electoral commissions and election observation missions in order to guarantee transparency and accountability.*

The panellists will also consider how electoral systems are responding to societal changes such as globalisation and the growing use of new technologies as well as the impact the personalisation of politics is having on the legitimacy of elections.

*Chair*      **Mevlüt Çavuşoğlu**, Vice-President of the Parliamentary Assembly of the Council of Europe (TU, EDG)

*Moderator*   **Peter Wardle**, Chief Executive, UK Electoral Commission

*Rapporteur*   **Kåre Vollan**, Expert on Electoral Systems, Norway

**Srdjan Darmanovic**, Member of the Venice Commission, Montenegro

**Lydie Err**, Parliamentary Assembly of the Council of Europe (LU, SOC) and Member of the Venice Commission

**Prof. Mark N. Franklin**, Professor of Comparative Politics, European University Institute, Florence, Italy

**Judge Manuel Gonzalez Oropeza**, Judge of the Supreme Court for Elections in Mexico

**Anna Sólyom**, Project Manager in International Relations, The Association of European Election Officials (ACEEEO), Budapest, Hungary

**Jonathan Stonetreet**, Senior Election Adviser, OSCE  
Office for Democratic Institutions and Human Rights,  
Poland

**Theme 1 – General elections in a modern democracy**

**Workshop 1B**

**Afternoon session, 2.30 p.m. - 5.30 p.m.**

**The role of political parties in electoral processes**

*This workshop will examine the responsibilities of political parties in fostering stability and dialogue before, during and after elections. It will reflect upon the rules governing party lists and the selection of candidates and their impact on representativity.*

The panellists will discuss the phenomena of “democracy by opinion poll” and the growing personalisation of politics and their impact on democratic practices. Furthermore, the opportunities and threats engendered by the growing use of new forms of media and ICTs in political parties’ electoral campaigns will be assessed.

*Chair* **Maryna Stavniychuk**, Member of the Venice Commission, Deputy Head of the Secretariat of the President of Ukraine

*Moderator* **David Wilshire** (UK, EDG), Member of the Parliamentary Assembly of the Council of Europe

*Rapporteur* **Dr Peter Ferdinand**, Associate Professor of Politics, University of Warwick, UK

**Prof. Rachel Gibson**, Professor of Political Science, University of Manchester, UK

**Andreas Gross**, Member of the Parliamentary Assembly of the Council of Europe (CH, SOC) and Vice-President of the Council for Democratic Elections

**Alexander Iskandarian**, Director of the Caucasus Institute, Yerevan, Armenia

**Igor Mintoussov**, Chairman, Council of Directors, “NICCOLO M” Centre of Political Consulting, Russian Federation

*Electoral systems: strengthening democracy in the 21st century*

**Mykhaylo Okhendovskyy**, Member of the Central Electoral Commission, Ukraine

**Prof. László Trócsányi**, Substitute Member of the Venice Commission, Hungary

**Prof. Carlo Ruzza**, Professor of Sociology, University of Leicester, UK

## **Theme 2 – Multilevel elections and participatory practices**

### **Workshop 2A**

**Morning session, 9.30 a.m. - 12.30 p.m.**

#### **Reinforcing participation and inclusion in electoral processes, especially at the local level**

*The aim of this workshop is to identify strategies to reduce voters' disenfranchisement and to reinforce the participation in electoral processes of women, minorities, foreigners and disadvantaged groups. Much innovative work in this field is taking place at the local level of governance, and examples of good practices that foster complementary forms of citizen participation (consultations, citizens' juries, community leaders, referendums, etc.) will be explored.*

Tools, instruments and ICT aiming to enhance participation, political communication and inclusion will also be assessed.

*Chair and Moderator* **Antonella Valmorbida**, President of the Civil Society and Democracy Committee of the Council of Europe Conference of INGOs

*Rapporteur* **Prof. Robin Hambleton**, Faculty of Environment and Technology, University of the West of England, UK

**Hamazasp Danielyan**, Monitoring and Evaluation Officer, International Foundation for Electoral Systems (IFES), Armenia

**Anatoliy Fedorchuk**, Boryspil City Mayor, Ukraine

**Prof. Yvonne Galligan**, Professor of Comparative Politics, Queen's University, Belfast

**Dr Henk Van Der Kolk**, Associate Professor of Political Science, University of Twente, Netherlands

**Paul-Henri Philips**, Member of the Council of Europe Steering Committee on Local and Regional Democracy (CDLR), Belgium

**Theme 2 – Multilevel elections and participatory practices**

**Workshop 2B**

**Afternoon session, 2.30 p.m. - 5.30 p.m.**

**Elections at different levels of governance:  
mutual impacts and synergies**

*This workshop will focus on the inter-relation of elections at different levels (sub-national, national and supra-national) and identify good practices of local level elections and their relevance to electoral systems at other levels. It will identify ways in which policy makers are responding to the challenge of low voter turnout (campaigns to mobilise voters, use of new media forms, compulsory voting, etc.).*

The panellists will explore the differing trends and tendencies to be found throughout Europe (ideological (de-)polarisation, confidence in electoral processes, etc.) and the differing responses to these changes.

*Chair* **Anatoliy Tkachuk**, Deputy Minister of Regional Development and Construction, Ukraine

*Moderator* **Dame Audrey Glover**, Director, Electoral Reform International Services, UK

*Rapporteur* **Prof. Hermann Schmitt**, Research Fellow of Political Science, University of Mannheim, Germany

**Prof. Michael Gallagher**, Professor of Comparative Politics, Trinity College, Dublin, Ireland

**Sandra Pernar**, Executive Director, GONG, Zagreb, Croatia

**Ola Pettersson**, Electoral Processes Programme, International IDEA, Sweden

**Nataliya Romanova** (UA, ILDG), Vice-President of Congress, Vice-President of the Association of Local and Regional Authorities of Ukraine, President of the Chernigiv Regional Council



**Theme 3 – Media and civil society:  
key actors in democratic elections**

**Workshop 3A**

**Morning session, 9.30 a.m. - 12.30 p.m.** (plenary hall)

**The role of the media in ensuring fair elections**

*This workshop starts from the premise that independent and pluralist media are a prerequisite for the fair coverage of elections. It will consider the significance of media analysis during electoral periods and examine the rights and responsibilities of the media in opinion polling, election campaigns and election observation.*

The panellists will address the responsibilities of governments to guarantee media freedom. They will also examine the risks and opportunities posed by the new forms of media to fair and free elections.

*Chair*        **Konstantyn Kvurt**, Executive Director, Internews Ukraine NGO

*Moderator* **Robert Parsons**, International Editor of France 24

*Rapporteur* **Corina Cepoi**, Project Director, Independent Journalism Center, Moldova

**Pierre Garrone**, Head of Elections and Referendums Division, Venice Commission Secretariat, Council of Europe

**Barbi Pilvre**, Journalist and Board Member of the Network of Estonian Non-Profit Organisations (NENO)

**Andriy Shevchenko**, Member of Parliament, First Vice-Chairman of the Committee on Freedom of Speech and Information, Ukraine and former journalist

**Ljiljana Zurovac**, Executive Director, Press Council in Bosnia and Herzegovina

**Theme 3 – Media and civil society:  
key actors in democratic elections**

**Workshop 3B**

**Afternoon session, 2.30 p.m. - 5.30 p.m.** (plenary hall)

**Civil society as a driver for transparent and inclusive elections**

*This workshop will highlight the contribution of civil society to good electoral practices and explore the importance of open dialogue between various stakeholders. It will look at the ways in which NGOs operate as watchdogs and drivers of electoral reform and how civil society can best contribute to the drafting and assessment of electoral legislation.*

The panellists will discuss the role of civil society in providing political education for candidates and for voters and will examine examples of good practice relating to election financing, campaigning and observation.

*Chair* **Ihor Popov**, Deputy Head, Secretariat of the President of Ukraine

*Moderator* **Michael Hancock** (UK/ALDE), Member of the Parliamentary Assembly of the Council of Europe

*Rapporteur* **Cyril Ritchie**, Representative of the Council of Europe Conference of INGOs

**Igor Botan**, Executive Director, Association for Participatory Democracy (ADEPT), Moldova

**Nel Van Dijk**, Director of the Institute for Political Participation, the Netherlands

**Natalia Dniprenko**, Head of the Public Relations Department of Secretariat, Cabinet of Ministers of Ukraine

**Ihor Kohut**, Director of the Ukrainian School of Political Studies and Chairman of the Board, Agency for Legislative Initiatives, Ukraine

**Konstantyn Kvurt**, Executive Director of the INGO Internews Ukraine

**Ms Ariane Rodert**, Consultant on the Code of Good Practice for Civil Participation in the Decision-Making Process, Sweden

***Day Three: Friday 23 October 2009***

**10 a.m. - 1.30 p.m.**

**Concluding Plenary Session**

*Chair* **Keith Whitmore** (UK, ILDG), Member of the Congress of Local and Regional Authorities of the Council of Europe

**Contribution by the President of the Council of Europe Conference of INGOs**

**Jean-Marie Heydt**, President of the Council of Europe Conference of INGOs

**Reports from workshops by the workshop rapporteurs**

**Kåre Vollan**, Rapporteur Workshop 1A

**Dr Peter Ferdinand**, Rapporteur Workshop 1B

**Prof. Robin Hambleton**, Rapporteur Workshop 2A

**Prof. Hermann Schmitt**, Rapporteur Workshop 2B

**Corina Cepoi**, Rapporteur Workshop 3A

**Cyril Ritchie**, Rapporteur Workshop 3B

**Results and conclusions of the Forum for the Future of Democracy 2009**

*Chair* **Lluís Maria de Puig**, President of the Parliamentary Assembly of the Council of Europe

*The general rapporteurs*

**Yuri Kluchkovsky**, Deputy Head of the Committee on State Development and Local Self-Government, Verkhovna Rada, Ukraine

**Hendrik Daems** (BE, ALDE), Member of the Parliamentary Assembly of the Council of Europe and Political Affairs Committee

**Jean-Claude Frécon** (FR, SOC), Vice-President (Chamber of Local Authorities), Congress of Local and Regional Authorities of the Council of Europe

*Presentation of the Forum conclusions*

**Yuri Kluchkovsky**

**Closing of the 2009 Session and invitation to the 2010 Session**

*Closing remarks on behalf of Ukraine, the host country*

**Oleksandr Horin**, Deputy Minister for Foreign Affairs, Ukraine

*Closing remarks on behalf of Armenia, host country of the Forum for the Future of Democracy 2010*

**Zorab Mnatsakanian**, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Armenia to the Council of Europe

*Closing remarks on behalf of the Council of Europe*

**Lluís Maria de Puig**, President of the Parliamentary Assembly

## ***Appendix II***

### **Code of Good Practice for Civil Participation in the Decision-Making Process**

**Adopted by the Conference of INGOs at its meeting on 1 October 2009**

#### *I. Introduction*

One of the major concerns of modern democracies is the alienation of citizens from the political processes. In this context, as in many others, civil society constitutes an important element of the democratic process. It provides citizens with an alternative way, alongside those of political parties and lobbies, of channelling different views and securing a variety of interests in the decision-making process.

The Committee of Ministers of the Council of Europe has recognised – in CM/Recommendation(2007)14 of October 2007 – “the essential contribution made by NGOs to the development and realisation of democracy and human rights, in particular through the promotion of public awareness, participation in public life and securing the transparency and accountability of public authorities”.

At the meeting of the Council of Europe Forum for the Future of Democracy held in Sweden in June 2007, participants called on the Conference of INGOs of the Council of Europe to prepare a Code of Good Practice for Civil Participation which would cover subjects such as mechanisms for NGO participation in decision-making processes and civil society involvement in public policy.

Thus, the Conference of INGOs built upon this by taking the responsibility to draft the Code of Good Practice for Civil Participation in the Decision-Making Process. This document lays out the rationale, the framework and the means for enhanced civil participation. It was prepared by experienced civil society representatives, elaborated in a pan-European consultation process, tested and commented by members of national and international non-governmental organisations (NGOs) and is already being used by activists and representatives of authorities.

The Conference of INGOs of the Council of Europe has produced a user-friendly, structured and pragmatic instrument aimed at decision makers and organised civil society, including NGOs.

The Code offers a repertoire of good practices. It does not have a mandatory character, does not prescribe rules, or require enforcement mechanisms. It offers all actors in the democratic process guidelines stemming from concrete practical experience of dialogue and co-operation between NGOs and public authorities. The final aim is to facilitate their interaction and to enhance citizens' empowerment and participation in the democratic process at local, regional and national levels.

The Conference sought advice and input from other Council of Europe institutions. Both the Congress of Local and Regional Authorities and the Parliamentary Assembly of the Council of Europe welcomed the Code of Good Practice: the Congress stands ready to contribute to its promotion and to use it in its work, and the Parliamentary Assembly, for its part, highlighted the particular importance of e-tools in participation.

This instrument should have and will have political repercussions. It will give impetus and backing to the current trend among local, regional and national authorities to consult and co-operate with civil society in bringing modern tools in democratic governance and at the same time deepening citizen participation in public life.

## *II. Objectives and targets*

The principal objective of this Code of Good Practice for Civil Participation is to contribute to the creation of an enabling environment for NGOs in Council of Europe member States and Belarus by defining at European level a set of general principles, guidelines, tools and mechanisms for civil participation in the political decision-making process. The intent is that the Code of Good Practice will be implemented at local, regional and national level. The Code of Good Practice is based on actual experiences from NGOs across Europe sharing their good practices and valid methods for engaging with public authorities.

An additional objective for the Code of Good Practice is to be a relevant and effective tool for NGOs from local to international level in their dialogue with parliament, government and public authorities. It aims to be an interactive instrument and to be action-oriented so that it is useful for NGOs as well as public authorities across Europe.

As a way of supporting the application of this Code of Good Practice, there will also be a bank of case studies and an additional set of practical tools.

The Code of Good Practice is aimed at national NGOs including regional and local organisations in Council of Europe member States and Belarus, as well as organisations at European and international level.

It also targets public authorities, which includes parliament, government and public administration at local, regional and national level. The target is wide, but it is intended that there are segments of the Code of Good Practice that can be used at all levels of public administration.

### *III. General Framework for Civil Participation*

#### *III.i Parameters of Civil Society*

NGOs and organised civil society are essential contributors to the development and realisation of democracy and human rights. A Council of Europe definition of NGOs can be found in the Committee of Ministers Recommendation (2007) 14, which states that “NGOs are voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members.” In relation to this Code of Good Practice for Civil Participation the term is taken to refer to organised civil society including voluntary groups, non-profit organisations, associations, foundations, charities, as well as geographic or interest-based community and advocacy groups. The core activities of NGOs are focused on values of social justice, human rights, democracy and the rule of law. In these areas the purpose of NGOs is to promote causes and improve the lives of people.

NGOs form a crucial component of participation in an open, democratic society through engaging large numbers of individuals. The fact that many of these individuals also are *voters* underlines the complementary relationship with representative democracy.

NGOs can bring benefits of knowledge and independent expertise to the process of decision making. This has led governments at all levels,

from local and regional to national, as well as international institutions, to draw on the relevant experience and competence of NGOs to assist in policy development and implementation. NGOs enjoy a unique trust from their members and society to voice concerns, to represent their interests and to gain involvement in causes, thereby providing crucial input into policy development.

This text highlights the contribution of *organised civil society* in the democratic process and is not focused on the related question of civic participation, i.e. *individuals*. In this case it is understood that the act of developing associations and community organisations constitutes an act of independent social organisation and is not purely centred on individual action. It is understood that organised groups exist to further the needs of their members and for the benefit of wider society; therefore they act as a key channel of participation and multiplier for the engagement of citizens.

### *III.ii Principles for Civil Participation*

To foster a constructive relationship, NGOs and the public authorities at different levels, should act on the following common principles:

#### Participation

NGOs collect and channel views of their members, user groups and concerned citizens. This input provides crucial value to the political decision-making process, enhancing the quality, understanding and longer term applicability of the policy initiative. A pre-condition for this principle is that the processes for participation are open and accessible, based on agreed parameters for participation.

#### Trust

An open and democratic society is based on honest interaction between actors and sectors. Although NGOs and public authorities have different roles to play, the shared goal of improving the lives of people can only be satisfactorily reached if based on trust, implying transparency, respect and mutual reliability.



### Accountability and transparency

Acting in the public interest requires openness, responsibility, clarity and accountability from both the NGOs and public authorities, with transparency at all stages.

### Independence

NGOs must be recognised as free and independent bodies in respect to their aims, decisions and activities. They have the right to act independently and advocate positions different from the authorities with whom they may otherwise cooperate.

### *III.iii Conditions for Civil Participation*

The conditions to enable associational life are well documented. In accordance with the European Convention on Human Rights and Fundamental Freedoms (ECHR), and the relevant case law of the European Court for Human Rights, these require freedom of expression (Article 10 ECHR) and freedom of assembly and association (Article 11 ECHR) and the relevant case law of the European Court for Human Rights.

To ensure that the essential contributions of NGOs are enshrined in the political decision-making process without discrimination, an enabling environment is required. Conditions of an enabling environment include the rule of law, adherence to fundamental democratic principles, political will, favourable legislation, clear and precise procedures, long-term support and resources for a sustainable civil society and shared spaces for dialogue and cooperation. These conditions allow for a constructive relationship between NGOs and public authorities built on reciprocal trust and mutual understanding for *participatory democracy*.

### *IV. How to Engage*

To meet the principal policy objective of the Code of Good Practice for Civil Participation as well as to ensure its relevance and practical applicability for NGOs in their involvement in the political decision-making process, this section outlines how civil society may participate.

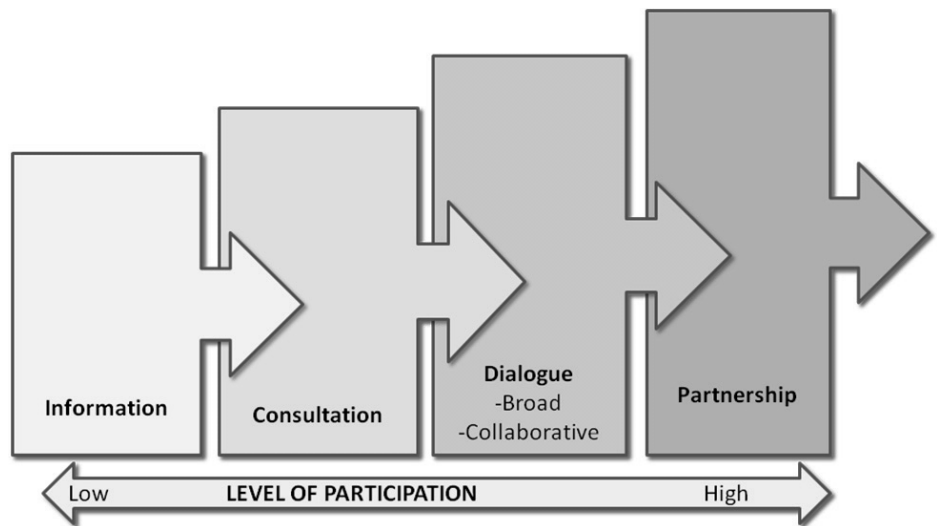
There are two interconnected dimensions to this process. Firstly levels of participation are described in section IV.i, sorted in the order of increasing intensity, from simple provision of information to consultation, dialogue and finally partnership between NGOs and public authorities. Secondly the steps in the political decision-making process are outlined in section IV.ii, namely the six steps taken by public authorities from agenda setting through implementation to monitoring and reformulation.

A separate section (IV.iii) offers tools that may apply at any stage and that provide cross-cutting support to the process of participation.

These elements are then combined to form a matrix of civil participation (V) that provides a visual presentation of the inter-related nature of the process.

*IV.i The different levels of participation*

The involvement of NGOs in the different steps of the political decision-making process varies based on the intensity of participation. There are four gradual levels of participation, from least to most participative. These are: information; consultation; dialogue; and partnership. They may be applied at any step in the decision-making process but they are often particularly relevant at certain points in the process.



### 1. Information

Access to information is the basis for all subsequent steps in the involvement of NGOs in the political decision-making process. This is a relatively low level of participation which usually consists of a one-way provision of information from the public authorities and no interaction or involvement with NGOs is required or expected.

Information is relevant for all steps in the decision-making process.

### 2. Consultation

This is a form of initiative where the public authorities ask NGOs for their opinion on a specific policy topic or development. Consultation usually includes the authorities informing NGOs of current policy developments and asking for comments, views and feed-back. The initiative and themes originate with the public authorities, not with the NGOs.

Consultation is relevant for all steps of the decision-making process, especially for drafting, monitoring and reformulation.

### 3. Dialogue

The initiative for dialogue can be taken by either party and can be either **broad** or **collaborative**.

A broad dialogue is a two-way communication built on mutual interests and potentially shared objectives to ensure a regular exchange of views. It ranges from open public hearings to specialised meetings between NGOs and public authorities. The discussion remains wide ranging and is not explicitly linked to a current policy development process.

A collaborative dialogue is built on mutual interests for a specific policy development. The collaborative dialogue usually leads to a joint recommendation, strategy or legislation. Collaborative dialogue is more empowered than the broad dialogue as it consists of joint, often frequent and regular, meetings to develop core policy strategies and often leads to agreed outcomes.

Dialogue is highly valued at all steps in the political decision-making cycle, but is crucial for agenda setting, drafting and reformulation.

#### 4. Partnership

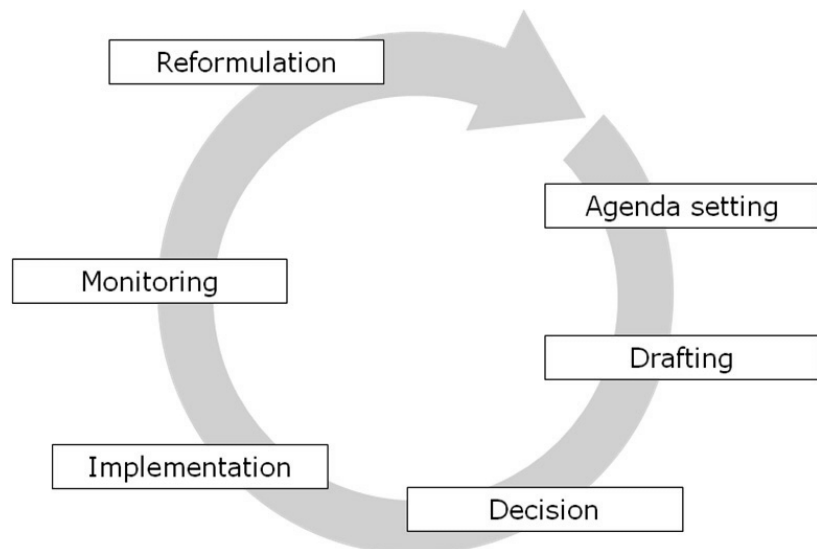
A partnership implies shared responsibilities in each step of the political decision-making process from agenda setting, drafting, decision and implementation of policy initiatives. It is the highest form of participation.

At this level NGOs and the public authorities come together for a close cooperation while ensuring that the NGOs continue to be independent and have the right to campaign and act irrespective of a partnership situation. Partnership can include activities such as delegation of a specific task to an NGO, for example delivery of services, as well as participatory forums and the establishment of co-decision-making bodies, including for resource allocation.

Partnership may take place at all steps of the political decision-making process and is particularly relevant at the agenda setting or implementation steps.

##### *IV.ii Steps in the political decision-making process*

The cycle below defines the six different steps of the political decision-making process agenda setting, drafting of policy, decision-making, implementation of policy, monitoring and reformulation of policy. Each step offers opportunities for NGOs and public authorities to interact.



## 1. Agenda setting

The political agenda is agreed by the parliament and government but can be shaped by NGOs, or groups of NGOs, through campaigns and lobbying for issues, needs and concerns. New policy initiatives are often the result of influence of the campaigns of NGOs. During this step NGOs aim to influence decision-makers on behalf of a collective interest and act in a way that is complementary to political debate.

Contributions of NGOs:

- **Advocating:** raise issues, concerns and needs for a specific user group, point of view or a general public interest that is not yet covered by legislation or other policy documents, instruments or measures
- **Information and awareness building:** share NGO findings with the public authorities, involve and represent members, users and key citizen groups and act as channels to reach citizens; to listen, react and inform
- **Expertise and advice:** experts with knowledge on a specific topic play a key role in setting the political agenda. Their analysis and research identify current and future needs in society and provide crucial perspectives
- **Innovation:** development of new solutions and approaches; demonstrating how these may be brought onto the political agenda
- **Service provision:** key actor in forming policy and creating alternative or non-existing services for a specific user group

Responsibilities of public authorities:

- **Information sharing:** Provision of up-to-date accurate and timely information in an accessible format for all interested parties
- **Procedures:** Develop and adhere to a transparent decision-making process. Provide clear, open and accessible procedures for participation
- **Resource provision:** Enable the active participation of civil society through for example, budgetary provision, in-kind support or administrative services

- **Responsiveness:** Ensure active involvement of relevant public authority representatives; listen, react and give feedback

Useful tools and mechanisms:

- **Information:**
  - **Easy and open access** to relevant, accurate and timely **information** on policy process, documents and political decision-makers, e.g. online databases
  - **Research** to understand an issue of concern and develop suggested solutions
  - **Campaigning and lobbying** by NGOs based on awareness-raising such as policy papers, posters and leaflets, websites, media releases and public demonstrations
  - **Website** with comprehensive access to key documents and announcement of public events
- **Consultation:**
  - **Petitioning**, can be through online tools, such as e-petition or web-forum
  - **Consultation**, online or other techniques, to collect interests and suggestions from stakeholders
- **Dialogue:**
  - **Hearings and public forums** with interested stakeholders to identify and interpret the sensitivities and interests of the different groups
  - **Citizens' forums and future councils** to discuss with citizens and NGOs
  - **Key government contact** enabling civil society to access information on current policy initiatives
- **Partnership:**
  - **Working group or committee** formed as a permanent or ad hoc expert group to advise on policy preferences

## 2. Drafting

Public authorities usually have well-established processes for policy drafting. Here NGOs are often involved in areas such as identifying

problems, proposing solutions and providing evidence for their preferred proposal with, for example, interviews or research. Facilitating opportunities for consultation should be a key element in this step as well as various forms of dialogue to collect input from key stakeholders.

Contribution of NGOs:

- **Advocating:** guaranteeing that consideration is given to the needs and interests of stakeholders affected by the draft policy
- **Information and awareness building:** NGOs inform members, users and key citizens' groups about the drafting process
- **Expertise and advice:** provide analyses and research on issues under consideration or raise additional priorities to be included in the policy draft
- **Innovation:** provide solutions through the introduction of new approaches, practical solutions and concrete models which bring benefits to specific user groups
- **Service provision:** input to policy drafting to ensure consideration is given to their specific users' needs and that necessary conditions are met
- **Watchdog function:** Follow the drafting process to make sure stakeholder concerns are considered and that the process is inclusive and transparent

Responsibilities of public authorities:

- **Information sharing:** Provision of timely and comprehensive information on current consultation processes
- **Procedures:** Develop and adhere to minimum consultation standards, such as clear objectives, rules for participation, timelines, contacts, etc. Organise open consultation meetings, including invitation to all potential stakeholders
- **Resource provision:** Provide adequate timelines and means for consultation to ensure participation of different levels of civil society
- **Responsiveness:** Ensure active involvement of relevant public authority representatives; listen, react and give feedback to consultation responses

Useful tools and mechanisms:

- **Information:**
  - **Open and free access to policy documents**, including single information point for policy drafting, with information available in different formats to reach the public
  - **Website** with comprehensive access to key documents and announcement of public events
  - **Campaigns and lobbying** to shape the draft policy through position documents, letters, manifestos
  - **Web casts** from hearings, meetings and debates allowing people to watch and listen in real time
  - **Research** to provide input to the policy drafting process
- **Consultation and dialogue:**
  - **Hearings and questions & answer panels** with stakeholders to identify and interpret the sensitivities and concerns and collect proposals, face-to-face or online
  - **Expert seminars and meetings** involving experts in the development of specialised research or studies that can be used in the drafting
  - **Multi-stakeholder committees and advisory bodies** consisting of or including representatives from the NGO sector; could be permanent or ad-hoc
- **Partnership:**
  - **Co-drafting:** active involvement in drafting parts of the legislative process

### 3. Decision

The forms of political decision-taking vary based on national context and legislation. Common characteristics are the establishment of a government policy directive by a ministry; or legislation, such as passing a law by parliamentary vote; or public referendum, which then requires enabling legislation. Draft laws and motions should be open to input and participation of NGOs. The public authorities should evaluate different views and opinions before the decision is taken. At this step consultation is central to informed decision. However the



final power of choice lies with the public authorities, unless the decision is taken by a public vote, referendum or a co-decision mechanism.

Contribution of NGOs:

- **Advocating:** influencing the decision makers before a vote
- **Information and awareness building:** informing membership, users and key citizens' groups about the political decisions and their potential effect
- **Expertise and advice:** provision of detailed analysis to inform and influence decision makers
- **Watchdog function:** following the decision-making process, making sure it is democratic, transparent and optimally effective

Responsibilities of public authorities:

- **Information sharing:** Provide information on policies currently in the decision-making process
- **Procedures:** Offer and follow procedures for co-decision mechanisms where applicable
- **Resource provision:** Enable and support the active participation of civil society by associating NGOs in the decision step
- **Responsiveness:** Listen, take into consideration and respond to civil society input

Useful tools and mechanisms:

- **Information:**
  - **Campaigning and lobbying** to influence the decision makers, for example using leaflets, websites, media releases and public demonstrations
- **Consultation and dialogue:**
  - **Open plenary or committee sessions** to ensure open access to debates during the decision-making
- **Partnership:**
  - **Joint decision-making** through forums, consensus conferences and other participatory meetings
  - **Co-decision making** such as participative budgeting

#### 4. Implementation

This is the step at which many NGOs are most active, for example in service delivery and project execution. Much of the work done by NGOs in the previous steps includes attempts to influence the implementation of policy. This phase is especially important to ensure that the intended outcome will be fulfilled. Access to clear and transparent information on expectations and opportunities is important at this step, as well as active partnerships.

Contribution of NGOs:

- **Information and awareness building:** primarily focused on public awareness raising, explanation of benefits or disadvantages and impact of policy
- **Service provision:** one key actor in implementing policy initiatives, often carrying the main responsibility for delivery
- **Watchdog function:** to assess and ensure that the policy is implemented as intended without harmful side-effects

Responsibilities of public authorities:

- **Information sharing:** Provide information on implementation strategies, public tendering procedures and project guidelines
- **Procedures:** Follow established rules and regulations for policy implementation
- **Resource provision:** Enable the active participation of civil society in the implementation step through for example, budgetary provision, in-kind support or administrative services
- **Responsiveness:** Be available and react to specific needs arising from circumstances around policy implementation

Useful tools and mechanisms:

- **Information:**
  - **Open and free access** to public sector documents relating to projects and implementation decisions
  - **Website** with comprehensive access to key documents and announcement of public events
  - **E-mail alerts** announcing upcoming project and funding opportunities

- **FAQs** online or other channels to offer information presented as questions and answers, targeted towards providing practical help and guidance
- **Publicly advertised tender procedure** to provide an open transparent process for service provision
- **Consultation:**
  - **Events, conferences, forums and seminars** to inform and discuss the implementation of policy with NGOs and the public
- **Dialogue:**
  - **Capacity building seminars** to increase knowledge and capacity relevant to the implementation
  - **Training seminars** for NGOs and public authorities in specific topics relevant to implementation, such as procurement, project and funding applications
- **Partnership:**
  - **Strategic partnership** where NGOs and public authorities form a partnership to implement policy; this may range from a small pilot scheme to a full implementation responsibility

## 5. Monitoring

At this point the role of NGOs is to monitor and assess the outcomes of the implemented policy. It is important to have in place an effective and transparent monitoring system that ensures the policy/programme achieves the intended purpose.

Contribution of NGOs:

- **Advocating:** monitor and voice whether the policy initiative reached the intended beneficiaries and had the intended outcome for society
- **Expertise and advice:** gather evidence or research on the policy's impact; includes think-tanks and research institutes
- **Service provision:** responsibility to monitor the effects of the programme in terms of quality, sustainability, effectiveness and real case examples
- **Watchdog function:** a priority role in monitoring effects of the policy, to ensure that the intended objectives are achieved

Responsibilities of public authorities:

- **Information sharing:** Provide information on current policy status
- **Responsiveness:** Listen, and react to specific points raised by NGOs and civil society

Useful tools and mechanisms:

- **Information:**
  - **Open and free access to information** on policy progress
  - **Evidence gathering** to collect cases and statistics on project delivery
  - **Evaluation** of policy and its impact through conferences and reporting
  - Independent **research studies** to draw out key lessons
- **Consultation:**
  - **Feedback** mechanisms to follow progress such as polls, web surveys or questionnaires
- **Dialogue:**
  - **Working group or committee** consisting of NGOs (both users and providers) in charge of the monitoring and evaluation of the policy initiative
- **Partnership:**
  - **Working group or committee** consisting of the NGO and public authorities coming together in a strategic partnership to monitor and evaluate the policy initiative

## 6. Reformulation

The knowledge gained from assessing the policy implementation, coupled with evolving needs in society, often require a reformulation of policy. This must be based on access to information and opportunities for dialogue to identify needs and initiatives. This reformulation allows for the initiation of a new cycle of decision-making.

Contributions of NGOs:

- **Advocating:** lobby for renewal of policy by expressing limitations in or side-effects of the current policy, to meet the needs of users or citizens

- **Expertise and advice:** conduct research and analysis to identify gaps in the current policy initiative and provide rationale for reformulation
- **Innovation:** develop new approaches to tackle the relevant policy issue; this can be a key element in policy renewal
- **Service provision:** identify obstacles and gather evidence to illustrate evolving needs that require a reformulation of policy

Responsibilities of public authorities:

- **Information sharing:** provision of information on possible review of a policy and their perception of changes needed in policy
- **Procedures:** provide clear, open and accessible processes for participation
- **Resource provision:** enable and support the active participation of civil society
- **Responsiveness:** listen and act on input from NGOs

Useful tools and mechanisms:

- **Information:**
  - **Open and free access to information** providing evaluations, study results and other evidence about the existing policy
- **Consultation:**
  - **Conference or meeting** to set out next steps planned by public authority
  - **Online consultation** to gather civil society views on how to follow-up policy/project
- **Dialogue:**
  - **Seminars and deliberative forums** to involve interested stakeholders in developing new directions in policy field e.g. World café, open space, other brainstorming methods
- **Partnership:**
  - **Working group or committee** where NGOs form an expert group jointly with other stakeholders and public authorities with the purpose of recommending a revised policy

*IV.iii Cross-cutting tools and mechanisms for civil participation*

There are certain tools or mechanisms gathered from across Europe during the consultation for the Code of Good Practice for Civil Participation that provide cross-cutting support to participation throughout the whole decision-making process:

1. E-participation

E-tools offer great potential for improving democratic practice and participation of an organised civil society. They can largely contribute to the transparency, accountability and responsiveness of institutions, as well as to the promotion of citizens' engagement and to increasing empowerment and the accessibility and inclusiveness of the democratic process. In order to fully benefit from their potential, e-tools should be integrated by all participants of the decision making, including the authorities at all levels and organised civil society.

2. Capacity-building for participation

It is essential to develop the capacity and skills of local, regional and national NGOs so that they may be actively involved in policy formulation, project development and service provision. Capacity-building can also include training seminars to improve the understanding of the reciprocal roles of NGOs and public authorities in this engagement, as well as exchange programmes to facilitate the understanding of each other's realities.

3. Structures for co-operation between NGOs  
and public authorities

In order to facilitate the relationship between public authorities and NGOs, a number of countries have developed coordinating bodies. These include: government bodies such as a contact person for civil society in each ministry or a central coordination body as a single interlocutor; joint structures such as multi-stakeholder committees, working groups, expert councils and other advisory bodies (permanent or ad-hoc); or NGO alliances/coalitions which pool resources and develop joint positions.

#### 4. Framework documents on co-operation between NGOs and public authorities

In many European countries framework agreements have been developed to outline undertakings, roles and responsibilities and procedures for cooperation. These documents lay out a clear basis for the relationship and thereby facilitate ongoing dialogue and mutual understanding between NGOs and public authorities. They include bilateral agreements with parliament or government, strategy documents for cooperation and official programmes for cooperation, adopted by public authorities.

#### *V. Matrix of Civil Participation*

In order to illustrate and clarify the relationship, the matrix below visualises the steps of the political decision-making process and their connection with levels of participation. It is based on good practices and examples from civil society across Europe and is intended to offer inspiration for action and strengthen interaction between NGOs and public authorities.

At each stage in the decision-making process (from left to right) there are different levels of NGO participation (from bottom to top). It is envisaged that the steps in the political decision-making process can be applied to any context in Europe, local to national. As has been explained, the levels of participation at each point in the decision-making process may vary from low to high and it is intended that the suggested tools are used as ways to implement each type of participation.

This matrix may be used in a wide variety of ways, such as mapping the levels of engagement of civil society in any given policy process; assessing NGO participation at any particular point of a process; or as a practical resource for NGO planning of policy activities. This is not intended as an exhaustive list and it may be adapted to many more uses.

The matrix illustrates the inter-related elements of participation in the decision-making process. This example shows how the useful tools mentioned above may achieve the intended level of participation at each step in the decision-making process.

<b>Partnership</b>	Working group or committee	Co-drafting	Joint decision-making Co-decision making	Strategic partnerships	Working groups or committee	Working groups or committee
<b>Dialogue</b>	Hearings and public forums Citizens' forums and future councils Key government contact	Hearings and Q&A panels Expert seminars Multi-stakeholder committees and advisory bodies	Open plenary or committee sessions	Capacity building seminars Training seminars	Working groups or committee	Seminars and deliberative forums
<b>Consultation</b>	Petitioning Consultation online or other techniques	Hearings and Q&A panels Expert seminars Multi-stakeholder committees and advisory bodies	Open plenary or committee sessions	Events, conferences, forums, seminars	Feedback mechanisms	Conferences or meetings Online consultation
<b>Information</b>	Easy and open information access Research Campaigning and lobbying Website for key documents	Open and free access to policy documents Website for key documents Campaigns and lobbying Web casts Research input	Campaigning and lobbying	Open access to information Website for information access E-mail alerts FAQ Public tendering procedures	Open access to information Evidence gathering Evaluations Research studies	Open access to information
<b>Levels of participation</b>	<b>Agenda setting</b>	<b>Drafting</b>	<b>Decision</b>	<b>Implementation</b>	<b>Monitoring</b>	<b>Reformulation</b>
<b>Steps in the political decision making process</b>						