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**Democracy in Europe –**  
**Principles and Challenges**

**Forum for the Future of Democracy**  
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## PREFACE

The Council of Europe's Forum for the Future of Democracy was established in 2005 by the Warsaw Summit of Council of Europe Heads of State and Government as a multi-partner process aiming to strengthen democracy, political freedoms and citizens' participation in member states.

By involving governments, parliaments, local and regional authorities and civil society, the Forum provides an inclusive framework within which innovative ideas and thinking on democratic governance are shaped and debated within a broad and cross-cutting approach. The Forum's outcomes contribute to the formulation of priorities and policies at both national and European levels, thereby contributing to the enhancement of the Council of Europe's democracy pillar.

The 2010 Session of the Forum for the Future of Democracy on "Perspectives 2020: Democracy in Europe - Principles and Challenges" took place in Yerevan, Armenia on 19-21 October. The opening debates set the scene by examining the main trends in, and threats to, democratic governance. This was followed by three thematic working sessions.

The first set of working sessions explored the ways in which the *acquis* of the Council of Europe's legal standards and the case law of the European Court of Human Rights have helped to foster good democratic governance, thereby strengthening Europe's soft security.

The second set of working sessions considered ways to address the widespread public discontent with political parties and traditional forms of representation. This included discussions about the impact of globalisation on decision-making processes and on public trust in institutions. Participants also explored innovative and inclusive forms of dialogue and representivity, taking care to ensure that these are truly democratic.

*Democracy in Europe – Principles and Challenges*

The third set of working sessions assessed the possible impact on democratic governance of the huge challenges facing our societies. On the global level these range from environmental degradation to economic crises and at the level of representation these include issues of corruption, populism and media manipulation.

The General Rapporteur of the Forum presented his conclusions in three sets of proposals of actions: to foster the construction of a pan-European platform of norms and standards for democratic governance; to address societal challenges, fragmentation and radicalisation through good democratic governance; and to confirm the Council of Europe's role as the Forum for discussing democratic security and democratic governance in Europe.

## **CONCLUSIONS OF THE GENERAL RAPPORTEUR OF THE FORUM**

### **Davit Harutyunyan**

*President of the Armenian Delegation to the Parliamentary  
Assembly of the Council of Europe*

The Yerevan Forum debated the core principles as well as the state of democratic governance in the face of contemporary political and societal changes in Council of Europe member states. In particular, it examined how policies are developed within the respective institutional frameworks, through the prism of the principles of democratic governance.

The following conclusions were presented by the General Rapporteur of the Forum, Davit Harutyunyan, Chair of the Armenian delegation to the Parliamentary Assembly of the Council of Europe.

### **A. Building a pan-European platform of norms and standards for democratic governance**

1. Democracy is never a finished product. It needs to develop constantly to meet new challenges and thereby ensure long-term democratic security. It is within this evolving process that the core principles of democracy need to be upheld through ongoing peer review of democratic performance.
2. The right to participate in the conduct of public affairs should be considered as a human right and a fundamental political freedom. Modern democracy should offer a form of society which guarantees living and discussing together in dignity, mutual respect and solidarity, thereby consolidating democratic practices.
3. Everyone has the right to hold opinions, to receive and impart information and ideas without interference by public authority and regardless of borders. Free and independent media enables people to

make the kind of informed decisions which are essential to the functioning of a pluralist democracy.

4. All Council of Europe member states should be expected to assume a common corps of commitments and obligations. The inequality between member states as to their commitments and obligations should be addressed.

5. The widening gap between accepted commitments by Council of Europe member states and their implementation in practice should be addressed through active support policies, co-operation and monitoring. In order to be effective, monitoring should also encompass domestic mechanisms as well as include the active participation of civil society.

6. The Council of Europe should practise what it preaches and develop inclusive processes in its standard-setting and policy development.

**B. Addressing societal challenges, fragmentation and radicalisation through good democratic governance**

7. Traditional representative democracy is increasingly complemented by other forms of interaction between people and with authorities, heralding new ways of democratic (self-)governance at all levels. To ensure that democratic principles are respected and democratic security is strengthened at all times, there is a need for research in this field, including by collecting and analysing best practices.

8. As a consequence of globalisation and the resulting international mobility and migration, the traditional link of the citizen with the nation state is weakening. This challenges the member states of the Council of Europe to explore new and more inclusive forms of engagement with non-citizens. All people should be involved in the conduct of public affairs at local, regional, national and European levels.

9. Democratic processes can be abused by movements and ideologies which undermine and may ultimately destroy the democratic system framed by human rights and the rule of law. The current rise in extremism and radicalism fuelled by racism and xenophobic discourse bears witness to this. Democracy requires specific mechanisms



and spaces for inclusive participation, failing which stability and security are threatened and a breeding ground for disenchantment and radicalisation develops.

10. Information and communication technologies allow people to connect and debate locally as well as across borders. This is facilitated by a variety of ever-evolving e-tools and social networks which offer great potential for public participation. Inclusive participation requires universal access to digital skills and quality infrastructure.

11. Democratic culture is needed to bring democratic institutions to life. Consequently, citizenship and human rights education, formal and non-formal, plays a fundamental role as a lifelong apprenticeship in democratic practice and culture. The school is a crucial playing ground for sensitisation and participation in democracy and must, through its ethos and practice, prepare the future actors of the democratic process.

**C. Confirming the Council of Europe as the Forum  
for discussing democratic security and democratic  
governance in Europe**

12. More and more people live in an increasingly interconnected world, stretching beyond the boundaries of traditional democratic structures. This generates civil movements and political dynamics for which existing governance structures are poorly equipped, thereby increasing the sense of instability. This situation calls for an in-depth reflexion on new relationships between stakeholders.

13. As a further consequence of globalisation, a growing body of decisions – which engage the future of the people – are taken by state and non-state actors. Appropriate consultation and participation of those concerned and of their democratically elected representatives needs to be considered.

14. An increasing number of issues can only be dealt with efficiently at an international or supranational level. Although this raises the question of their accountability to national representative institutions, it nonetheless offers new opportunities for civic participation at trans-national level.

15. Unsustainable economic and environmental practices pose a challenge to democratic governance and stability. The scale and interconnectedness of these issues require resolute and top-down and bottom-up solutions at all levels of governance, respectful of democratic principles.

16. Excessive concentration of the media in the hands of a few carries the risk of depriving citizens of access to the diversity of views and opinions which enable them to make the responsible choices vital to democracy. Media has a social and political responsibility in a democratic society and cannot be driven solely by market forces.

17. The increasing capture of public space and responsibilities by the private sector leaves less and less space for democratic interaction between citizens and their government. As a direct consequence, the democratic fabric of society is weakened, thereby contributing to civil disengagement and instability.

## KEYNOTE SPEECH

### **Adam Michnik**

*Editor in Chief, Gazeta Wyborcza, Poland*

It is a great honour for me to be able to stand here before you and share my thoughts on the principles and challenges of democracy in contemporary Europe. Having heard the Serbian Minister speak from the Serbian point of view, I will now give you the Polish slant on the question. I will tell you that the transformation from a communist dictatorship to a democracy is, as Vladimir Ilich Lenin put it, not a stroll down the Nevskiy prospekt, but a very complex process.

If we look at all the post-communist countries, we can see both the specific and general workings involved. I would say that my point of view is a personal one - our Chair has already said quite a lot about me - the viewpoint of a member of the democratic opposition in a communist country, an individual working with his friends and colleagues. I was never the leader of *Solidarność*; the leader of *Solidarność* was our dear Lech Wałęsa, but I was very close to him in the difficult times of the dictatorship. And we endured prison, life in the underground, and we thought that democracy was a panacea. Then, after the dictatorship, we saw that there was no such thing as paradise and that the problems were starting over again.

In Poland we have a great deal of sympathy for Armenia. We fully understand the very complicated and tragic road travelled by this country to freedom, just as we understand the history of Armenia too, the history of a genocide. And during the *perestroika* period, we remember how Armenian society supported the democratic process in the Soviet Union.

Those of us in the democratic movement in Poland had a philosophy. Firstly, it had to be a non-violent struggle; that was the most important thing. We had closely studied all past revolutions and we fully realised

that violence breeds violence. We had to look for another path and that was the path of compromise. I would say it was a kind of Spanish way to freedom: from dictatorship through round-table compromise to democracy. Our route to democracy was very complicated but it also went via the compromise of a round table. We realised that already in the context of democracy, we were staring into pitfalls.

Firstly, the philosophy of the democratic opposition in Poland was solidarity. The philosophy of democratic Poland is the market economy, privatisation and competition. The path from solidarity to competition is a very complicated one.

The force that drove Poland towards democracy was the working class of the great factories and production plants: shipyards, mines and so on. In those archaic shipyards and factories, through their struggle, their protests and their strikes, it was the workers united by solidarity who won us our freedom. But in those industrial enterprises the workers were the first victims of the market economy, because the factories were so archaic.

Let us take the example of a factory which produced busts of Lenin. That was a real market in the soviet era; every director, every communist party secretary had to buy a bust of Lenin. Then came the end of communism and there was no longer a market for busts of Lenin. The workers were very skilled, as they always had been. So what happened? Since the market had simply disappeared, it was a question of either refurbishing the factory or otherwise going bankrupt.

In Poland that was what happened to the very symbol of our movement – the Gdansk shipyard. The shipyard workers thought that they were not in any danger. The President of the Republic was Lech Wałęsa, the shipyard's leading figure. But the logic of the market economy was such that the Gdansk shipyard – the symbol of Poland's victory over dictatorship – has now all but disappeared.

Another pitfall is the role of the State. In communist times, the State bossed the country and was responsible for it. The logic of democracy means that the citizen is responsible for deciding everything. For many people that came as a shock because they had been conditioned by the logic of dictatorship. How can you adapt to the logic of normal

life, if the State – like your own personal legal counsel or maybe the director of a prison, your prison – is responsible for deciding where you live or what you eat? In a parliamentary democracy and a market economy, you yourself, as a citizen, are responsible for your own life. There was a debate on this point, and it is still ongoing: how much State, how much market? In Poland we have not come to the end of that road. What type of State do we want? Should we adopt the philosophy of the ethnic State or the citizens' State?

Regarding the problem of borders, as you know, there are no rightful borders in Europe. All the borders are the result of the Second World War, of Yalta, of Stalin's pacts, firstly with Hitler and then with our emissaries, with Roosevelt and so on. If there are no rightful borders, one of two things can be done: either change the borders or open them.

We all remember what happened in Europe after the fall of communism: what happened in the Caucasus and in Sumgait; we remember Yugoslavia and the Balkans; we remember Transylvania and the dissolution of Czechoslovakia. In all the member countries of Europe, we feared that we too would suffer balkanisation in the worst sense of the term. In fact, I believe that our greatest success, as continental Europeans, was that we did not think like Milosevic in Serbia, for example, but turned our thoughts to how to join forces and forge dialogue between us. I think that, for the first time in the history of my country, we had virtually no conflicts with our neighbours. If we look back at history, the history of Poland is a story of conflict with practically all our neighbours: with the Lithuanians, the Ukrainians, the Russians, the Germans, the Czechs. Today I think that those conflicts are virtually over.

There is also the question of ethnic minorities. In Poland, the problem was never-ending, like an open wound. Now that war is more or less over. Problems have remained of course, because since communism and communist ideology came to an end all our countries have been looking for a new identity.

I believe that authoritarian ethnic nationalism is the ultimate stage of communism. We saw that in Serbia, and elsewhere. The unanswered question in all our countries is what will our new identity be? What

do we see in Poland for example? There is currently fierce debate over the place of the Catholic church and religion in the life of the country, because there is such a mindset of post-communist authoritarianism in society. Now that all the Marxist-Leninist dogma has gone, people are looking for new dogmas. This ideologisation and politicisation of religion is happening in my country but I think that it is happening in Russia too. There is already debate on this point in Russia, and that debate will continue.

I think that we have actually made another choice. After the fall of communism, there was what was called the “philosophy of the third way”: not the east, not the west but the construction of a European Union. Today that is even a guarantee for civil rights in our country. But there are a lot of people saying: “What are you doing? This is the end of our country’s independence. Many generations have fought for the country’s independence, and what are you doing with it? After Moscow, now it is Brussels. What an insult!” Yes, in a manner of speaking, this is the end of the traditional idea of independence.

Why am I in favour of this? Look at Russia to see what has happened there. The country has gone from *perestroika* and the problems it had before, to the idea of sovereign democracy. What is sovereign democracy in Russia? What does it mean? It means that we, the government, have the sovereign power to put all our opponents in prison and there is no EU to stop us.

In that sense, the idea of sovereign democracy is an anti-European idea that is contrary to all European values. Thus, whoever would prefer to live not in a sovereign democracy but in a normal one, where our civil rights are guaranteed – not only by the goodwill of our government and our president – must also be in favour of the European Union.

When I was last in Moscow people asked me: “Do you have democracy in Poland?” I told them that we did. “Why?” they asked. “Because”, I said, “when we have presidential elections we do not know until the last minute who will become president”. I also told them that they could surely think of a country where everyone knew who would become president one month before the elections, pointing

out that I was of course talking about Uzbekistan. This is Russia's problem, and it is a challenge for democracy. Russia, in my view, is not a democratic country because there is virtually no democratic alternative in Russia. Of course this is not the old bloodthirsty, criminal Stalinist regime we are talking about. Russian authoritarianism is now very liberal and today Russia is at a crossroads. When we observe the situation from Warsaw, we see not only the pitfalls and dangers but also an optimistic scenario for the future.

I would like to touch on two more aspects, regarding the problem of young democracies. It is clear that this is a problem of deciding on a course of action, if we look at all the problems we have had during our history, in our past. We have seen this in different countries: problems that existed before communisation and problems in internal and external policy. There is no single recipe catering for everything.

Personally, I think that the greatest triumph of the European Union was when, after the Second World War, the French and Germans said with one voice: "Yes, we were both mortal enemies, but now we have to pull together". That was a European revolution, the most successful revolution in Europe because it was a positive one – not against someone but for something. I believe that we all have such an opportunity: we have very good relations with Germany, we will have very good relations with Russia, and we have seen some very interesting and important moves coming from the Russian side, for example in connection with the Katyn Wood massacre. In that respect, I think that there are grounds for expecting positive developments but, of course, there are terrible historical issues, such as the one between Armenia and Turkey. Nevertheless, the decision of the Armenian President, despite all the problems, to seek dialogue and accord with Turkey is a very good, positive move.

So where does the problem lie? It lies in a weak civil society. There are two forces wielding real power: the new oligarchs and the old and new intelligence agencies. Here I believe that we will see a great many more problems yet. If we look at Russia and Ukraine, this is a very complex and dangerous issue for democratic construction. Then again, corruption is not only a problem in the new countries of Europe.

If we look at what goes on in western Europe, I think we can see the same kind of choice between the sovereign democracy of Putin and the – thankfully not yet fully fledged – sovereign democracy of Berlusconi. Berlusconi and Putin are two symbols of what is dangerous for democratic construction in Europe. With Putin, the road has gone from the intelligence agencies via state power to money and then on to the media. Where Italy is concerned, the path has gone in the opposite direction, from money via the media to state power.

Not long ago, in the Russian city of Yaroslavl, it was the first time I had ever heard such an open and frank report by Prime Minister Berlusconi, who more or less said: “On the subject of democracy, well of course there is democracy in Russia. I know very well because that is what my friend Vladimir Vladimirovich Putin told me. So, of course, there is democracy! We have democracy in Italy too, but it is not yet fully fledged. We still have problems, namely the judges and the courts. That is where the problem is!”

I would say that if we hear calls for modernisation all the time, the need is clear to everyone. We need modernisation, both in Russia and in Europe. But what do we mean by “modernisation”? Ultimately, my Russian friends do not know what it means. Is it possible to have modernisation without democracy, without human rights? This is where the problem lies.

For my final point, I will leave Europe and head for China. This is the big question: could the Chinese project work? Economic growth and a good life without freedom or democracy? I was delighted when the Norwegian Parliament awarded the Nobel prize to Liu Xiaobo, the Chinese philosopher and writer who stands up for freedom of thought and civil rights. I have been to China and was fortunate enough to meet Liu. I believe that China too is on the way to democracy, despite its communist leaders. I salute the Norwegian Parliament, even though Norway is not yet a member of the European Union.



## **SUMMARY OF THE INTRODUCTORY PANEL DEBATE: THE MAIN TRENDS IN, AND THREATS TO, DEMOCRATIC GOVERNANCE**

### **Introduction**

The introductory panel was chaired by Christian Makarian, co-managing editor of L'Express, France. The participants were: Kim Campbell, Former Prime Minister of Canada; Thomas Hammarberg, Council of Europe Commissioner for Human Rights,<sup>1</sup> Maria Leissner, Swedish Ambassador for Democracy; Lord John Prescott, Former Deputy Prime Minister, United Kingdom and Roland Rich, Executive Head, United Nations Democracy Fund.

The panel began by exploring the notion of democracy which, they agreed, is a theory, concept and practical way of life which requires continual review and renewal. Democracy offers the most competent and equitable means of governing a society because, to paraphrase Amartya Sen, democracies correct mistakes sooner and better than other forms of government as governments face re-election.

Democracy is designed to solve tensions and conflicts through the application of principles of law and through dialogue based on the equity of rights. The panel was concerned with a growing trend for member states to differ in their interpretation of what democracy actually involves. There appears to be a chasm emerging between those states adhering to the values of democratic governance and those reinforcing their own interpretation through power and the monopolisation of certain resources.

It was recognised that large anomalies may exist, even in mature democracies. The example of Canada was cited as a state which offers transparent and efficient government, yet nonetheless has an appointed Second Chamber.

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1. Mr Hammarberg participated via video message.

Whilst elections are an important element of democracy, the panel insisted that they are not sufficient in themselves. Elected representatives must rule in a democratic spirit, respecting fully the need for transparency and accountability. Governments must accept limits to their power, for example by guaranteeing the independence of the judiciary and by putting in place the necessary checks and balances throughout their administration.

The panel also highlighted the role of the Council of Europe as a guardian of democracy. In particular, they mentioned the crucial monitoring work undertaken by various bodies in order to ensure member states' compliance with agreed standards and values.

### **Trends in Democratic Governance**

The panel expressed their satisfaction that the trend for democracy is positive with more democratic states in existence now than there were ten years ago. Processes to deepen democracy have been introduced across the entire Council of Europe region and beyond. Whilst the adoption of basic standards in democratic governance is occurring faster in some countries than others, election processes have been consolidated in many member states.

The panel emphasised the need for increased participation by citizens in all stages of democratic processes ranging from elections to policy consultation. This is achieved by the presence of a free and active civil society as well through genuine deliberation of policies in a parliament which includes robust opposition parties.

A diverse and energetic civil society and appropriate citizen pressure are an essential part of good democratic governance. The panel expressed their disquiet that in some countries non-governmental organisations and civil society groups were being prevented from operating freely. Attempts by certain governments to interfere with internet freedom was cited as a particular area of concern. An appeal was made to member states to ensure that freedom of expression and free communication and cooperation between civil society groups are protected, as well as their right to seek secure resources.

### *Summary of the Introductory Panel Debate*

In some member states a specific political culture, determined by a variety of historical, social and economic factors, was identified as hindering the development of sustainable democratic governance. Such a culture, mired in previously very centralised authorities, made difficult the active involvement of citizens in the decision-making processes.

Likewise, there has been an alarming growth in authoritarian tendencies in a number of member states, both new and old. Far right political parties have been elected into parliaments and have even formed the executive in several states in Europe.

The economic crisis was cited as one reason for these developments as it has reinforced feelings of insecurity amongst Europe's citizens, thereby leading to growing anxiety. During such periods, individuals may feel that their identity is being eroded and their wish for simple solutions to complex questions may lead them to define and blame a perceived "other". These feelings may be exploited by some elements of the press. Politicians have a duty to take a long-term perspective and calm the tensions rather than a short-term populist approach which is concerned primarily with their re-election.

The panel explored the ongoing validity of left/right party politics. On the one hand, the polarisation between rich and poor, with the rich minority no longer feeling sufficient solidarity with the poor majority, would indicate that this concept is still relevant. On the other hand, it was suggested that only issues which do not fall easily into party lines, such as environmental sustainability, still have the capacity to engage people.

#### **Threats to Democratic Governance**

The panel identified three specific threats to democratic governance: complacency, corruption and a lack of state capacity.

Complacency and apathy are dangerous because even when the basic principles of democratic governance are working effectively, elected representatives and civil servants may sometimes view their position in public office as belonging to them rather than to the citizens they are expected to serve. Thus a complacent approach to government

can lead to a reversal in transparency and democratic principles, a weakening of the separation of executive and judicial power and the dilution of a robust parliamentary opposition.

It was suggested that corruption, which corrodes public confidence in the core values and institutions of democracy, is a problem that exists in one form or another in all Council of Europe member states. A weakening of democratic institutions means that those most in need of state and social protection receive the least and individuals already marginalised from society and the democratic process become further estranged.

Lack of state capacity was identified as a fundamental threat to democratic governance. Well-designed public policies and programmes of reform can only be effective if there are informed and efficient public servants able to implement them. The Council of Europe's Schools of Political Studies were cited as successfully helping policymakers and advisers gain the skills and knowledge required to carry out their mandate.

Further threats to democratic governance were identified by the panel with regards to media freedom. The media's crucial role in strengthening or damaging democracy was a recurring theme and fears were expressed that media freedom across Europe is being eroded, due in particular to increased monopolisation and commercialisation of the press.

Bloggers and citizen journalists should be seen as complementary to the traditional press. They play an ever-growing role in the circulation of information and their unhindered access to the internet needs to be guaranteed. The panel also expressed acute concern about cases of violent oppression of journalists by state authorities. This was a matter which the Council of Europe could do more about, for example by underscoring the right to a free media and freedom of association.

The panel went on to discuss the conditions facing Europe's 12 million Roma who rarely have a voice in our democracies. Their continued discrimination and social exclusion is one of the most damaging elements confronting democratic governance today. The panel insisted that Roma must be granted their legal right to equal protection and equal access to the rule of law.

## WORKING SESSIONS

### *Theme 1: Law and Democracy*

#### **Issue paper, Working Session 1A** **The impact of European law and case-law on shaping democracy**

**Başak Çali**

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United Kingdom*

#### *Introduction*

The text of the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention), with its interpretation by the European Court of Human Rights (the Court) and its application to constitutional questions by the European Commission on Democracy through Law (Venice Commission) are closely tied to the theory and practice of democracy in Europe. The impact of European human rights case-law on democratic practices is far reaching. This is a positive development overall, but it is a development that is also open to challenge by everyday democratic practices at the domestic level. The aim of this issue paper is to outline the different ways European human rights law and case-law have had an impact on the shaping of democracy and to identify conceptual and institutional challenges to this.

#### *Democracy as the framework for the effective realisation of human rights law*

The text of the Convention regards democracy as the best and – by implication – the necessary political framework for the effective realisation of human rights through law. This is reflected both in the text of the Convention as well as in its interpretation and application by the Court and the Venice Commission.

In its preamble the Convention states that “an effective political democracy” is the basis for the realisation of human rights. That is, governments should either strive to maintain high standards of democratic government or they should aim towards democratisation in order to effectively protect human rights. Individual provisions also reinforce this outlook. Article 3 Protocol 1 of the Convention codifies free and fair elections as a right.<sup>2</sup> Articles 8, 9, 10, 11 of the Convention and Article 2 of the Protocol No. 4 further state that all restrictions to the rights to privacy, freedom of thought and religion, expression, assembly and movement must be prescribed by law and must be justified as a necessary measure in a democratic society.

This explicit association of democracy with human rights law requires all Council of Europe states to not only maintain democratic standards but also, where necessary, improve them. Litigation before the European Court of Human Rights, therefore, is not only a barometer of respect for human rights law domestically, but also of standards of democratic governance.

*Democracy understood as a political regime aiming to expand rights and freedoms*

The interpretation of the Convention by the Court over the past fifty years has built on the Convention’s provisions on democracy. It has also elaborated a case-law which has strengthened the idea that democratic government must be the underlying political regime for the effective realisation of human rights. In the case-law of the Court, democracy is understood as a political framework that aims to broaden rights and freedoms. The legitimacy of a democratic regime is assessed by the level of care it shows towards human rights protections. The most prominent example of this is the Court’s interpretation of the “necessary in a democratic society” clause in Articles 8, 9, 10, and 11 of the Convention. This clause is interpreted in a way that stresses the expansive interpretation of rights flow from democratic standards. In order to maintain a healthy functioning democracy, rights must be

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2. This is further elaborated in the Code of Good Practice in Electoral Matters, adopted by the Venice Commission in 2002. [www.venice.coe.int/docs/2002/CDL-EL\(2002\)005-e.html](http://www.venice.coe.int/docs/2002/CDL-EL(2002)005-e.html)

interpreted expansively. They can only be restricted in the most exceptional circumstances.<sup>3</sup>

The interpretation of individual Convention Articles are also closely connected to understanding democracy as a framework for expanding freedoms. National authorities have negative and positive obligations in this regard. They are obliged not to interfere with rights (negative). They also have to ensure the effective enjoyment of rights (positive).<sup>4</sup> In particular, the Court sees freedom of expression and freedom of assembly and association as intrinsic to democracy.<sup>5</sup> This interpretation does not treat these rights as separate from democracy, rather it sees them as being at the very centre of the improvement of democratic governance. The respect for rights is itself a tool for democratisation and maintaining democratic standards.

However, there is, at times a tension between respecting individual rights and devising public policies that are aimed at protecting public interests. The ECtHR addresses this tension by looking at governments' conduct and justifications on a case by case basis.

Discussion points:

- Should the “necessity in a democratic society” test be incorporated in the constitutions of all Council of Europe member states?
- How should democratic decision makers be encouraged to apply the “necessity in a democratic society” test in their everyday decision-making processes?
- How adequately does the “necessity in a democratic society” address rights or restrictions that focus on protecting public safety or public order?

#### *Human rights law as the guardian of pre-democratic rights*

The European Convention on Human Rights has a range of rights which may be termed as “pre-democratic”. Articles 2, 3, 5, 6 and 7 of the Convention (right to life, freedom from torture, inhuman and

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3. *Cumpăna and Mazăre v. Romania* (2004).

4. *Plattform “Artze für das Leben” v. Austria* (1988).

5. *Goodwin v. United Kingdom* (1996); *Vogt v. Germany* (1996).

degrading treatment, freedom from arbitrary detention, right to a fair trial, and freedom from slavery and servitude) illustrate this. The way in which these provisions are interpreted by the Court does not allow for any restriction by democratic authorities.<sup>6</sup> They are, therefore, never subject to the “necessity in a democratic society” test. These provisions are best seen as being part of a democratic political culture that respects the equal worth of human beings. They receive their legitimacy from the inherent dignity of human beings. Because of their universal justificatory basis, these rights extend to non-citizens and may include extra territorial duties of a positive kind.<sup>7</sup>

The impact of pre-democratic rights on political processes is profound as this suggests that the democratic culture should regard these rights as being outside the sphere of any political negotiation. In recent years counter-terrorism legislation in many Council of Europe member states have placed strain on these rights<sup>8</sup> and the jurisprudence of the Court has been pivotal in countering national policies that have attempted to restrict these rights.<sup>9</sup>

Discussion points:

- Are domestic national governments entitled to re-negotiate rights on the basis of a democratic mandate?
- Can there be national referenda on the scope of pre-democratic rights?
- How could political and civil society actors be encouraged to agree that certain rights are outside of the democratic negotiation zone?
- How can a popular domestic backlash with respect to the protection of rights be prevented – such as the right to fair trial of suspects of terrorist acts?

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6. *Saadi v. Italy* (2006).

7. *Chahal v. United Kingdom* (1996).

8. See Venice Commission Study of 500/2008 on Anti-terrorism Legislation in the Council of Europe Member States.

9. *S. and Marper v. United Kingdom* (2008).



*The European Court of Human Rights: respectful of national democratic processes*

A much debated doctrine of the Court – the doctrine of margin of appreciation – relies on the idea that national democratic processes and their well-reasoned decisions should be respected. The Court, however, has also been careful in pointing out that rights that constitute the pillars of democratic societies (most notably freedom of expression) are subject to a very narrow margin of appreciation.<sup>10</sup> The respect for everyday democratic processes can – at times – be in conflict with the view that democracy is a framework for broadening human rights.

The central question in this respect is whether there should be a “breathing space” for democratic governments in their every day application of rights and, if so, what is the best way to conceptualise such a breathing space. To what extent does rights protection allow for democratic diversity?

A further question concerns the appropriate scope of the relationship between Constitutional Courts, which have a national democratic constitutional mandate, and the European human rights case-law. What is the appropriate way to understand the case-law of national Constitutional Courts on rights protections? Is there room for different interpretations across Europe given the existing corpus of European human rights law?

*European human rights law as protection for non-citizens and marginalised groups*

A crucial aspect of European human rights law is the protection it offers for non-citizens and marginalised groups. In democracies, non-citizens do not normally have access to political institutions. Despite their inability to participate in democratic society, their status and rights can be vulnerable through changes in legislation.<sup>11</sup> The case-law of the European Court of Human Rights concerning the expulsion

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10. See also the Venice Commission Opinion 415/2006 on the Role of the Media in Democracy.

11. *Andrejeva v. Latvia* (2009).

of aliens and standards of treatment of non-citizens in civil matters<sup>12</sup> provides an avenue for non-citizens to claim rights from democracies.

European human rights law operates as a mechanism of last resort for individuals or groups who have limited access to political institutions or who cannot take advantage of such access due to the hostile preferences of majorities towards these groups. This usually means marginalised groups such as ethnic, religious or linguistic minorities, sexual minorities, women, or prisoners. Litigation before the European Court of Human Rights provides these individuals with an avenue to air their grievances. Non-discrimination case-law and the doctrine of positive obligations provide important safeguards for empowering those living in the margins of democratic societies.

Discussion points:

- How do we prevent a popular domestic backlash with respect to human rights judgments, in particular those that protect non-citizens and marginalised groups?
- Should non-citizens and marginalised groups be afforded explicit protection under domestic constitutions?
- How could democratic constituents be encouraged to respect the rights of non-citizens?
- To what extent does the protection of marginalised groups provided through European human rights law increase the participation of these groups in domestic democratic processes?

*European human rights law as a guiding principle for democratic decision-makers*

The Court offers specific guidance to democratic decision-makers through its case-law on procedural rights. This includes the right to fair trial (Article 6), the right to freedom from arbitrary detention (Article 5) and the right to an effective remedy (Article 13). This is done through the use of doctrines of proportionality and positive obligations in interpreting rights. These procedural guarantees aim to protect the idea of the rule of law as being an integral element of

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12. *Ozturk v. Germany* (1984), *Cabales and Balkandalı v. United Kingdom*, (1990) *Mengeshe Kimfe v. Switzerland* (2010).

democratic government. Case-law on these rights point to necessary reforms in the administration of justice and are pivotal in the creation and consolidation of independent and impartial judiciaries. In this respect, procedural guarantees prepare the background for the substantive application of rights protections.

The doctrines of proportionality and positive obligations provide concrete guidance to any decision maker who is responsible for providing practical protection to rights and for balancing rights with the public interest. Both of these doctrines speak to everyday democratic practices such as decisions to register political parties and non-governmental organisations, to allow mass protest, to protect protesters from third parties, or to prevent harm to citizens from third parties.

Discussion points:

- What priorities does European human rights law set in the fields of rule of law and administration of justice for the decision-makers?
- What guidelines exist for countries that are undergoing a transition to democracy from a more authoritarian form of government?
- How should decision makers at all levels of democratic institutions apply the principle of proportionality?
- What problems does multi-level governance in complex societies bring in encouraging decision makers to respect human rights? Should there be constitutional guidance to ensure that decision-makers at all levels are aware of and respect human rights principles?

**Issue Paper, Working Session 1B**  
**Should there be a “right to democracy”?**

**Peter Ashman**

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*Democracy as a cornerstone of the Council of Europe*

For the Council of Europe democracy is a core value whose principles its member states committed themselves to realise in the founding Statute of 1949. Membership of the Council of Europe helps consolidate democracy through participation in its expert bodies (particularly the Venice Commission) and the monitoring mechanisms established by the Committee of Ministers, the Parliamentary Assembly and the Congress of Local and Regional Authorities. The Fundamental Rights that are an integral part of a democratic society are safeguarded through the European Convention on Human Rights (ECHR).

Democracy has underpinned the political, social, cultural and economic development of the Council of Europe’s member states. The Heads of State and Government of the member states reaffirmed their commitment to democracy in the 2005 Warsaw Declaration. They stated that “The Council of Europe shall pursue its core objective of preserving and promoting human rights, democracy and the rule of law. All its activities must contribute to this fundamental objective. We commit ourselves to developing those principles, with a view to ensuring their effective implementation by all member states.”

In the light of the foregoing, the answer to the question of whether there should be a right to democracy in Europe seems obvious. But to reach that conclusion it is necessary to ask what the member states mean by “democracy” and the “principles of democracy” that they have committed themselves to implement effectively. The bibliography of the Council’s *acquis* on the principles of democracy represents a kaleidoscopic view of best practice in public life in Europe. The documents contain most, if not all, of the issues mentioned in this paper, but they do not seem to the author to offer a concise, cohesive statement on the meaning of democracy or democratic principles that the intelligent, informed citizen could use to assess how well his

or her member state respects this right. For this, it is necessary to look in other places where member states are active.

*Democracy as a universal value*

Though democratic systems may vary in forms and shape, democracy has evolved into a universal value. The 1948 UN Universal Declaration of Human Rights<sup>13</sup> first recognised the right of everyone to take part in the government of his country, directly or through freely chosen representatives. The UN Summit Outcome document of 2005 stated:<sup>14</sup>

“We reaffirm that democracy is a universal value based on the freely expressed will of people to determine their own political, economic, social and cultural system and their full participation in all aspects of their lives. We also reaffirm that while democracies share common features, there is no single model of democracy, that it does not belong to any country or region, and reaffirm the necessity of due respect for sovereignty and the right of self-determination. We stress that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing.”

*No single model of democracy*

The Council of Europe consists of 47 Member States, each with their own form of democracy, shaped by history, culture and circumstance (although all, to varying degrees, are parliamentary democracies). All are equally valid, and their individual characteristics enrich democracy in Europe. The same is true for democracies in other parts of the world. Hence there is no single model of democracy, but can one identify shared principles for what constitutes democracy?

*Many forms, but common elements...*

Set out below are common elements of democracy (not in any order of priority) that can be derived from various internationally agreed documents, including regional democracy charters. They include the UN Universal Declaration of Human Rights (UDHR), the UN International Covenant of Civil and Political Rights (ICCPR), United Nations General Assembly Resolution 55/96 on Promoting and Consolidating Democracy, the European Convention on Human

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13. Article 21.

14. Para. 135.

Rights, the Inter-American Democratic Charter (IADC); the African Charter on Democracy, Elections and Governance (ACDEG), as well as various recommendations of the Council of Europe's Committee of Ministers and Parliamentary Assembly resolutions.

*The common points are as follows:*

- All citizens have the right to vote freely in elections, according to their judgement and conscience without interference, to run for public office,<sup>15</sup> and to participate in decisions about their development.<sup>16</sup> Elected representatives are chosen in periodical, free and fair elections, with secret ballots.<sup>17</sup>
- The rule of law prevails, so that no one is above the law and all are equal before the law.<sup>18</sup> This involves among others that public institutions exercise their powers through transparent and accountable public officials,<sup>19</sup> and that there is an independent and impartial judiciary that provides redress for official actions, which affect individuals adversely. This includes courts, ombudsman's offices and disciplinary tribunals.<sup>20</sup>
- Elected representatives have effective control over state armed and security forces.<sup>21</sup>

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15. Article 25 PIDCP; Article 3.7 and 4.2 of the ACDEG, Paragraph 1.d.i of the Resolution of the United Nations General Assembly.

16. Article 21.1 of the DUDH; Article 3.7 of the ACDEG; Article 6 of the IADC; Paragraph 1.a and 1.e.iv of the Resolution of the United Nations General Assembly.

17. Article 21.3 of the DUDH; Article 25 of the PIDCP; Articles 2.3 and 4 of the ACDEG; Article 3 of the IADC; Paragraph 1.d.ii of the Resolution of the United Nations General Assembly.

18. Article 7 of the DUDH; Article 26 of the PIDCP; Article 4 of the ACDEG; Article 3 of the IADC; Paragraph 1.c.ii) of the Resolution of the United Nations General Assembly.

19. Article 15.3 of the ACDEG; Article 4 of the IADC; Paragraph 1.fi of the Resolution of the United Nations General Assembly.

20. Article 10 of the DUDH; Article 2.5 of the ACDEG; Article 4 of the IADC; Paragraph 1.c.v and 1.c.vii of the Resolution of the United Nations General Assembly.

21. Article 14.1 of the ACDEG; Article 4 of the IADC; Paragraph 1.c.ix of the Resolution of the United Nations General Assembly.

- People have the right to express themselves peacefully on political, social, and economic matters, defined broadly, without the risk of state punishment<sup>22</sup> and people have the right to seek out diverse sources of information, such as the media, and such sources enjoy legal protection from improper interference.<sup>23</sup>
- People have the right to form independent associations and organisations, including independent political parties and interest groups.<sup>24</sup>
- People enjoy their civil, political, economic, social and cultural human rights without any discrimination as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>25</sup>

*...and key ingredients*

Democracy is not an abstract idea. The following features are generally accepted as key ingredients of democracy, and feature in the Council of Europe's *acquis*:

*Democracy, equality and non-discrimination*

Concepts of equality and non-discrimination are fundamental to human rights and democracy. Two of the greatest challenges to building democracy are ensuring the participation of women and of minorities in democratic life. Throughout the Council of Europe area women have legal equality, but in few of them do women enjoy equal levels of participation in public life.

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22. Article 19 of the DUDH; Article 19 of the PIDCP; Article 10 of the CEDH; Article 6 of the ACDEG; Article 4 of the IADC; Paragraph 1.b.i of the Resolution of the United Nations General Assembly.

23. Article 19 of the DIDH; Article 19 of the PIDCP; Article 2.10 of the ACDEG; Article 4 of the IADC; Paragraph 1.e.i and 1.f of the Resolution of the United Nations General Assembly.

24. Article 20 of the DUDH; Article 22 of the PIDCP; Article 11 of the CEDH; Article 3.2 of the ACDEG; Article 5 of the IADC.

25. Article 2 of the DUDH; Article 2.1 of the PIDCP; Article 8 of the ACDEG; Article 9 of the IADC; Paragraph 1.bii à vi of the Resolution of the United Nations General Assembly.

### *Democracy in Europe – Principles and Challenges*

By definition, minorities will rarely achieve positions of power in societies where there is majority rule. Hence, minorities need the equal protection of human rights, and a democratic system that enables them to participate fully in society, for example through systems of voting or decentralised government. A fair and impartial system for resolving disputes is also a necessary part of ensuring equality and non-discrimination.

#### *Democracy and elected representatives*

Elected representatives, whether they support or oppose the government, need the authority and resources to debate and approve legislation and national budgets, to hold government to account for the conduct of public administration and the use of public funds, and to examine the operation of laws and regulations.

#### *Democracy and political parties*

Democracy requires a pluralistic environment that has a range of political views and interests. This is most commonly organised through political parties whose operations are free from interference by government and executive officials. The registration and regulation of political parties ensures consistency in structure, as well as other aspects such as internal democracy, and a unique name. But regulations on membership, financing, organisation and minimum thresholds for election should be reasonable, applied equally to all parties and be subject to the possibility of legal challenge.

#### *Democracy and the media*

An independent and diverse media is essential for ensuring that a wide range of opinion and viewpoints are expressed and communicated to the public. In most democracies, politicians and political parties rely on mass media to get their message across and so enable the public to make informed choices. Media are also a major means for ensuring transparency and accountability in public life, without which democracy cannot function. The media necessarily enjoys considerable power and this entails responsibility to ensure that coverage, particularly of elections, is fair, balanced and impartial. Restrictions



on the media should be proportional and necessary to serve the wider interests of a democratic society, in accordance with international human rights norms, in particular Article 10 of the ECHR. But the media must be able to challenge the imposition of any such restrictions through impartial legal proceedings.

*Democracy and civil society*

Civil society is a vital building block of a well functioning democracy. The role of civil society organisations in modern democracies is closely linked to the right to freedom of association. Belonging to an association is another way for individuals to participate actively in society, in addition to involvement in political parties or through elections. Civil society organisations are the principal structures of society outside of government and the public administration and are deeply rooted in democratic culture.<sup>26</sup>

*Devolved democracy and the principle of subsidiarity*

Within Council of Europe member states, democracy is embedded through many layers – international, national, regional and local. The objective is to devolve power to democratic organs at the most appropriate level to ensure that people exercise control over their own lives and that public policies are carried out efficiently. Such devolution requires real power and resources to be made available to the different tiers of governance. The Council of Europe’s European Charter of Local Self-Government and the “Twelve Principles of Good Democratic Governance at Local Level” – provide models for local democracy.

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26. The term “civil society organisation” refers to a range of organisations which include: the labour-market players (ie. trade unions and employers federations); organisations representing social and other economic players (such as consumer organisations); NGOs (non-governmental organisations), which bring people together in a common cause, such as environmental organisations, human rights organisations, charitable organisations, educational and training organisations, etc.; community-based organisations, i.e. organisations sand up within society at grassroots level which pursue member-oriented objectives, e.g. youth organisations, family associations and all organisations through which citizens participate in local and municipal life; and religious communities.

*Democracy and property*

The right to own and use private property, subject to reasonable and necessary legal restrictions in the wider public interest, is a feature of all democratic societies. Apart from its economic impact, this right enables individuals to support civil society, political parties and pluralistic media, as well as to obtain access to legal and other redress when they consider that their human rights, or democratic principles, have been violated. Where the State exercises overwhelming control over property (used in its widest sense), it exercises corresponding control over individuals and legal personalities. This may undermine the operation of democratic principles.

*Democracy and good governance*

The presence of these common principles of democracy does not in itself guarantee a democracy in which all citizens are able to participate, or ensure stability, security and development. Matters like corruption, abuse of power, poor administration, lack of accountability, human rights violations and misuse of law, also occur in democracies. However, the presence of good governance principles help to sustain democracy and underpin democratic principles and determine their successful implementation. These include:

- *Equity*, which involves giving everyone an equal opportunity to participate in public life and services. This means providing practical help to overcome obstacles of status and/or condition, and taking account of these in devising public policies and their implementation.
- *Informed Participation*, which involves supporting structures of government that enable all citizens to have a say in the running of their lives, including those who are disadvantaged by age, gender, ethnic or other status. It also involves educating people about democracy.
- *Transparency*, which involves the public having access to reliable information, in a language and form that is comprehensible, on how those who exercise public power use it, especially how they use public resources.

- *Accountability* (both horizontally and vertically), which involves those who exercise powers of government and administration being answerable to elected representatives and citizens for their actions, as well as being responsible before the law.

Discussion points:

- Do the political statements from Council of Europe countries, within the Council of Europe and in other fora, together with the European Court of Human Rights case-law on specific democratic rights, such as freedom of expression in Art. 10 justify the assertion that there is a right to democracy?
- If so, is there sufficient substantive material in the right to be able to monitor its observance?
- Should this right include issues like culture, social cohesion and a sustainable environment, or are these concepts too inchoate to allow the development of common measurable criteria?
- Does the right need to be justiciable, or are the Council of Europe's current monitoring mechanisms sufficient – or sufficiently adaptable – to be able to secure its observance?
- Would the Council of Europe's commitment to democracy be more visible, comprehensible and easier to monitor by European citizens and their representatives if it adopted a European Charter on Democracy, similar to the American or African Charters, or the Council's own European Local Self -Government Charter?

## **Summary and recommendations: Working Sessions 1A and 1B**

### **Yuri Dzhizladze**

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*Working Session 1A “The impact of European law and case-law on shaping democracy”*

The first session on the theme of “Law and Democracy” focused on the legal aspects of democracy, on the one hand, and on practical issues regarding the impact of the European Convention on Human Rights on the other hand. In particular on the ways in which interpretations by the European Court of Human Rights (the Court), and their application to constitutional questions by the Venice Commission, shape democracy and national legal systems. Difficult structural or systemic problems which require time and resources to address, such as detention conditions, lengthy trial proceedings, ensuring of freedom of expression, etc. represent a particular challenge as concerns the practical impact of the Convention.

Human rights and democracy are interconnected although there are often tensions between the two. The Council of Europe legal *acquis* regards democracy as the best and the necessary political framework for the effective realisation of human rights through law and as a political regime that aims to broaden rights and freedoms.

At the same time, the very legitimacy of a democratic regime is assessed by its ability to ensure the protection of human rights. The most prominent example of this is the Court’s interpretation of the “necessary in a democratic society” clause in Articles 8, 9, 10, and 11 of the Convention stating that all restrictions to the rights to privacy, freedom of thought and religion, expression, assembly and movement must be prescribed by law and must be justified as a necessary measure in a democratic society. This is an expansive interpretation of rights as they can be limited only in the most exceptional circumstances.

The question of whether the “necessity in a democratic society” test should be incorporated in the constitutions of the Council of Europe member states was raised. Similarly, how can domestic decision

makers be encouraged to apply this test when they decide on concrete policy issues such as considering application for a protest demonstration, deciding on registration of a political party, or ensuring freedom of expression while protecting the public from hate speech in the media or during demonstrations? Are recommendations and guidelines based on best practices enough or do we need to think of some new ways, including legal mechanisms?

Democracy is understood as a framework for not just protecting, but also for expanding freedoms. In particular, the Court sees freedoms of expression, assembly and association as intrinsic to democracy; it does not treat these rights as separate from democracy but as being at the very centre of the improvement of democratic governance. These, along with the right to participate, can be described as “democratic rights”.

Council of Europe legal frameworks also provide protection of the so-called pre-democratic rights, namely the right to life, freedom from torture, freedom from arbitrary detention, freedom from slavery, and the right to a fair trial. These are non-derogable rights and are not subject to any political negotiation, unlike the “democratic rights” that can be limited in exceptional circumstances. They also extend to non-citizens. However, 9/11 has affected the implementation of non-derogable pre-democratic rights with governments starting to restrict them in legislation and policies on grounds of combating terrorism, often with popular support. A challenge the Council of Europe needs to address is how a popular domestic backlash with respect to the protection of these rights can be prevented – such as the right to fair trial of suspects of terrorist acts.

Importantly, European human rights legislation offers protection for non-citizens, minorities, and marginalised groups, serving as a venue of last resort for those with limited access to national institutions. Non-discrimination case law and the doctrine of positive obligations provide important safeguards and empower these groups to participate in domestic democratic processes.

Challenging this approach, the recent rise of xenophobic sentiments and populist discourse has led to restrictions of the rights of minorities

and non-citizens in many countries. We need to ask ourselves the question of how to prevent such a popular demand for restrictions of minority rights? Should their explicit protection be included in national constitutions?

Several participants expressed deep concerns over the huge gap between rights on paper and the lack of proper implementation/enforcement of human rights obligations at the national level. As well as a growing disconnect between the elaboration of ever more sophisticated legal standards and interpretations of democracy and the dire situation of democratic institutions and practices on the ground.

The negative role of the political elites in many member states was discussed. Many speakers stressed that systematic prevention of execution of the Court judgments by the elites puts into question its very legitimacy. This problem is exacerbated by the fact that the Court has so far effectively chosen not to deal with violations of electoral rights. Inability of the Council of Europe to ensure implementation of the Convention's provisions and the Court decisions disempowers citizens because they see that Council of Europe decisions can be blatantly ignored with no consequences.

Having agreed that the implementation issue is crucial and more important than the development of a legal framework, the participants to the forum proposed some recommendations with regard to the implementation:

- national courts should be equipped with appropriate resources (i.e. funding, independent bodies for appointments, transparent rules on tenure and promotion);
- the judiciary should receive adequate funding to discharge its functions independently;
- the Council of Europe should reinforce its monitoring mechanisms to influence states which fail to comply with its obligations.

Political process and the application of legal standards are strongly linked. The Council of Europe is a political organisation and the process of bringing a country towards a better democracy is critical and involves education, awareness building, peer reviews and peer pressure by member states.

Maintaining this kind of political pressure, through for example the Parliamentary Assembly and other Council of Europe bodies, including the Committee of Ministers, was deemed essential by the participants as well as striving for a more active role of civil society within the Council of Europe. In addition, the rotating chairmanship of the Committee of Ministers by each member state provides an opportunity to put pressure on them to improve their implementation of democratic and human rights legislation.

*Working Session 1B “Should there be a ‘right to democracy’”?*

The second session on the theme of “Law and Democracy” addressed the notion of an emerging “right to democracy” with participants debated its meaning, scope, monitoring mechanisms and methods of implementation.

There was agreement that the essential principles, elements and ingredients of democracy are all described and readily available in the existing Council of Europe *acquis* and expressed as political commitments in relevant Committee of Ministers and Parliamentary Assembly decisions as well as in a number of important documents of other regional and international organisations.

While participants also agreed that a universal right to democracy already exists at the conceptual and philosophical level, it needs to be defined and spelled out more concretely if we want to move from theory to effective implementation.

Some elements of this right are classic individual justiciable rights subject to protection by courts, while others are formulated as positive obligations by states to protect rights enjoyed by individuals in community with others. In the latter case, the states should have to demonstrate that they are taking concrete steps and making progress towards fuller implementation – as is already the case for economic and social rights under the European Social Charter and within the UN system.

What we are evoking is a framework of positive obligations on good governance, transparency, accountability, the ability of government

to address corruption and abuse of power and the establishment of mechanisms and space for public participation.

Money politics is also an issue if narrow interest groups with a monopoly on resources effectively control the political process. The capacity of states to address this problem is very important.

Whether these obligations should be developed one day into a single body of political commitments in the form of a “Democracy Declaration” or even into legally binding commitments in some kind of a Democracy Charter remains an open question.

Many participants argued that instead of producing further normative frameworks, we need to focus on fostering better implementation of the existing Council of Europe *acquis* in the field of democracy.

In order to hold member states accountable, minimum standards should be laid down in order to be able to measure and assess the degree of implementation of democracy. Soft law, including recommendations of the Committee of Ministers, guidelines on best practices, Venice Commission reports, etc. could help in developing more concrete definitions to enable states to bring existing normative framework to life.

However, given that democracy is a work in progress, with a variety of institutional designs, and not something static, is it really appropriate or even possible to set up benchmarks for compliance?

Who monitors the implementation of democracy is an essential question, especially given that much of the scope of democracy obligations cannot be protected through the courts. Could a mechanism like the UN Human Rights Council Universal Periodic Review (UPR), undertaken by peers be applied in the Council of Europe? Or should new monitoring mechanisms be established similar to those used by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment which visits countries and reports on conditions? Many argued that peer monitoring would not work due to political sensitivity and that we need to develop stronger mechanisms of monitoring by independent experts. It was suggested that the monitoring work of the Parliamentary Assembly provides a



good basis to build upon. Civil society should also be encouraged and empowered by the Council of Europe to function as a monitoring mechanism.

Clearly, once such a right is more concretely defined, the appropriate monitoring mechanisms would begin to be developed. Until that time, use can be made of voluntary models and best practices implemented by member states.

Members of the audience agreed that participation is an essential element of democracy and that this is often blocked by those who are afraid to lose power. Everybody should be able to participate in decision-making; democracy without participation is not possible. What happens in between elections is key to the success of democracy. Rousseau's notion of "people's sovereignty" as opposed to "state sovereignty" was mentioned in this context.

There has been some encouraging progress in this field lately, including adoption of the Council of Europe's Strategy for Innovation and Good Governance at Local Level which in fact is applicable to all levels of governance. Moreover, a new Additional Protocol to the European Charter of Local Self-Government on Citizen Participation at Local Level has been adopted by the Committee of Ministers and is open for ratification.

The question was raised how to foster a popular "demand" for democracy in countries where people are less engaged in the political process or are cynical about participation? As a participant said, "You cannot consume democracy; you have to work for it". Local ownership is essential. After all, democracy is not only about freedom but also about the ability to define one's destiny.

Paradoxically, never before have so many people lived in democratic states but never before have so many people been disappointed with democracy. This disappointment and frustration seems to be referring to representative democracy where no proper mechanisms and space for participation are created.

We need to do a much better job in explaining our ideas to the public and civil society. There is a real lack of public confidence in international and European organisations. This is particularly the

case for the Council of Europe and its bodies. How can we improve communication of Council of Europe instruments (recommendations, opinions, action of monitoring bodies) to make them better known, accessible, clear and comprehensible so that the relevant national actors and civil society are able to make better use of them. Such accessibility could come from preparing guidelines, checklists, and bullet points instead of lengthy, opaque texts.

It was argued that while we can and should engage in this process of developing, monitoring and ensuring implementation of the right to democracy within the Council of Europe space, the European situation cannot be imposed on the entire world. Creating a universal right to democracy now is too ambitious; without universal consensus we cannot agree on a universal right. However, we should strive to gradually move to such consensus.

In this context, how do we develop more effective cooperation between the Council of Europe and other international organisations in the field of democracy development so that they can speak with one voice and are able to reinforce, rather than duplicate each other? These organisations need to stop developing their own separate sets of commitments and obligations. Similarly, how can we rebuild citizens' confidence in international and European organisations, in particular the Council of Europe and its bodies?

Finally, how do we build democracy at a transnational level beyond national parliaments and national governments, and how can democratic governance in global institutions be ensured?

## ***Theme 2: Institutions and Democratic governance***

### **Issue paper, Working Session 2A Democracy and Representation**

**Alexander Trechsel**

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#### *Introduction*

Modern, liberal democratic governments around the world are predominantly shaped by the idea of representation. To summarise, this means that a few are democratically chosen to safeguard the needs of the many. Parliaments, executives and judges are elected or appointed through various forms of selection mechanisms.

Through term limits and the need for re-election/selection, the members of these instances, with some notable exceptions, such as US Supreme Court judges, exert power for a well-defined and finite period of time. During their office, MPs, ministers, judges and other public office holders represent voters, non-voters, parties, their very institutions, the law, their local, regional or national authority and, vis-à-vis the exterior, their country.

Together, members of these instances of representation form the political, parliamentary, administrative, judicial elites dominating the world of representative democracy. For many, citizens, to paraphrase the Austrian economist Joseph Schumpeter, should only be called upon every four or five years, simply to (s)elect this elite, capable of “taking care of things” on their own.

This system is supposed to work well. In fact, it arguably did work well for a long time, at least until systems in which elites simply represented other elites started to open up. Former “non-citizens” became enfranchised (ordinary men and women, the young, migrants) and could organise in movements and parties representing their interests. Today, however, this seemingly well-functioning system of representative democracy is under serious stress.

*Growing challenges to democratic governance*

Six years ago, a group of scholars and practitioners associated with the author of this Issue Paper and Professor Philippe C. Schmitter were given the opportunity by the Council of Europe to jointly reflect on “where we are” with democratic processes, actors and institutions in Europe, where the latter were going and what the future could and should look like. The outcome of this endeavour is the publication entitled *The future of democracy in Europe – Trends, analyses and reforms*.<sup>27</sup> This short Issue Paper will not repeat what we described back then. However, I would argue that our diagnostics regarding both challenges and opportunities for contemporary democracy hold true. Also, some of the reform proposals remain just that: proposals. Others saw the light of day in various forms and at different levels of democratic government in Europe.

However, some of the challenges to representative democracy in Europe were arguably either neglected or underestimated in our work. In this paper I would like to highlight some of these challenges which in my view have become of growing importance for democratic governance.

First, we identified growing pressure “from above”, at the macro-level, created by processes of globalisation and European integration. These challenges did not vanish; on the contrary, they have led to constrained democracy, where more representatives decide about less.

Secondly, we identified challenges developing within society, at the micro-level, among citizens and the organisations trying to represent them: inter-cultural migration, changing demographics, individuation, a sense of insecurity, discontent among citizens, and distrust of the institutions, leading to protest.

Peter Mair, Professor of Comparative Politics at the European University Institute, recently diagnosed democratic government – particularly in Europe – as being caught “between a rock and a hard place”. On the one hand, national governments and legislatures are

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27. Philippe C. Schmitter, Alexander H. Trechsel, *The future of democracy - Trends, analyses and reforms*, Council of Europe, Strasbourg, 2004, ISBN 978-92-871-5570-2

less and less able to decide autonomously about the fate of their country. Instead, they must follow mandates “from above”, given to them by the International Monetary Fund, the European Court of Justice, the European Convention on Human Rights, the European Central Bank and so on. For Mair, this is the rock. The hard place is a distrusting, critical and increasingly emancipated electorate, with its own demands and mandates for the polity. Representative democracy therefore gradually loses the degree of leeway it once enjoyed. In hard times, under the weight of the current economic crisis, these rocks and hard places do not get any softer.

There are two supplementary challenges which I would like to highlight here and that we arguably failed to treat sufficiently in our analysis six years ago. In our defence, we could suggest that it was not possible to address these challenges back then simply because the latter did not yet exist. But this is not entirely true, as we did, in fact, detect their existence but failed to imagine their combined effect. I refer to the immense change in modern, digital technology-induced communication and its capacity to create participatory democratic innovations.

With the advent and dizzying diffusion of the internet as the platform where most forms of informational exchange is destined to take place, the control of representative institutions over society has gradually crumbled. Today, citizens can individually and collectively track the physical movements and oral declarations of their representatives, (almost) wherever they go and wherever they are. Hiding from the publics’ view is not possible anymore, as even attempts to control the media become obsolete with grass-root citizen online journalism circumventing censorship with ease.

It is true that the internet may bring representatives closer to the citizens, with their existence and activities being only a mouse-click away for anybody interested. It is also the case that modern information and communication technologies can foster participation of citizens in representative democracy, for example through internet voting. However, the apparent proximity of electorates to their representatives is often reduced to trivia, scandals, shows and entertainment.

Paradoxically, as public scrutiny deepens, the distance between rulers and the ruled regarding substantive politics stretches further apart. Bernard Manin's "Audience Democracy", where politics were made on the stage for a passive audience now has become a "Paparazzi Democracy", where citizens become actors themselves, controlling and interacting with their representatives. In a sense, mobile phones equipped with cameras and internet access, social networks and digital skills allowed citizens to climb the stage of politics. In this way, the participatory logic of the Web 2.0 and its possibilities contain the potential to transform profoundly representative democracy.

*Threats from direct and participatory democracy?*

This brings me to the second challenge for representative democracy that we might have underestimated six years ago: the growing number of direct and participatory democratic mechanisms. A few decades ago direct democratic institutions such as the referendum and the popular initiative occasionally complemented representative forms of government. Today, direct democracy can be found in most polities and at all levels of government, from the local to the supranational.

Furthermore, new forms of participatory democracy have emerged. Starting off as experiments, such as the participatory budgeting process originally developed in Brazil, democratic innovations have gradually sedated on the institutional soil of European polities. In particular, policy-making processes opened up to citizens and civil society organisations through deliberative forums, citizen juries, participatory budgeting, citizen consultations and many more.

Once implemented, these institutions tend to become stable elements of democratic life. In most cases, however, they also weaken representative government. They introduce a continuous involvement of citizens in politics. The times when citizens chose their representatives in an election and had to wait for the next election before being able to be heard again are over. Citizens and civil society have become permanent actors. The biggest losers of this development are political parties, once the most important players in the democratic realm.

When pushed too far, the process of opening up to participatory democracy can quite simply harm democracy. The long-term is

gradually replaced by the short term and legislating is exposed to a good deal of uncertainty, as an active citizenry can continuously change policies.

At the same time, popular demands arise which openly violate basic principles and values of modern, democratic societies. The recent popular vote in Switzerland prohibiting the construction of mosques and, in that same country, the launch of a popular initiative in the summer of 2010 asking for the re-introduction of the death penalty, clearly show the limits of direct democracy – egregious discrimination and human rights violations cannot be excluded from the set of outcomes of these participatory processes.

The combination of the two challenges – modern information and communication technologies on the one hand and participatory democracy on the other – can lead to a weakening of some fundamental institutions of representative democracy such as parliaments and political parties.

Online forms of democratic innovations – such as online petitions or initiatives – and grass-roots controlled tools such as online voting advice applications allow citizens to learn more about their demands and the available offer. If not satisfied, these innovations give them the opportunities to act independently of the traditional elites.

In this sense, these challenges also offer opportunities, particularly when they are bundled. The internet allows a larger proportion of the citizenry to take part in the democratic life of modern, liberal polities. It also allows people to debate and connect across great distances and across borders. Participatory institutions and practices become more widely diffused thanks to internet technology.

However, clear limits have to be set to the proliferation of non-democratic demands funnelled through such democratic processes. The scourge of discrimination and human rights violation needs to be fought with every available means in order to preserve the values and principles upon which democracy – including representative democracy – is built.

### *Conclusions*

Representatives can no longer act like Schumpeter once suggested, and “take care of things” between elections. This is so because, on the one hand, they are no longer left alone. On the contrary, their acts are scrutinised and their behaviour is monitored on a permanent basis. On the other hand, they are no longer on their own. Instead, ordinary citizens have started taking their place on the stage, and have begun to take decisions and propose new issues to be put on a common agenda in between elections. Both scrutiny and co-decision are enhanced by modern information and communication technologies. Therefore, representative democracy as we know it is in dire straits; but whether democracy in general is also in dire straits is probably more open to question.

### *Potential role to be played by the Council of Europe*

The Council of Europe could play a role in several directions:

- continuous and deepened protection of human rights;
- standard-setting through the identification of best practices;
- democratic auditing;
- dissemination of expertise;
- going beyond monitoring.

Discussion points:

- How can representative democracy open up to participatory democracy without endangering its own functioning?
- Where are the limits of participatory democracy?
- How can modern communication technology be used to bring representatives closer to the electorate?



**Issue Paper, Working Session 2B**  
**Democracy and Global Governance**

**Daniele Archibugi**

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*Democracy's uncompleted mission*

At the dawn of the new millennium democracy appears to be the victorious political system. It has come to be seen as the only form of legitimate political authority which includes and represents the interests of all as providing a non-violent solution to social conflict. Furthermore, democracy has been praised as an instrument for economic prosperity, peace and stability. People all over the world have chosen democracy, and indeed fought for it, giving rise to a powerful, transnational mass movement which has achieved great change with surprisingly little bloodshed. This is perhaps the best indication that democracy is developing into a widely shared system of values.

But this does not mean that the journey towards democracy is over, nor that it can ever be. Democracy is an open, interactive and progressive political system which to survive needs to adjust its content and procedures to changing political, social and economic circumstances and at the same time incorporate new demands arising from civil society. Democracy's progress is indefinitely open-ended and unpredictable and in this lies its vitality as a political system.

The current ideological victory of democracy, associated with the predominance of Western liberal countries, is certainly good news for democracy. However, it may carry the danger of "democratic colonialism" from the West to the rest, which seems at odds with the very essence of democracy as a bottom-up political system. This requires a major effort to identify what democracy means for different peoples, how their expectations can be satisfied from their own political system and, more importantly, what each political community can learn from each other.

One of the major challenges that democracy has to address in a global age is how to define the various levels of authority and of decision-making powers. Democracy was born and has grown within confined political communities. It has been by deciding who is a citizen and who is an alien, that democratic communities have managed to work out rules, majorities and minorities and decision-making procedures. Thus, one of the major problems of democratic practice is that in order to work, it has always had to take harsh decisions on who should be included and who should be excluded.

In theory, one of the basic assumptions of democracy is that all those affected by a decision should be involved in the decision-making process either directly or through their representatives. In practice it is difficult to identify and to involve all those who are affected by a decision. And globalisation is making this more and more difficult. Issues such as nuclear energy, financial flows, migration and foreign direct investment are just a few matters that involve more than one state. The contemporary world is made of a variety of “overlapping communities of fate”, to use David Held’s expression (Held, 2004), and these communities are not necessarily also *political* communities. At present, devices that allow democratic deliberation and decision-making among the affected citizens beyond the boundaries of states are still in their infancy.

How to preserve the values and norms of democracy in the new global setting emerges as one of the major challenges to be addressed by political theory and practice in the XXI Century (Archibugi, 2008). However, this issue has not yet received sufficient attention, not even in the most consolidated democracies. Their leaders have been eager to promote democratic practice in other countries, urging them to generate and consolidate appropriate institutions, but at the same time they have been reluctant to expand some of the norms and values of democracy to global governance. This has created a paradox, a form of schizophrenia in which, on the one hand democracy, is promoted as a universal value for legitimate authority within states whilst on the other hand, there is no desire to also apply the same values and norms to global governance.

Discussion points:

To what extent can the agenda to promote democracies, so actively pursued by consolidated liberal democracies, be credible for people living in unstable democracies or in authoritarian regimes, in particular if consolidated liberal democracies are not equally prepared to also apply the same principles in global governance?

*Effectiveness and representativeness in global governance*

Global governance can be defined as “the political actions undertaken by national and/or transnational actors aimed at addressing problems that affect more than one state and/or where there is no defined political authority able to address them”. Political parties, public administrators, the business sector and the public opinion at large often demand that global issues are addressed through appropriate actions and levels of decision making (König-Archibugi, 2002). Even when these demands are addressed by individual states, either acting alone or in collaboration with other states, at least one of the following conditions should be at work:

- The issue in question is not limited to an individual state;
- The possibility of successfully addressing the issue would be facilitated by the participation of political players based in more than one state.

While global governance has grown exponentially in the last twenty years,<sup>28</sup> this does not necessarily mean that we are approaching a *democratic* form of global governance. Global governance is often evoked for timely and effective decisions. For example, during and after the financial crisis of Autumn 2008, the business sector, trade unions and public opinion demanded an effective intervention to prevent the collapse of economic activities.

Governments with the largest financial reserves undertook a series of coordinated actions to prevent the financial crisis spreading further. Many of these decisions were taken in G8, G20, G4 or G2 Summits. This can be considered a case of effective global governance, even if

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28. For example, soldiers deployed with UN peace-keeping forces have grown from less than 10,000 in 1988 to more than 100 000 in 2010.

not many parameters of democracy were satisfied: a selected number of governments took part to the negotiation, deliberation was far from transparent, and the outcome was not accountable to citizens.

In the face of an emergency, the lack of appropriate democratic *fora* does induce the search for alternative decision-making devices. But this does not necessarily imply that these devices should be preferred to more formal and equally effective global governance institutions.

Discussion points:

- Is there a trade-off between the effectiveness and representativeness and transparency of global governance?
- Are there advantages to weaker input legitimacy if it helps obtain greater output effectiveness?
- What actions can be taken in order to reconcile input legitimacy and output effectiveness?

Calls for global governance often get louder in emergency and crisis situations. In situations as diverse as financial crises, natural disasters or gross violations of human rights, public opinion asks those “in charge” to intervene. The commitment and the resources required in such situations generate fierce controversies up to the point that many of these crises are not addressed at all.

Interventions generally get the commitment and resources from coalitions of willing states. For example, inter-governmental summits have committed financial resources to prevent the deepening of the financial crisis, international organisations and states have implemented civilian rescue operations, national armies have taken part in military interventions dictated by humanitarian motivations. Emergency situations mean that these global governance interventions occur with no or little democratic accountability. Neither the citizens in the states committing the resources nor those in the areas where interventions are made have an opportunity to assess ex-ante the purpose, resources and effects of these interventions.

Discussion points:

- If an emergency crisis is addressed through a multilateral intervention, and if there are good reasons to assume that similar

emergencies could occur again, which institution-building actions should be taken?

- Can these institutions be effective, representative and accountable?

*International organisations and democracy*

Most of the current global governance is provided by international organisations (IOs). Although the resources are often provided by their members, IOs have their own agency and most of them cannot be considered just governments' "agents" (Zweifel, 2005). In comparison to other forms of global governance, such as i) unilateral actions undertaken by individual states, ii) bilateral or multilateral inter-governmental initiatives, or iii) the activities performed by the private sector, IOs already incorporate some of the values and principles of democracy such as:

- IOs are based on Charters, Conventions, Treaties and other public acts. This makes them bound to the rule of law and, in particular, to international law;
- Some IOs have judicial methods to address disputes;
- Most of the activities carried out by IOs are transparent;
- IOs activities are accountable to member states and to public opinion at large.

Are these elements sufficient to consider IOs democratic institutions? The criteria listed above will certainly not be sufficient to qualify any state as democratic (Patomaki and Teivainen, 2004). It is therefore not surprising that a leading democratic theorist such as Robert Dahl (1999, 2001) has challenged the idea that IOs could ever be democratic institutions. Dahl has indicated a few key criteria that qualify the modern term "democracy" in order to show that none of them is fully applied in IOs (see left column Table 1). However, the fact that IOs do not currently satisfy democratic criteria should not imply that they could not satisfy them if appropriately reformed. The right column of Table 1 indicates a list of actions that could be considered for IOs reform.

**Table 1 – Can international organisations be democratic?**

<b>Dahl's democratic criteria</b>	<b>Possible extension to international organisations</b>
Final control over important government decisions is exercised by elected officials	For some areas it is possible to envisage elected officials (for example through elected Parliaments on the model of the European Parliament). Elected officials can also be appointed for activities where intergovernmental organisations have a strong territorial activity (such as those involving health care, food provision, and assistance to refugees)
These officials are chosen in free, fair and reasonably frequent elections	The electoral principle may be applied at various levels. Other forms of democratic participation can also be conceived
In considering their possible choices and decisions, citizens have an effective right and opportunity to exercise extensive freedom of expression	Since freedom of expression is often repressed by authoritarian governments, intergovernmental organisations could also protect individual freedom of expression and provide the instruments to exercise it
Citizens also have the right and opportunity to consult alternative sources of information that are not under the control of the government or any single group of interest	So far, information and media are still national in scope. Attempts to generate regional or global public opinion have so far limited effect. But media are more and more under the pressures of globalisation and they are globalising even without explicit political request. New ICTs, including internet, provide a variety of information channels that are more difficult to be kept under government control
In order to act effectively, citizens possess the right and opportunities to form political associations, interest groups, competitive political parties, voluntary organisations and the like	National political life can be expanded into trans-national levels. Political parties, trade unions and NGOs already have linkages across borders and they are already increasing their significance. Strengthening global institutions may also lead to a reorganisation of political interests and delegation of powers
With a small number of permissible exceptions, such as transient residents, all adults who are subject to the laws and policies are full citizens who possess all the rights and opportunities just listed	The UN Universal Declaration of Human Rights already sanctions individual rights. Other forms of citizenship applied at the UN level or within regional organisations may extend political equality to the individual and strengthen their rights vis-à-vis their governments

*Source: Dahl, 2001, p. 28*

*Source: author*

If there would be enough consensus among member states to implement all the suggestions indicated in the right column in any IO, the outcome will be a more democratic IO, but certainly not as democratic as we conceive democracy today in a state.

Groucho Marx once said: “I don’t want to belong to any club that will accept me as a member”. He anticipated what has become one of the most frequent criticisms of the European Union and other regional organisations, including the Council of Europe, that accept members with democratic constitutions only: “If the EU were to apply for membership in the EU, it would not qualify because of the inadequate democratic content of its constitution” (see Zürn, 2002, p. 183, also for a convincing answer to this position). This leads to the question: which criteria and threshold of democracy should be found within IOs?

Discussion points:

- Which democratic criteria are needed for international organisations?
- Can some regional organisations apply more democratic criteria?
- Which reforms can be implemented to make the Council of Europe more representative and democratic?

*Is global democracy possible?*

If democracy is emerging as the sole legitimate political regime, shouldn’t the world also be governed democratically? Cosmopolitan democracy has been already been advocated as a normative project (see Archibugi and Held, 1995; Archibugi, 2008; Held, 1995). But what should be the criteria for a global democracy? According to König-Archibugi (2010) a global democracy should be compared with the following criteria:

- encompass all the regions of the world;
- empower supranational bodies to make binding decisions on a range of (enumerated) issues of global relevance;
- ensure that the members of those bodies are representative of, and accountable to, groups of citizens, through electoral

- mechanisms or other formal and transparent relationships of political delegation;
- promote equal representation of all world citizens in conjunction with other principles such as balanced representation of the constitutive territorial units and, possibly, forms of functional representation;
  - allow the supranational bodies to take decisions in accordance with a variety of decision rules, but exclude veto rights for small minorities, except when they are based on legitimate and impartially determined vital interests;
  - empower independent supranational judicial bodies to resolve conflicts in accordance with constitutional rules;
  - include robust mechanisms for promoting compliance with decisions and rulings, possibly, but not necessarily, through the centralised control of the means of coercion.

If all these criteria are met, the world political community will be very similar to a world federal state, a political prospect that it is not only unrealistic, but that also generates anxieties.

Discussion points:

- Will a world federal state be able to provide more satisfactory and more democratic global governance?
- What would be the disadvantages of such a political option?
- To achieve a more satisfactory global governance, which of the criteria listed above should be introduced and which ones should be rejected?

*The participation of civil society as a democratising force of global governance*

Global civil society and non-governmental organisations are taking a more and more active role in global governance (Scholte, 2002). On the one hand, these groups are often very active in pressing national governments and inter-governmental organisations into providing global governance. On the other hand, they are also active providers of global governance in areas as different as environment protection, human rights enforcement, humanitarian relief and health care. There



are a number of devices that mobilise global civil societies. In some cases, they are mobilised through governmental resources or in collaboration with international organisations. In other cases, global civil society has a strong self-mobilising potential which can anticipate, pressure or even contrast the priorities of more institutional forms of power (Bexell et al., 2010).

While there is a general consensus on the important role played by civil society in global governance, its representativeness is often questioned. It is argued that the areas covered by civil society are selective, that it can be influenced by specific lobbies and that there is no certainty that public opinion at large will share the same values and priorities of the groups directly involved in campaigning for more democratic global governance.

Discussion points:

- Is global civil society helping to make global governance more democratic?
- How can global civil society be made more representative?
- What is the role that global civil society should play within international organisations?
- Are there satisfactory channels of consultation of global civil society in the Council of Europe?

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## **Summary and recommendations, Working Sessions 2A and 2B**

### **Pavol Demeš**

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#### *Introduction*

Working Sessions 2A on “Democracy and Representation” and 2B on “Democracy and Global Governance” looked at broader issues of representation and governance as they relate to democracy within the Council of Europe territory and beyond. The topics were introduced by the respective authors of the background policy papers and these provided the conceptual framework for individual sessions.

This report combines discussions and outcomes from both sessions and aims to capture the key points raised by the panelists and participants as well as highlight the session’s main recommendations and suggestions for future work of the Council of Europe.

#### *Changes in the democratic landscape – we are all in the same boat*

One of the striking features of the discussions was the feeling that democracy is under threat not only in transitional and less developed countries, but also in the more affluent western societies. There is no longer a clear-cut divide between East and West, rather the challenges to democracies are originating in the global economic, political and security turbulences around the world. We are all in the same boat and need to learn from one another and cooperate more closely and strategically.

Although there are still striking differences between East and West with respect to their experience of democracy, the West can no longer adopt a patronising attitude towards the East. In the West there is a sense of democracies going through serious internal stress from global competition in a multi-polar world. In the East, there is a sense that some of the promises and hopes of 1989 – such as empowerment of the people – have not really been fulfilled. The indications from eastern Europe show that there are relatively few bottom-up democratic practices taking place; civil society is still very much in its infancy.

*Democratic representation in a new era*

The old pattern of representation – with elected representatives left to get on with the job – is changing in a world which is globalised and technology-driven. Finding ways for representative democracy to accommodate broader participation and people's wish for direct involvement – through NGOs, internet and social media – has emerged as an acute contemporary problem.

The issue of NGOs representativeness and their subsequent legitimacy was raised. However, the same question could be posed concerning politicians' representativity when turnout is very low, for example in European Parliamentary elections.

Similarly, there is a need to balance pressures from lobby groups against the decision-making processes of those who have been democratically elected. The financing of lobby groups should be more transparent. Overall, there is a decline of trust in today's political culture.

It was also noted that the emergence of extremist groups in Europe – in political parties as well as in civic groups – represents a serious threat to democracy. The limits and boundaries of democratic societies have to be made clear, for example by banning hate speech. We must confront these challenges by building coalitions of actors who advocate democracy and the rule of law.

In some countries, a significant number of people are elected not for reasons of their competence, but rather because of their wealth and political influence.

Solutions to some of these deficits may be found at local level as suggested by a recent survey which indicates that often people have more confidence in their local government than in their national government. Many consultative organs exist at local and regional level, thereby offering opportunities for meaningful participation by civil society. The necessary know-how exists, it now needs to be better used.

Citizens are taking more and more initiatives between elections, indeed civil society has brought some important ideas onto the political

agenda, for example gay rights and the rights of Roma. It was noted that the protection of Roma, the largest minority in Europe, poses a serious challenge and that European solutions rather than national ones need to be found.

Ultimately, the role of civil society is to create a constituency for wise public policy and good governance. There is a need for capacity building, hence the importance of initiatives such as the Council of Europe's Schools of Political Studies.

Additional paths to explore include strengthening independent regulatory bodies, for example those created to protect access to information as well as such as Ombudsmen and anti-corruption agencies.

*The limits to participatory democracy*

There are many new participatory mechanisms underway. Once implemented, these instruments can offer stable forms of participation; but care should be taken to ensure that they do not weaken the position of elected representatives and political parties.

Indeed, it is clear that unlimited participatory democracy would lead to demands that go far beyond what is politically and democratically acceptable, as highlighted by the recent referendum in Switzerland calling for the banning of minarets or, more generally, recurrent populist requests for the death penalty.

Another example can be seen in the case of massive citizen action against a proposed railway station development in Stuttgart, Germany. Although the project was developed over 15 years and extensive public consultations were held, many citizens are now saying that they did not feel sufficiently involved. The authorities have to find a response to these protests and a new form of mediation has been introduced under the leadership of a popular former politician.

A limitation of direct democracy is that it does not contribute much to the formation of political parties (and other political entities). However, political representation will not command the respect of the public if their policies are not accompanied by a high degree of transparency.

*Education to strengthen democracy*

Education must play a key role in developing the values that will make our societies politically, economically, socially and culturally sustainable. Public responsibility means ensuring that quality education is provided to all its members, even the most vulnerable groups.

Education systems, policies and practices should offer learners the competences and skills they need to deal with complexity and to develop citizenship and intercultural skills. Interactive, learner-centred approaches in a lifelong learning perspective are called for. This requires changes to curricula, teaching methods, teacher education and the governance of educational institutions.

Civic education, formal and informal, offers an important tool for enhancing democracy. The culture of dialogue needs to be strengthened, particularly given that our societies are rapidly becoming multicultural. Teaching methods and curricula in educating responsible citizens are lagging behind and new educational approaches and methods, which make use of modern communication tools, should be developed.

Youth participation in public life throughout Europe is declining. There is a need to find ways to convince young people that it is worth their while to vote. Although the young have always participated less in elections, what is changing is that the age at which they tend to engage is later.

New forms of engagement using modern technologies should be explored and developed. A useful tool for this is the Revised European Charter on the Participation of Young People in Local and Regional Life.

We also need to take into account the (relatively new) idea of inter-generational justice – that we are holding our country, and indeed our planet, in trust for future generations.

*Recommendations and pointers for the Council of Europe*

The Council of Europe should make the democracy agenda more prominent in its reform process, in spite of financial constraints. Its

long-term experience in the field means that the Organisation is in a very good position to contribute to finding solutions to many pressing problems emerging throughout Europe and beyond.

Building synergies and balance between multiple stakeholders will be a key challenge for the Council of Europe. Particular emphasis should be put on cooperation with the European Union which is seeking new ways to strengthen democracy within the EU and promote it in other parts of the world.

The Council of Europe should examine way to co-operate with institutions of global governance with a view to furthering the values of the Council of Europe around the world.

The Council of Europe should increase its relevance and visibility through more educational and dissemination work as well as through greater use of modern forms of communication. Streaming its meetings, conferences and forums would open up a new space for bigger audiences in Europe and beyond, thus contributing to serious debate and the search for solutions.

More research data on democracy, such as its developmental trends and challenges, are needed to improve decision-making processes and to develop strategies to promote and strengthen democracy and civil society. Besides US-based organisations (e.g. Freedom House) providing a global picture, there are relatively few European organisations producing quality data in this field. The Stockholm-based IDEA and the Bertelsmann Foundation produce relevant data but they are not yet widely used.

The Council of Europe should help foster more understanding of how democratic systems work and of the strengths and weaknesses of different democratic models.

The Council of Europe could monitor and rank the conduct of political parties and produce a list. Furthermore, the Venice Commission's opinions should be made public.

### ***Theme 3: Live Democracy***

#### **Issue paper, Working Session 3A Sustainable Communities for a Living Democracy**

**Julian Popov**

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#### *Climate change and the future of democracy*

The aim of this paper is to formulate a set of questions on the relationship between the environment and, more specifically climate change, and the medium and long-term future of democratic governance. The paper does not try to provide definite answers. It indicates directions of debate which might bring more clarity and lead to more conclusive statements. The paper explores three main areas for further debate:

- What threat might climate change and extreme weather events pose to unstable (and, to some extent, stable) democracies?
- What kind of democratic institutions do we need in order to address these threats effectively?
- Are there new opportunities in the developing low carbon economy that could strengthen democratic governance?

#### *A summer of extremes*

In the summer of 2010 Pakistan suffered the worst floods in decades, affecting 20 million people, costing (according government estimates) \$20 billion, destroying 1.2 million homes, 7,000 schools, over 400 health facilities and damaging 14% of agricultural land. Commentators suggest that if Pakistan has one flood like this every 20 years it would never be able to move above its current economic level.

Russia suffered unseen devastation from forest fires. The country lost 25% of its grain production and 1 million hectares (officially) of forest were destroyed. Russian economic output is expected to drop \$15 billion. Some environmentalists claim that the cost of the lost forest could reach the astronomical sum of \$300 billion. Dozens died in the fires but the real death toll is much higher – according to some



estimates the heat waves and smog probably killed between 7,000 and 15,000 people.

Floods destroyed parts of south-west Poland and eastern Germany killing dozens. The floods were followed by a heat wave that broke all temperature records in many places in Central Europe.

In August heavy rains in the north-western Chinese province of Gansu led to a landslide which killed 1,400 people. Another 300 were missing. Then the floods in north-eastern Liaoning province left 1,500 dead and hundreds of thousands homeless.

The list goes on. The summer of 2010 was unusual. Does this mean that climate change has finally hit us?

Scientists are cautious – individual weather events, no matter how extreme, should not be seen as proof of global climate change. They can occur naturally, they can coincide and they can happen in one year with unusual frequency and strength. Whether or not the weather events in 2010 are attributable to climate change, they undoubtedly give us an important insight into what the world might look like in the not very distant future.

#### *Challenges to democratic governance*

Democracy is a fragile state of governance which is constantly threatened even in the most established democratic societies. Its worst enemies are sudden, extreme external events. A war, a terrorist intervention, an assassination or a flood can start shaking long established democratic practices and even institutions. Extreme events require emergency responses. They can rarely be tackled by extensive debate and democratic legislative process. Extreme events are the best justification for military intervention and dictatorial solutions.

Frequent extreme weather events and sudden severe food and water shortages will place an enormous strain on established economies and democracies. They can be devastating for emerging market economies and the still unstable democracies.

The Nicolas Stern *Review on the Economics of Climate Change* estimates “that if we don’t act [to mitigate climate change], the overall

costs and risks of climate change will be equivalent to losing at least 5% of global GDP each year, now and forever. If a wider range of risks and impacts is taken into account, the estimates of damage could rise to 20% of GDP or more.”

The Russian fires wiped out only 1% of Russian GDP in one year. Nonetheless they led to a ban on grain export, a rise in grain prices around the world, death and public discontent. Vladimir Putin had to fly a fire fighting plane in a carefully controlled PR TV stunt in order to reassert his leadership image.

During the floods in Pakistan it was the army and extremist groups which were most visible in the rescue efforts. In the words of a Pakistani analyst (Salim Bukhari) “The army has stolen the show.” At the same time groups associated with terrorist organisations were filling the gap in the relief effort left by the civilian government. The Telegraph newspaper reported: “Widespread anger poses a serious threat to the already struggling government, which is now competing with Islamist movements to deliver aid to the north-western Pakistani region which already has a strong Taliban presence.” Natural disasters shake weak governments and open opportunities for extremist organisations to parade their “population protection” credentials.

Imagine the strain of the forest fires of 2010 on the Russian economy multiplied by five (it might be impossible to imagine it multiplied by 20). Imagine also this strain being constant, year after year after year. And now imagine the same scale of devastation occurring in most countries around the world. The pressure not only on democratic practices but even on basic democratic values will be unsustainable. The functioning of democracy will be widely questioned.

There have been numerous discussions on the impact of climate change on national security. The war in Darfur has been named the first climate war. Many commentators saw that conflict as predominantly triggered by the declining water supply. This view has its critics but it is a position that should be researched in more depth and detail.

Hurricane Katrina triggered increased interest in the impact of extreme weather events on national security. I should stress again that the hurricane Katrina is not a proof of climate change but it is an illustration

of the potential impact of extreme climatic events. Katrina killed more than 1,800 people and caused damages of over \$80 billion. It was also a severe blow to the reputation of George W. Bush as public opinion, as in Russia and in Pakistan in 2010 and in Greece in 2007 and in many other cases, blamed the government for inadequate response.

In its report “National Security and the Threat of Climate Change”<sup>29</sup> the US Centre for Naval Analysis makes the following conclusions (among others):

- Climate change acts as a threat multiplier for instability in some of the most volatile regions of the world;
- Projected climate change will add to tensions even in stable regions of the world.

In a joint article Lord Levene of Portsoken (Chairman of Lloyd’s of London) and Anders Fogh Rasmussen (Secretary General of NATO) said “We share a common goal – to adopt a fresh approach to managing risk and three risks in particular: cyber-criminality, piracy and climate change. These are not entirely new problems. What is new is the scale and the cost...Climate change is, of course, the biggest risk of all.”<sup>30</sup> In 2007 the Security Council held its first debate on climate change.

Discussion points:

- How the climate change will put an enormous strain on unstable, as well as stable, democratic regimes?
- When we discuss climate change mitigation and adaptation, how can we preserve local, national and international democratic institutions in an environment of frequent extreme weather events?
- Considering that the negative impact of climate change on democracy will significantly increase the risk of conflict, poverty and further deterioration of democracy, that climate change can have a reinforcing impact not only on environmental phenomena but also on politics, how can we deal not only with a linear deterioration of living standards, wealth and social structures but also with

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29. [www.securityandclimate.cna.org/report/](http://www.securityandclimate.cna.org/report/)

30. [www.nato.int/cps/en/natolive/news\\_57793.htm?selectedLocale=en](http://www.nato.int/cps/en/natolive/news_57793.htm?selectedLocale=en)

tipping points beyond which democracies could completely collapse?

*Creating global democratic governing solutions*

After the Copenhagen UN Climate Change Conference 2009 (COP 15), China has been portrayed by many as the villain of the negotiations which had raised such high expectations in the international community. At the Conference China spoke on behalf of the developing world and stubbornly defended its own economic interests.

China has become a textbook case for the aggressive player in the new low carbon economy competition raising envy and admiration for its astronomic investments in new energy solutions. However we rarely credit the positive impact on the global development of a low carbon economy which the Chinese are making. Furthermore the engagement of significant sectors of the Chinese political and business community in low carbon strategy development and the exchange of technology is creating a level of international cooperation that might not previously have been expected from a one party state. Many other countries with questionable democratic credentials are also actively involved in the international efforts to address climate change.

We often think of democracy in terms of minority rights, national governments' accountability, functioning national parliament, fair local elections and media freedom. Climate change negotiations however are bringing additional perspectives to the democratic debate by raising the question of global democracy.

No other issue has ever brought the world together in the way the ubiquitous challenge of climate change has. The Copenhagen Conference will be remembered in history for at least one thing – it gathered in one place the largest ever number of heads of state. In a way Copenhagen demonstrated that the urgency, the complexity and the dimension of the problem of climate change has not yet found its adequate institutional response.

The world however is quickly moving toward a new way of working, focused on global governing solutions which will be substantially different from organisations such as the United Nations or the more

specialised ones like the World Trade Organisation or World Health Organisation or organisations like the World Economic Forum or the World Social Forum. At the moment climate change is addressed as an issue requiring high priority by the UN. This arrangement however is like boiling water in a paper cup – possible but unsustainable.

Climate change must be addressed on a global scale. The issues of fairness, representation, human rights, poverty and gender are frequently at the centre of debating a possible global climate deal. One of the most difficult points in the international negotiations is accountability. Hundreds of billions of dollars are also at stake. The funding for climate mitigation and adaptation which the developed countries will provide are unlikely to follow the fate of aid money that often support corrupt governments rather than provide humanitarian relief. Imposing stringent accountability and monitoring procedures could lead to more responsible national governments (much in the way EU membership forces new EU member states to follow transparent financial procedures).

Discussion points:

- How climate change, with all its threats, opportunities and international complexity, can create new global governance practices different from anything seen before?
- Does the United Nations have the capacity to deal with these new demands or do we need a new institution?
- Can the problem be addressed by a single global institution or do we need an open network of bilateral and multilateral agreements and bodies that can address the economic, environmental, security and other challenges of climate change?
- How climate change will force us to develop fair and responsible international representation which could translate into more accountable and fair national practices?

*Shift of energy related wealth can change the negative impact of oil on democracy*

There are numerous studies and much anecdotal evidence about the negative effect of oil on democracy. Simply speaking the general

correlation is “more oil, less democracy”. The reasons behind this correlation are complex but to a large extent they are linked to the way governments collect revenue. In oil rich countries the revenue collection bypasses the citizens so governments have substantial income without personal taxation which breaks one of the most reliable links for government accountability. Analysts call these types of states “rentier states” since the majority of their income comes from external rents. Some analysts also place countries that are heavily dependent on foreign aid in this category.

Chad is one of the many examples of what commentators like to call the “oil curse”. In 2000 the Chad government persuaded the World Bank to support a \$4.2 billion pipeline which made it possible for Chad to develop its oil industry. The agreement was based on a commitment for most of the oil revenue to be spent on national development projects. In fact most of the oil revenue went to support the incumbent regime. Chad’s military spending rose from \$14 million to \$315 million in less than one decade. The effect on poverty has been negligible and on democratisation – negative.

Should the World Bank support oil projects? Should international financial institutions support carbon fuel development in poor countries? Many campaigners suggest that they should not. Usually campaigners’ arguments are environmental or related to carbon emissions. Extracting industries destroy natural habitat and lock economies into a carbon intensive development path. The counterargument is that “poor countries need independent sources of revenue”. However in many cases the exploitation of oil and mineral wealth underpins the deterioration of democracy, leads to increased poverty and to the strengthening of military regimes.

Should the World Bank, and the developed world in general, not reconsider their approach to supporting energy projects in poor countries? Should the developed world not instead support renewable energy projects leading to high levels of income decentralisation which would destabilise the phenomenon of “rentier states”? This argument is closely linked with the climate adaptation and mitigation efforts of the international community. The good news is that the democratisation aspiration of the developed countries might fully

coincide with the need for greater investment in climate mitigation measures – reducing carbon fuel use and increasing renewable energy sources.

If we move beyond the oil and mineral rich exporters we can see also another phenomenon –foreign aid dependency, which is fertile ground for corruption on a grand scale. Here again part of the reason can be found in the lack of fiscal relationship between government and citizens and the attitude of autocratic and corrupt government is that “this is not your money anyway”. Similar phenomena could be detected in some countries with centralised energy generation assets (coal and nuclear power plants) which create opportunities for corruption.

Green energy has economic characteristics substantially different from oil and other centralised large-scale energy resources. As a number of studies supported by the European Climate Foundation show,<sup>31</sup> green energy has a positive impact on job creation, often linked with improvement of housing standards. Renewable energy has also a strong entrepreneurial and decentralising capacity. Recently the consultancy firm Boston Consulting Group published a study entitled: “Toward a Distributed-Power World: Renewables and Smart Grids Will Reshape the Energy Sector”.<sup>32</sup> Distributed power is a model in which a large number of different power sources, which could mean virtually every house, are connected into a network in which consumers are also producers. There is even a new word for this phenomenon “prosumer”.

This phenomenon is by no mean restricted to developed and technologically advanced countries. As the slogan of Solar Aid,<sup>33</sup> a charity that supports the establishment of small solar energy enterprises in poor communities in Africa and Latin America, appeals “Fight poverty with enterprise”. Solar Aid demonstrates how renewable energy can not only provide electricity to poor communities not connected to the grid but it can also provide highly decentralised entrepreneurial

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31. [www.europeanclimate.org/](http://www.europeanclimate.org/)

32. [www.bcg.com/documents/file51254.pdf](http://www.bcg.com/documents/file51254.pdf)

33. [www.solar-aid.org/](http://www.solar-aid.org/)

opportunities and free economic development from central energy dependency.

Discussion points:

- How will governments, international organisations and business react to the decentralisation and democratisation opportunities that renewable energy is rapidly bringing into our world?
- Will they channel some of the international climate funds into entrepreneurship in developing countries in a way that will develop democratic capacity?
- How can the new opportunities be protected from the government and business powers that might lose influence over their citizens and consumers?

*Conclusion*

The future of democracy is closely linked with the future of our climate. We should research and debate in depth and detail this relationship in order to develop adequate democratic and global institutional solutions. At least three notions should be discussed further:

- extreme environmental events which can have strong negative impact on democratic governance;
- the fact that we need new types of efficient, reliable and credible democratic international institutions that can address the risks of increased frequency and magnitude of extreme weather events;
- the fact that measures to mitigate climate change can have a double democratisation effect – first by reducing the risk of extreme weather events and, second, by promoting entrepreneurial decentralisation of energy generation.

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**Issue paper, Working Session 3B**  
**Democratic Political Culture: Democracy's Oxygen**

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*Can we change the culture of representation?*

Europeans are disenchanted with their political representation. They are not alone in this: all over the world, with very few exceptions, voters answer in surveys that politicians are not representative for those who elected them and do not govern for the benefit of all. In comparison to the 2007 results, a 2009 Eurobarometer showed that a significantly higher number of respondents believe that “corruption is a problem for all levels of government.” In the most troubling cases, at least nine out of ten respondents believe corruption to be a major national problem.<sup>34</sup>

Political trust in parties in the European Union, although it varies greatly across countries, has reached a historical low: on average, less than a quarter of Europeans trust the parties who fill their representative offices. Membership in parties is extremely low in new democracies (1.6 percent of Estonian adults are party members, as compared to 6.6 percent in Denmark).

Political parties have been widely regarded as the backbone of democracy, performing such vital functions as presenting candidates for office, representing various social groups, aggregating interests, and integrating citizens into the political process. Yet parties appear to be underperforming, tempting one to venture that their shortcomings pose a major danger to today's brave new democratic world. Are these problems merely “growing pains<sup>35</sup>”? The evidence suggests that not only new democracies are subject to this trend. The world reads in stupor the list of expenses of United Kingdom MPs in Westminster,

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34. Greece, Bulgaria, Hungary, Malta, Cyprus, Slovenia, Portugal and Romania.

35. *Confronting the Weakest Link. Aiding Political Parties in New Democracies.* By Thomas Carothers. Washington, DC: Carnegie Endowment for International Peace, 2006.

this reference of democracy. Neither could any student of Maurice Duverger have predicted the rise of a party like Nicholas Sarkozy's Union for a Presidential Majority in France.

In the global corruption perception survey organised by Gallup for Transparency International, the key institutions of democracy, political parties and legislatures, have been on top for the last editions as the most corrupt organisations in national political systems. While this might be a misperception, it is more likely true. Since 1972, the number of (nominal) democracies in the world has increased from about 40 to well over 100. However, many of them have since become a "defective" mode: fewer than 20 of them are *en route* to becoming successful, well-functioning democracies based on the rule of law. Many of the new democracies do no longer fight external enemies, domestic dictators or armed rebels: rather systemic corruption seems to have turned into their permanent defect, and its main vehicle is the political party. The competition to represent the people looks increasingly more like a competition for state capture by interest groups.

The issues arising from this brief presentation of the problem are as follows:

- we need to understand this crisis of representation;
- we need to understand the spontaneous responses to it, either democratic or non-democratic;
- we need to ask ourselves what room is there for the intervention of international actors who promote democracy.

Why are new democracies subverted by poor governance and do classic political parties have the capacity to redress the situation? Surveys such as Gallup "Voice of the People" 2006, the ISSP 2008 ("Attitudes towards the Role of Government"<sup>36</sup>) show that the public in more recent European democracies (and other recent democracies around the world) perceive politicians and democratic institutions (such as legislatures, political parties, and courts) as more corrupt and untrustworthy than bureaucracies and the administration.

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36. GALLUP International (2006), *Voice of the People*, Retrieved from the World Wide Web 1 April 2010, <http://www.gallup-international.com/>; Becher, I., Quandt, M. (2009). *Attitudes towards the Role of Government*, Gesis, Arbeitsberichte nr.

The reason for this is the behavior of parties in democracies of the third and fourth wave, which do not promote a modern administration based on ethical universalism, but one based on particularism, where as a rule certain interest groups or client networks get a disproportionate share of public goods and parties compete primarily for state exploitation. Under particularism, a culture of privilege reigns: you need to know who people are (their status) to know what they would get. Those who bribe do it usually to circumvent this discrimination and lack of access. The public resources up for grabs include public sector jobs; public spending; preferential concessions and privatisations of state property; and market advantages in the form of preferential regulation.

Political parties in new democracies, but also in some older ones, seem to achieve party capacity and mobilisation primarily through clientelism and state exploitation,<sup>37</sup> similar to medieval armies that raised their pay from plunder. Political alternation to government thus becomes an alternation between particular groups, not specific ideologies, tending to leave those people not included in client networks permanently excluded. These people then become alienated from politics and turn against the system.

It is this systematic deviation from the norm of ethical universalism as basis for public distribution which feeds the political distrust and the widespread perception of systemic corruption. Fewer than 15 percent of Europeans have come into contact with bribes or bribing directly according to the Eurobarometer, so this could not justify in itself the generalised impression of unfairness and corruption of the political system stemming from surveys. The problem is that political parties are seen as the key actors of this, and many people believe that corrupt practices span across political boundaries both at the local and national levels, increasingly becoming institutionalised.

What can parties themselves do to stem the tide? Reform themselves, or reform the political system. But why should they do it, as they are

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37. See O'Dwyer, Conor (2006) *Runaway State-Building: Patronage Politics and Democratic Development*, Baltimore, Johns Hopkins University Press; Grzymała-Busse, AM (2007) *Rebuilding Leviathan: party competition and state exploitation in post-communist democracies*, Cambridge University Press, Cambridge, New York.

the main beneficiaries of the system? Economic crises seem to offer an opportunity for change. In Italy, for example, it was only when the judicial campaign against corruption combined with a deep budgetary crisis, which dried the spoils for political clients, did the whole cartel of old parties collapse.<sup>38</sup> The crisis was provoked by the EU's request to cut Italy's budget deficit in order to join the euro – so it was in effect a bonus of EU integration. But in another famous EU example, Greece, the state went bankrupt before the political system did.

Contemporary populists perceive and often take advantage of this profound crisis of representative democracy caused by elites which are neither representative, nor responsive to the people. It seems increasingly that the populist view of the establishment as the political “other” is not merely an opportunistic electoral strategy, but part of a wider ideologically founded critique. Populism might play a positive role in a democracy by mobilizing alienated voters and raising interest in politics, as well as putting political accountability on top of the political agenda. On the downside, populism can easily be irresponsible, blaming traditional parties, foreigners or “Brussels” for problems without offering any realistic alternatives. Also, the political socialisation that some populist parties provide risks not being democratic.

The circumstances which causes populist movements to turn benign or malign need still to be studied carefully. But what emerges increasingly is that domestic political accountability problems rather than pan-European ones explain the success of populist movements and politicians across Europe. With a few exceptions, populism is fed less by a European democratic deficit than by multiple domestic ones, by national politicians more than by EU technocrats.

The rise of strong political non-party actors, such as religious political movements or civil-society alliances that play decisive roles in elections, should also be studied with an open mind. The general assumption is that non-party actors will at some point turn into classical parties. But what if they do not?

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38. Guzzini, S. (1995), “The ‘Long Night of the First Republic’: years of clientelistic implosion in Italy”, In *Review of International Political Economy*, Vol. 2, No. 1, pp. 27- 61

The second alternative to classic political representation is civil society. In the steps of classic literature, we find at least two distinct approaches discussed in relation to governance and civil society:

- a neo-tocquevillian *social capital* idea, which presumes civil society works indirectly for better representation by creating an associative texture of society, thereby fostering collective action based on horizontal ties and social trust;<sup>39</sup>
- a *social accountability* idea which stresses civil society's direct role in citizen empowerment, and the oversight component of government accountability in the context of growing disillusionment among citizens, with governments perceived as unresponsive, abusive and corrupt.<sup>40</sup>

Social capital and social accountability mechanisms can in fact be seen as intertwined and complementary rather than competitive approaches, as accountability building needs both the general capacity for autonomous collective action by members of a society (sustained through non-political associations) and political engagement. The latter is barely sustainable in democratic societies without the former. Isolated groups demanding government accountability in an otherwise submissive, indifferent or fragmented society cannot be effective. On the other hand, associations and a capacity for collective action which does not translate into demands for good governance are also difficult to imagine: we find no example in World Values Survey of a country where voluntary civic participation is high and governance is poor.

For social accountability to work and civil society to be an effective actor, four elements need to coincide in a given society:

- a prevailing norm of honesty and integrity in a given society, civic capital;<sup>41</sup>

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39. Putnam, R. D. (1993), *Making Democracy Work: Civic Traditions in Modern Italy*, Princeton, Princeton University Press.

40. Malena C, Forster R, Singh J (2004) *Social accountability: An introduction to the concept and emerging practice*, World Bank, Social Development Paper, No. 76.

41. Rose-Ackerman, S, Kornai, J. (Eds.) (2004) *Building a Trustworthy State in Post Socialist Transition*, New York, Palgrave/Macmillan.

- a customary practice of engaging in formal or informal collective action around shared interests, purposes and values, social capital;<sup>42</sup>
- a network of voluntary associations (among which NGOs), civil society;
- a sustained participation and political engagement on behalf of civil society, civic culture<sup>43</sup>

These four indispensable characteristics are not easy to “build” by external actors, though empowerment strategies do exist. However, doubts have recently followed the remarkable enthusiasm about civil society from the nineties. Why should civil society groups be seen as something other than mere groups of interests themselves? And even when their altruism is beyond doubt, should they complement or supplant the political parties? Are they an alternative to radical populism or rather by their rhetoric do they contribute to its rise?

After all, political parties are by their definition partisan and catering to specific interests. Is equilibrium not reached by the balancing of such different interests? What is the threshold after which representing specific interests becomes illegitimate? Does the answer indeed lie in the area of appropriation of the state by interested groups in order to generate rents in the private interest? How can government impartiality and state autonomy be ensured towards such groups?

What designs can we conceive to harness popular discontent, turning alienated voters not into saboteurs of the political system, but into monitors of governance and auditors of public services? What incentives could be offered to traditional parties to engage in reforms to make them more accountable and transparent? How can new populist parties be engaged to promote democratic policies once in government? Can we conceive of the possibility of a democratic world where parties fall beyond redemption, and where representation is taken over by other entities, and what might these look like?

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42. Fukuyama, F. (1995), *Trust: Social Virtues and the Creation of Prosperity*, NY, Free Press.

43. Almond, G., Verba, S. (1963), *The Civic Culture*, Boston, Little, Brown and Company.

## **Summary and recommendations, Working Sessions 3A and 3B**

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### *Introduction*

Working Session 3A on “Sustainable Communities for a Living Democracy” and 3B on “Democratic Political Culture: Democracy’s Oxygen” both discussed “Live Democracy” by considering the current threats to, and opportunities for, democracy in the Council of Europe region.

This summary of the discussions first reviews the threats and then looks at the solutions proposed by experts and members of the audience. It ends by suggesting how the Council of Europe can rise to meet the challenges and bring its unique standing as the leading human rights institution in the region to bear in new and innovative ways, thereby contributing to the construction of a 21st century model of democracy.

### *Identifying the threats to democracy*

During the two working sessions, the identified threats to democratic and open societies included the financial crisis, climate change and corruption as well as security threats, including the threat of terrorism.

With all of these threats, there is a risk of short term, autocratic solutions being imposed top-down from the national or supranational level. The urgent need to respond to these challenges may result in political actions which address the symptoms rather than the causes of the problems, and which at the same time threaten to curb key democratic rights such as freedom of assembly, expression, movement and privacy.

Exclusion of the public from decision-making processes which are not transparent and are unaccountable can produce radicalisation – this is true whether talking about global responses to the financial crisis or local failures to respond to extreme weather events such as fires or floods.



If the challenges of our time are not adequately addressed and people feel they are living in conditions of instability and insecurity, then populist or anti-democratic political leaders offering simplistic solutions will step into the breach.

The threat posed by populist politicians with agendas that do not uphold human rights is now present in even the more established democracies of the Council of Europe region. An example is the effects of the financial crisis and the rising acceptance of intolerant attitudes towards, and treatment of, immigrants that is accompanying it.

A particular threat in the Council of Europe region is that many states are still young or emerging democracies and are struggling with widespread corruption. Speakers noted that the evidence suggests that corruption is almost inevitable in the move from authoritarian to democratic systems, accompanied as they are by rapid transfers of wealth and the opportunities created by shifts in power structures. Corruption is both a symptom and a cause of bad governance, and it brings with it the risk of backsliding to authoritarianism, particularly where there has not been time to consolidate democratic culture.

All the above challenges to democracy are on the rise in a context where many, or even most, countries experience a gap between good legislation and actual practice. It has taken time to construct the legal frameworks of the new democracies, and there is still work to be done to ensure that proper implementation leads to states with genuine rule of law.

There is also concern that the political elites are not yet representative in many countries. The reasons for this vary, including the nature of the party and electoral structures, as well as the short-sightedness inherent in political systems linked to typical election cycles which only encourage planning within a four- or five-year timeframe. Another concern expressed was that access to education in many countries limits those in a position to enter public life, and that this in turn can result in elites which are particularly susceptible to lobbying by powerful interests.

Even where there is political will to find appropriate solutions, sometimes centralised approaches do not work. For example, the nature of the climate change problem is such that it requires behavioural change at many levels of society rather than a simple top-down approach. All actors in society need to be mobilised to achieve these behavioural changes.

Last but not least among the challenges is that new communications technologies mean that the public is better informed than ever about what is happening in the world and better able to keep track of the behaviour of their leaders. Increasingly, concerned, informed, and empowered citizens are demanding the right to engage in decision-making processes. Denying the public the right to participate in the global debate can have negative consequences: the pre-emptive arrests of demonstrators during the Copenhagen Climate Summit (subsequently ruled illegal by a Danish court) is indicative of the breaches of trust that can open up between elites and the broader public if new ways of engaging citizens are not implemented immediately.

During the Working Sessions, the assertion that in a representative democracy civil society does not benefit from the requisite legitimacy to engage in the debates about how societies should be run, but that the decisions should be left to elected representatives, was robustly contested. There was a broad consensus that a modern democratic model includes public participation and to suggest otherwise risks alienating those segments of society which may be able to contribute the very ideas and solutions which hold the threats to democracy at bay.

#### *New models for live democracy*

In spite of the apparent enormity of these challenges and threats to Europe's fragile democratic order, the majority of the panelists retained high levels of optimism that there are many solutions to hand.

Many of the panelists noted that, on the positive side, these threats create opportunities because they motivate people to find new ways to engage; voter turnout may be down but there is a rise in use of the internet to organise. Local, informal citizen associations are increasingly engaging in debate about national and global issues. In the

financial crisis, civil society is not always well-funded, but grass-roots activity is vibrant across Europe, countering the allegations of apathy that is often levelled at the general public.

Examples of how this works in practice included the organisation of a countrywide rubbish collection campaign in Estonia coordinated via a website (myEstonia) which resulted in 15,000 people taking part in a one-day action to collect rubbish around the country. This in turn led to constructive discussions about the future of the country. Similarly a well organised referendum with pre-awareness campaigns resulted in a positive outcome and broad public ownership of proposals to pedestrianise the city centre in Stockholm, Sweden. Other examples of engagement include Facebook groups challenging corrupt local officials to be transparent.

Many of the examples cited offer more local solutions, which tend to be better suited to direct engagement. It was noted, however, that participation initiatives need to be tailored to the scale and nature of the issue. Regulating the skies may not be the most appropriate issue for ongoing participation in decision-making, although of course there could be participation in developing the broad policy framework.

In this vein, it was suggested that an appropriate equilibrium needs to be found between the nature of the issue and how decentralised the decision-making should be. If a problem, such as treatment of a minority group, affects a particular local community, it might be that it is best addressed within that community.

Other examples showed that local engagement can function at a transnational level. For example, the Federated States of Micronesia, an island group in the North Pacific Ocean, managed to influence the development of a coal-fired power station in the Czech Republic arguing that climate change threatened its existence. This case also illustrates how centralised dialogue through traditional international forums such as the United Nations may not offer the best structure to facilitate this kind of interaction.

Hence the emergence of the concept of the “distributed dialogue” which engages local entities – such as sports and social clubs – in debate on global issues such as climate change. It was noted that

initiatives such as the construction of alternative energy sources at the local level is an effective way of empowering local communities both politically and financially.

For such approaches to be successful, local and regional elected representatives need to be open to incorporating public input into their decision-making processes. This does not mean replacing existing institutions, but rather expanding them to accommodate public engagement. If managed well – and there is undoubtedly a significant public administration challenge here – the result could be a bolstering of existing democratic structures with national and regional political systems which better respect and uphold the rights of all members of society. These changes would affect democratic institutions at the local, national, and global levels.

There was a broad consensus that a 21<sup>st</sup> century definition of democracy includes both representative and participatory democracy, probably with some measure of direct democracy. It was also stressed that new ways of engaging do not *per se* negate the role of traditional political parties. The demand for change does however reflect public disillusion with political elites and means that there is a lot of pressure to find a response which addresses this disillusion. There is a need to improve the systems of checks and balances and greater accountability inevitably means shifts in who holds power. Both standard-setting and coherent proposals are needed for how such change can be structured and managed, including by standard-setting.

This is therefore an appropriate moment for the Council of Europe to respond and to take a leadership role. This should be done in ways that are tailored to the nature of current challenges and opportunities. This implies an approach different from the role the Council of Europe played in the democratic transitions of the 1990s, or its role before 1989, and it has to adapt to this if it is to be a relevant player in the future of democracy.

Pulling together the different strands emerging from the rich and constructive discussions which took place in the Working Sessions, it is possible to identify a number of proposals or recommendations that the Council of Europe could implement. As much as proposals

about what the Council of Europe should *do*, they are proposals about what Europe's human rights and democracy body should *be* during the coming period.

*Recommendations for the Council of Europe*

The Council of Europe should:

- *be consistent*: the Organisation has a well-developed body of standards, many of which promote enhanced democratic processes but are not yet fully implemented in all member states. Some of these standards are implemented in the new democracies in ways that are more innovative and inclusive than in Europe's older democracies. To address disillusion with the democratic process, it is essential to take steps to iron out any double-standards. The Council of Europe should continue to promote these standards and to monitor compliance equally across all member states.
- *be firm*: the Intergovernmental Organisation has power, even if this is only "soft" power, indeed this is the era of soft power! The Council of Europe should continue to ensure that it does not refrain from using the influence that it has when engaging in debates about human rights and democracy around Europe. It should ensure that its voice is heard, loudly and clearly.
- *be informed*: an increased investment in gathering data from a wider variety of sources, including those which lie outside the traditional monitoring mechanisms, should be a priority. An example given was gathering the data necessary to measure compliance with the Code of Good Practice in the field of Political Parties. Being informed also means disseminating more information more widely in order to "crowd source" data collection from the public about the state of democracy and how the Council of Europe standards are being implemented in its member states.
- *be nuanced*: Complex challenges require sophisticated and multi-faceted solutions. The Council of Europe can set up processes to achieve this. The Council of Europe has its own multi-faceted structure that includes a range of intergovernmental committees, the Congress of Local and Regional Authorities, the Parliamentary

Assembly and the Venice Commission. As such, it is well placed to engage a wide range of actors in debating and developing complex solutions.

- *be open*: the Organisation needs to open up to a wider range of actors, including new civil structures such as those where citizens are organising via the internet around particular issues. The current accreditation processes for civil society groups to participate in discussions in Strasbourg are limited and out of date; they result in a narrow elite of well-established NGOs having a disproportionate voice. There is an urgent need to establish modern mechanisms for public participation, such as consultations which do not require travel to Strasbourg and which harness communication technologies to best advantage. The existing comprehensive website could be enhanced by making it more interactive and using it to launch a number of public consultations. Such reforms will need to be widely promoted across Europe to ensure that civil society, including at the grass roots level, is informed of the opportunities for participation.
- *be a model*: the Organisation itself should be a model of internal democracy, transparency and accountability. There are a number of steps that can be taken in this direction. For example, the Council of Europe should adopt the same access to information rules (as reflected in the 2009 Convention on Access to Official Documents) that it promotes in its member states. Similarly, the decision-making processes of the Council of Europe need to be responsive to input from parliamentarians (as represented through the Parliamentary Assembly) and civil society: when legitimate concerns are raised about the measures that are being taken or the standards that are being proposed, these concerns should trigger additional considerations and debate around the standards. Greater openness and the readiness of the Council of Europe to be accountable to a wider European public will help generate the political will to make this possible.
- *be a forum* for ongoing transversal dialogue, exchange of best practices, and agenda setting. Being a forum for the future of democracy is about far more than just organising events. It is

*Working Sessions*

about becoming a centre of excellence for the horizontal exchange of views, elaboration of indicators, sharing of good practices, and genuine participatory debate. In this way the Council of Europe can take a leadership role in defining the democratic solutions to 21st Century challenges.





## APPENDIX

### **Perspectives 2020: Democracy in Europe – Principles and Challenges Yerevan, Armenia, 19-21 October 2010**

#### **Programme**

##### *Background*

The Council of Europe's Forum for the Future of Democracy was established in 2005 by the Warsaw Summit of Council of Europe Heads of State and Government as a multi-partner process aiming to strengthen democracy, political freedoms and citizens' participation in member states.<sup>44</sup>

Basing itself on common principles deriving from the European Convention on Human Rights and other Council of Europe *acquis* in the field of democracy, the Forum anticipates global and European trends and examines the performance of democratic institutions, processes and practices in Europe as they respond to contemporary challenges in a rapidly changing environment.

By involving governments, parliaments, local and regional authorities and civil society, the Forum provides an inclusive framework within which innovative ideas and thinking on democratic governance are shaped and debated within a broad and cross-cutting approach. The Forum's outcomes contribute to the formulation of priorities and policies at both national and European levels, thereby contributing to the enhancement of the Council of Europe's democracy pillar.

The first five annual sessions of the Forum were held in different European capital cities and considered the achievements and challenges of key aspects of democracy

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44. At the Warsaw Summit, the Heads of State and Government of the Council of Europe decided "to establish, within the existing structures of the Organisation as a whole, a Council of Europe Forum for the Future of Democracy to strengthen democracy, political freedoms and citizens' participation, keeping in mind, inter alia, the conclusions of the Barcelona Conference from 17 to 19 November 2004. It shall be open to all member states and civil society, represented by policy makers, officials, practitioners or academics. It shall enable the exchange of ideas, information and examples of best practices, as well as discussions on possible future action. The Forum will act in close co-operation with the Venice Commission and other relevant Council of Europe bodies with a view to enhancing, through its reflection and proposals, the Organisation's work in the field of democracy."

### *Democracy in Europe – Principles and Challenges*

in Europe: civil participation, the role of political parties, the interdependence of democracy and Human Rights, e-democracy, and electoral systems.

Building upon these first five years, the Yerevan Forum is expected to provide orientation on how the Council of Europe could support the improvement of good democratic governance in its member states. This would include:

- an indicative list of strategic tools based on the existing *acquis* on democratic principles as a basis and structuring element for further work by the Forum over the next few years;
- a roadmap for the next phase of the Forum process, including proposals for issues, in particular transversal ones, that may be addressed in intermediary thematic events. These would provide input to the next Forum plenary session.

The Forum might, in a perspective beyond 2010, focus on shaping democracy within an evolving context of democratic governance, based on a set of pointers deriving from the common principles on democracy. Such pointers would make it possible to better compare and analyse key challenges facing political actors and societies by sectoral and, increasingly, cross-sectoral approaches, thus facilitating the formulation of innovative solutions at both the national and European levels.

**Day 1 – Tuesday 19 October**

- 12 noon                    **Registration**
- 2 p.m.                      **Opening of the Forum for the Future of Democracy 2010**  
**Mr Edward Nalbandian**, Minister for Foreign Affairs of Armenia  
**Mr Zoran Petrov**, Deputy Minister for Foreign Affairs, “the former Yugoslav Republic of Macedonia”, representing the Chair of the Committee of Ministers  
**Lord Prescott**, Vice-President of the Parliamentary Assembly of the Council of Europe, on behalf of the President of the Parliamentary Assembly  
**Mr Vuk Jeremić**, Minister for Foreign Affairs, Serbia
- 2.45 p.m.  
Chair:                      **Keynote speech**  
**Mr Ian Micallef**, President a.i. of the Congress of Local and Regional Authorities  
**Mr Adam Michnik**, Editor in Chief, Gazeta Wyborcza, Poland
- 3.30 p.m.                    **Introductory panel debate**  
“The main trends in, and threats to, democratic governance”  
Moderator: **Mr Christian Makarian**, co-managing editor, *L’Express*, France  
**Ms Kim Campbell**, Former Prime Minister of Canada  
**Mr Thomas Hammarberg**, Council of Europe Commissioner for Human Rights (*video-message*)  
**Ambassador Maria Leissner**, Swedish Ambassador for Democracy  
**Lord Prescott**, Former Deputy Prime Minister of the United Kingdom  
**Mr Roland Rich**, Executive Head, United Nations Democracy Fund
- 5 p.m.-5.45 p.m.        **Democracy Fair**  
inaugurated by **Mr Jean-Marie Heydt**, President of the Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe
- 6.30 p.m.                    **Welcome reception (Marriott Hotel) hosted by Mr Edward Nalbandian**, Minister for Foreign Affairs of Armenia

## **Day 2 – Wednesday 20 October**

9.30 a.m.-12.30 p.m. **First set of parallel working sessions**

12.30 p.m. -2 p.m. ***Buffet lunch and Democracy Fair***

and a thematic presentation on “Applying the Code of Good Practice on Civil Participation in the Decision-making Process” at 1.30 p.m.

2 p.m.-5 p.m. **Second set of parallel working sessions**

5 p.m.-5.30 p.m. ***Democracy Fair***

## **Day 3 – Thursday 21 October**

10 a.m. ***Round table discussion of the workshop findings with the three***

Working Session discussants

Moderator: **Mr Davit Harutyunyan**, Chair of the Armenian delegation to the Parliamentary Assembly of the Council of Europe

General Rapporteur of the Forum

*Discussant for theme 1:*

**Mr Yuri Dzhibladze**, President of the Center for the Development of Democracy and Human Rights, Russian Federation

*Discussant for theme 2:*

**Mr Pavol Demes**, Senior Transatlantic Fellow of the German Marshall Fund of the United States, Slovak Republic

*Discussant for theme 3:*

**Ms Helen Darbishire**, Executive Director, Access Info Europe, Spain

11.20 a.m. **Mr Gianni Buquicchio**, President of the Venice Commission

11.30 a.m. *Coffee break*

12.00 a.m. ***Closing session of the Forum***

(followed by a press conference)

**Mr Thorbjørn Jagland**, Secretary General of the Council of Europe

**Mr Edward Nalbandian**, Minister for Foreign Affairs of Armenia

**Theme 1: Law and Democracy**

**Parallel working session 1A**

**Wednesday 20 October 9.30 a.m.-12.30 p.m.**

**The impact of European law and case-law  
on shaping democracy**

At the judicial level, the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights have set important benchmarks for the working methods and legitimacy of those exercising responsibility in democratic governance and taking political decisions.

At the legal level, the Venice Commission has contributed to ensuring that democratic processes abide by fundamental legal principles by providing impartial advice to states which are drafting or revising constitutions or implementing legislation.

\* \* \*

What has been the impact of the case law of the Convention system and the Court on fostering democratic governance in national legal systems and how have they contributed to strengthening democracy in member states?

How have the opinions and studies of the Venice Commission been instrumental in strengthening democratic functioning of member state institutions and to what extent have they influenced established practices?

What role could the institutions and their jurisprudence play to ensure that democracy and its practices evolve in line with shifting paradigms?

*Moderator:* **Ms Lina Papadopoulou**, Assistant Professor for Constitutional Law, University of Thessaloniki, Greece and Collaborator of the European Public Law Association (EPLA)

*Author of the Issue paper for Workshop 1A:*

**Ms Başak Çali**, Lecturer in Human Rights, University College London, United Kingdom and **Ms Anne Koch**, Senior researcher, Hertie School of Governance, Germany

*Discussant for theme 1:*

**Mr Yuri Dzhibladze**, President of the Center for the Development of Democracy and Human Rights, Russian Federation

*Speakers:* **Mr Jan Borgen**, Deputy Secretary General, International Commission of Jurists, Switzerland

**Mr Krzysztof Drzewicki**, Adviser to Ministry of Foreign Affairs of Poland and Chair of International Law, University of Gdansk

**Theme 1: Law and Democracy**

**Parallel working session 1B  
Wednesday 20 October 2.00 p.m.-5.00 p.m.**

**Should there be a “right to democracy”?**

With a view to strengthening deep security the Council of Europe and other international bodies have produced a wide array of conventions and charters over the past sixty years that impact directly on the mode of governance within its member states. International legal and academic literature suggests that this would amount to a “right to democracy”.

\* \* \*

Do the *acquis* of the Council of Europe distill into a right to democracy?

Would the “democracy pillar” of the Council of Europe be strengthened by enshrining such a right, as is the case for the 1990 Copenhagen Document of the OSCE, the Inter-American Democratic Charter and the African Charter on Democracy, Elections and Governance?

*Moderator:* **Ms Lucig Danielian**, Dean of the School of Political Science and International Affairs, American University of Armenia

*Author of the Issue paper for Workshop 1B:*

**Mr Peter Ashman**, Human Rights and Democracy advisor, United Kingdom

*Discussant for theme 1:*

**Mr Yuri Dzhibladze**, President of the Center for the Development of Democracy and Human Rights, Russian Federation

*Speakers:* **Mr Andreas Gross**, member of the Swiss delegation to the Parliamentary Assembly of the Council of Europe

**Ambassador Istvan Gyarmati**, President and CEO, Centre for Democratic Transition, Hungary

**Mr Marcin Walecki**, Chief of Democratic Governance Unit, Office for Democratic Institutions and Human Rights, OSCE, Poland

**Theme 2: Institutions and Democratic Governance**

**Parallel working session 2A**

**Wednesday 20 October 9.30 a.m.-12.30 p.m.**

**Democracy and Representation**

Throughout Europe there is widespread public discontent and disappointment with political parties and traditional forms of representation and it may be argued that the traditional democratic institutions no longer adequately meet the needs of the citizens.

This challenge is encouraging both governments and civil society to explore innovative and more inclusive forms of dialogue, responsiveness, and representativity in order to reinforce participation. At the same time, new forms of organisation and communication require thorough analysis to ensure their legitimacy and their capacity to really strengthen democratic governance.

\* \* \*

Will representative democracy continue to exist in the future? In what form?

What alternative forms of democratic governance (for example direct or participatory) can be discerned as providing viable alternatives for the future?

What role can and should the Council of Europe play to ensure that its core norms and values are respected in these new models?

*Moderator:* **Mr Nick Thorpe**, journalist and political analyst, United Kingdom  
*Author of the Issue paper for Workshop 2A:*

**Mr Alexander Trechsel**, Professor of Political Science, European University Institute, Florence, Italy

*Discussant for theme 2:*

**Mr Pavol Demes**, Senior Transatlantic Fellow of the German Marshall Fund of the United States, Slovak Republic

*Speakers:* **Mr Chuck Hirt**, Central and Eastern European Citizens' Network, Council of Europe Conference of INGOs

**Mr Alexander Iskandaryan**, Director, Caucasus Institute, Armenia

**Mr Günther Krug**, Vice-President of the Congress and Head of the German Delegation to the Congress of Local and Regional Authorities

**Ms Sonja Licht**, President of the Foreign Policy Council, Director of the Belgrade Fund for Political Excellence, Serbia

**Mr Jiri Pehe**, Director, New York University in Prague, Czech Republic

**Theme 2: Institutions and Democratic Governance**

**Parallel working session 2B**

**Wednesday 20 October 2.00 p.m. -5.00 p.m.**

**Democracy and Global Governance**

The hastened pace of globalisation over the past twenty years and the increased complexities of multi-level governance mean that the roles of states, international institutions and civil society in decision-making processes need to evolve continuously.

Many aspects of citizens' daily lives are no longer within the remit of national governments or may be well beyond their control. This has serious repercussions on citizens' trust and on their participation in democratic institutions whose powers are effectively limited.

\* \* \*

What role should the Council of Europe and other stakeholders play in the ongoing debate on global governance and in creating a climate which encourages people to believe in and adhere to the principles of democratic governance?

What steps could be taken to ensure greater democratic performance of international institutions and to strengthen global deep security?

*Moderator and author of the Issue paper for Workshop 2B:*

**Mr Daniele Archibugi**, Professor, Italian National Research Council and Birkbeck College, University of London, United Kingdom

*Discussant for theme 2:*

**Mr Pavol Demes**, Senior Transatlantic Fellow of the German Marshall Fund of the United States, Slovak Republic

*Speakers:* **Mr Bob Bonwitt**, Head of Sigma Programme, joint initiative of the Organisation for Economic Development and Cooperation (OECD) and the European Union

**Ms Sabine Donner**, Senior Project Manager Bertelsmann Stiftung, Germany

**Ms Avri Doria**, Chair of the Executive Committee of the Non Commercial Stakeholder Group (NCSG), ICANN

**Mr Anthony Dworkin**, Senior Policy Fellow, European Council on Foreign Relations, United Kingdom

**Ms Keboitse Machangana**, Head of Democracy Assessment and Analysis, International IDEA, Sweden



**Theme 3: Live Democracy**

**Parallel working session 3A**

**Wednesday 20 October 9.30 a.m.-12.30 p.m.**

**Sustainable Communities for a Living Democracy**

Environmental degradation and economic crises are posing new, urgent and unpredictable risks to traditional forms of democratic practices. Increasingly, citizens are seeking ways to set the agenda for economic and environmental change and to develop viable democratic practices which prioritise well-being over traditional notions of profit or material success.

As working session 2B examines the needs for strengthening global democratic governance, this session will concentrate on innovative bottom-up initiatives in response to the pressing global and local issues.

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What innovative forms of local democratic governance are emerging?

How can the Council of Europe better stimulate the evolution of innovative democratic practices?

*Moderator:* **Mr Andrey Ryabov**, Chief editor, Institute of World Economy and International Relations, Russian Federation

*Author of the Issue paper for Workshop 3A:*

**Mr Julian Popov**, Chair of the Bulgarian School of Political Studies

Discussant for theme 3:

**Ms Helen Darbshire**, Executive Director, Access Info Europe, Spain

*Speakers:* **Mr Edward Andersson**, Deputy Director, Involve, United Kingdom

**Mr Nils Ehlers**, The Initiative and Referendum Institute Europe (IRI Europe), Germany

**Mr Paul Widmer**, Permanent Representative of Switzerland to the Council of Europe

**Mr Emin Yeritsyan**, Head of the Armenian delegation and Vice-President of the Congress of Local and Regional Authorities

**Theme 3: Live Democracy**

**Parallel working session 3B**

**Wednesday 20 October 2.00 p.m.-5.00 p.m.**

**Democratic Political Culture: Democracy's Oxygen**

Democratic institutions and practices are only viable if they are imbued with a broadly shared democratic political culture. However, such a culture in Europe faces serious challenges from issues as diverse as the growing heterogeneity of European societies, corruption (including in the funding of political parties and electoral campaigns), populism, media manipulation, overplayed vested interests and political disaffection. The risks posed by a weakening democratic culture poses a direct threat to deep security.

Fortunately, there are fine examples and case studies in Europe and around the world of both bottom-up initiatives and top-down strategies to strengthen a democratic culture at all levels. These should be used to re-invigorate or even re-invent how democracy is experienced on a daily basis.

\* \* \*

Does the Council of Europe do enough to identify the threats as well as the new ways of building up, for example, community responsibility, intercultural dialogue, democratic education and civil participation?

*Moderator:* **Mr Tony Halpin**, Times newspaper Moscow Bureau Chief, Russian Federation

*Author of the Issue paper for Workshop 3B:*

**Ms Alina Mungiu-Pippidi**, Professor of Democracy Studies, Hertie School of Governance, Germany

*Discussant for theme 3:*

**Ms Helen Darbishire**, Executive Director, Access Info Europe, Spain

*Speakers:* **Ms Ligia Deca**, Head, Bologna Process Secretariat, Romania

**Mr Yves-Marie Doublet**, Scientific expert, Council of Europe's Group of States against Corruption (GRECO)

**Ms Muriel Marland-Militello**, member of the French delegation to the Parliamentary Assembly of the Council of Europe.

**Mr Miklos Marschall**, Regional Director for Europe and Central Asia, Transparency International, Germany

**Ms Gudrun Mosler-Törnström**, member of the Austrian delegation to the Congress of Local and Regional Authorities, Vice-President of the State Parliament of Salzburg.