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« EUROPE OF CITIZENS »
Parliaments and participation of citizens

**“HOW DEMOCRATIC ARE OUR DEMOCRACIES
AND
WHAT CAN WE DO TO MAKE THEM MORE DEMOCRATIC?”**

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Introduction: “*Democracy is the word for something that does not exist.*”

When Karl Popper wrote this, he answered our first question – namely, that the people (*demos*) cannot rule (*kratia*). The best that we can expect is some approximation to this condition and, therefore, the proper question becomes whether our “real-existing” democracies have moved closer or farther from such an intrinsically unreachable ideal. Let us call this “the quality of democracy” and focus on whether its recent evolution has sufficed to ensure the voluntary support and legitimate compliance of its citizens. For there is abundant evidence that the citizens of Europe – while they may not agree on its existent practices or even know what “it” really is – will not tolerate non-democracy. “*Mal governo*,” i.e. regimes that are not responsive to needs, that engage in corrupt practices, that defraud the electoral process, that restrict or manipulate basic freedoms and that refuse to be accountable to their citizens, no longer have a secure future in this part of the world. The major reason for this optimism is simple: the democratization of Europe’s “near abroad” and its subsequent incorporation within the region as a whole. With the success of these national efforts at regime change to its East, the region should become an enlarged zone of “perpetual peace” in which all of its polities can expect to resolve their inevitable differences of interest peacefully through negotiation and compromise. Moreover, there exists an elaborate Europe-wide network of trans-national institutions, inter-governmental and non-governmental, to help in the resolution of such conflicts and in the elaboration of norms to prevent their occurrence in the future.

Our guiding hypothesis has been that **the future quality of democracy in Europe lies less in fortifying and perpetuating existing formal institutions and informal practices than in changing them.** “Whatever form it takes, the democracy of our successors will not and cannot be the democracy of our predecessors” (Robert Dahl). In other words, in order to remain the same, i.e. to sustain its legitimacy, democracy as we know it will have to change and to change significantly – *pace de Lampedusa* – and this is likely to affect all of Europe’s multiple levels of aggregation and sites of decision-making.

Challenges & Opportunities:

There is nothing novel about democracies having to face challenges and opportunities coming from major changes in their external environment, although one could perhaps argue that the ones embedded in the present European context are exceptionally diverse and strong. Certainly, we are condemned to live in “interesting times” in which the velocity, scale and scope of change seem to be unprecedented and, most important, beyond the capacity to react of the traditional units that have heretofore dominated its political landscape. Most of today’s problems are either too small or too large for yesterday’s sovereign national states and, hence, within Europe there has been a vast amount of experimentation with devolution to smaller units and integration into larger ones. For the first time, knowing the level of aggregation at which reforms should take place has become almost as important as knowing the substance of the reforms themselves. The classic question: *Que faire?* has to be supplemented by *Où Faire?*

One generic issue dominates all speculation about the future quality of democracy – namely, **how well do its established formal institutions and informal practices “fit” with the much more rapidly changing social, economic, cultural and technological conditions that surround it and upon which democracy depends both materially and normatively?**

We have identified the following processes both as posing serious challenges and offering attractive opportunities to established institutions and processes and we presume that it will be reforms in response to them that will determine the outcome: Globalization; European

Integration; Inter-Cultural Migration and Co-habitation; Demographic Trends; Economic Performance; Technological Change; State Capacity; Individuation; “Mediatization;” and Collective and Personal Insecurity.

Subsequently, we have investigated the impact of these simultaneous processes of change upon the following types of actors and arrangements within European democracies: *Political Discontent* (Daniel Gaxie); *Cultural Identity and Protest* (Patrizia Nanz); *Citizen Interest and Capacity* (Andreas Gross); *Political Party Affiliation and Identification* (Andras Borzoki); *Associability and Civil Society* (Philippe Schmitter); ‘Governance’ and Guarding the ‘Guardians’ (Dario Castiglione); ‘Inter-level’ Accountability and Decentralization (Andreas Føllesdahl); and *Mechanisms for Citizen Consultation and Referendums* (Alexandre Trechsel)

Recommendations for Reform:

This has been the most challenging aspect of our work on the Green Paper. We discovered that European democracies – or, better, the politicians that run them – are aware of multiple, simultaneous challenges and opportunities and they have been attempting to respond to them. But we also realized that there were many potential reforms that have not yet been experimented with. Our task has been to compile a list of recommendations for specific institutional reforms to place before the members of the Council of Europe.

When doing so, we found it imperative to return to our starting point, i.e. “democracy is the word for something that has never existed.”

First, we recognized that promoting or protecting the quality of democracy will always be “unfinished business.” Successes in coping with particular challenges or seizing particular opportunities will only shift expectations toward new ones in the future. Citizens will focus their demands for equality on new sources of discrimination, for accountability to new relations of domination, for self-respect to new arenas of collective identity. All that we can realistically hope for is that the reform measures we advocate will move the polity in a positive direction – never that they will definitively fill “the democracy deficit.”

Second, we rejected the notion that there is one ideal type of democracy that all European countries should adopt at once or even converge toward gradually and, therefore, that it should be the task of the Council of Europe to identify and advocate a set of identical reforms that would do this. Each member state will have to find its “proper” way of coping with the unprecedented range of challenges and opportunities that face the region as a whole. They have a lot to learn from each other, and the Council can play an active role in fostering that process, but the points of departure are different as is the magnitude and mix of challenges and opportunities

Third, we have tried to propose reforms, hopefully for collective endorsement by the members of the Council of Europe, that would not be manifestly designed to benefit one party or political tendency (i.e. Left-Centre-Right) over another.

Fourth, we have attempted to take into consideration the problem of “agency,” i.e. what initial combination of political forces operating under the existing rules of the “liberal democratic” game might support and implement such a recommendation. Proposals were put forward only when there is some realistic prospect for both agency and diffusion.

Fifth, we recognize that the recommended reforms may not produce similar effects (intended/unintended, desired/undesired) at different levels of political aggregation, even within the same polity. Something that has a democracy-enhancing impact at the local level

could well have an autocratic impact if adopted nationwide. In general, the principle of subsidiarity should be applied: Where possible, initial experimentation should take place at the lowest level of aggregation and only once it has proven to have democracy-enhancing effects at that level should it be transposed to a higher level – and even then only very cautiously and gradually.

Sixth, we believe that the implementation of democratic reforms should be treated as political experiments, i.e. they should first be introduced into a small number of carefully chosen units, monitored closely for their co-lateral effects and extended to other units at the same or higher level of aggregation only once their positive and negative effects are known.

Seventh, we have been particularly interested in exploring and advocating reforms that could be adopted relatively quickly, i.e. without constitutional or treaty-like ratification, and those that could only be adopted through some much lengthier process.

Eighth, only those proposals for reform that generated a consensus among all or most of the members of the Working Group have been put forth in this Green Paper.

Our *Wünschliste* of Recommended Reforms

Following these strictures, we have come up with a list of over 25 reforms that we think are worth the consideration of the Council. We are still in the process of further specifying them and assigning priorities among them. For the purpose of this audience, I will select only seven that I believe would have the greatest direct impact upon the quality of parliamentary performance. Here they will only be mentioned briefly. In my talk, I will provide some further details.

1. **Shared Mandates:** Normal practice in all existing democracies is for citizens to choose a deputy to represent them – either from a party list or in a single member constituency. What if parties were required to nominate “pairs” of candidates for each position? One of the two would be the *primus inter pares*; the other would be his or her deputy. The first would receive a full salary; the second a half salary. Parties would be free to decide how these pairs should be balanced – by gender or by age or by religion or by social origin – but the voter would have to choose both of them together.
2. **Guardians to watch Guardians:** We propose that all guardian institutions – central banks, general staffs of the military, regulatory agencies, autonomous boards and managerial public commissions – be recognized as such and each be assigned a ‘guardian’ chosen by the parliamentary committee most relevant in its field of activity. This person would be a member of the permanent staff, paid for and responsible only to the parliament, and would have the same right to information and presence as a member of the directorate of the guardian institution. His or her primary responsibility would be to report regularly on the performance of the respective agency or board and to evaluate its compatibility with democratic principles – that is to say, a sort of permanent whistle-blower with privileged access to internal documents and discussions. This should serve to strengthen the general role of parliament within the usual system of inter-agency checks and balances.
3. **A ‘Yellow Card’ Provision for Legislatures:** Representative bodies at the municipal, local, regional and national levels should be granted the power to issue “yellow cards” – explicit early warning notices – when they judge that their rights or prerogatives are being infringed upon by drafts of prospective legislation coming from a higher or lower level body. This would allow them to question such infringements without taking the more formal (and lengthy and uncertain) step of appealing to a

higher court for a judgment on the matter after a decision has been made. Moreover, since in many cases the legal status of such actions are unclear, it would emphasize the strictly ‘political’ nature of many of these “inter-level” infringements. When given a ‘yellow card,’ the alleged offending body would have to suspend further action on its initiative until it had provided additional justifications for its action, including a formal declaration concerning subsidiarity, i.e. why its objectives could not be better accomplished at a lower level of aggregation.

4. **Incompatibility of Mandates:** The clarity of relations between levels of government – local, regional, national and supra-national – would be enhanced by prohibiting politicians from either simultaneously holding or even competing for (and subsequently renouncing) elected offices at more than one level. We are convinced that it is desirable to draw clear lines of competences, personal as well as institutional, between institutions of democratic representation. Citizens should be able to calculate before casting their vote exactly who will represent them in each specific legislative body and they should not have to rely on complex, multi-faceted chains of personal influence in order to accomplish their political purposes.
5. **A Citizens’ Assembly:** This Assembly would be composed of a randomly selected sample of the entire age-eligible citizenry, i.e. both registered and unregistered voters. Its number would be that of the present lower chamber of the legislature. The Citizens’ Assembly should be considered as a unique ‘committee of the whole’ empowered by the normally elected assembly to assist it with legislative review – in other words, it should be regarded as a measure to strengthen not weaken the legitimacy of the regular parliament. Its only task would be to decide whether to implement one or at the most two pieces of legislation referred to it by a requisite minority of parliamentary deputies
6. **Variable Thresholds for Election:** We discussed the currently fashionable proposal for democratic reform in the United States concerning “term limits” for elected representatives and concluded that they were not desirable. Contemporary politics requires professional expertise that can only be acquired over several terms. Otherwise, amateur and *pro tempore* representatives could be too easily manipulated by well-staffed and powerful interests. What might be appealing would be a system of moving thresholds. Incumbents after serving two terms would still be eligible for re-election but would have to win a higher proportion of votes in order to do so. For example, if in the last election he or she had won by 55%, in the next one the threshold would be raised by 2.5% to 57.5% -- and by an increasing margin for each successive one.
7. **An Agent for the Promotion of Democratic Reform within Europe:** The Council of Europe has established itself as the most significant agency for monitoring the practice of human rights in Europe and already plays a significant role in “certifying” the existence of democracy in those countries that have recently emerged from autocracy. Its Venice Commission has carved out a creative role in supplying disinterested legal and constitutional expertise to newly founded democracies in Eastern Europe and the former Soviet Union. We propose that the Council of Europe should extend its role into the systematic improvement of the quality of democracy in both its actual and its prospective member states. This would involve the creation of a permanent body composed – as is this Group of Experts – of both academics from several disciplines and politicians with experience at different levels of government and in civil society who would identify and monitor the nature and pace of reforms, evaluate their consequences and, where appropriate, advocate their extension to other governments. This should be done periodically, say, every five years, and make extensive use of data gathered by a regular reporting system in which the

member states would be asked to provide information on the reforms that they have undertaken, as well as on the normal performance of their democratic institutions—much as the OECD has done in the field of economic performance.

Conclusion: Democracy, as presently practiced in Europe, is not “the end of history.” Not only can it be improved, it must be – if it is to retain the legitimate respect of its citizens. It has done this several times in the past in response to emerging challenges and opportunities, and there is no reason to believe that it cannot do so in the present.

In this Green Paper, we have tried to use our collective imagination as theorists and practitioners of politics to come up with suggestions for reforms that could improve the quality of democracy in Europe and make it more legitimate in the future. Some of these have already been introduced – usually on an experimental basis – in a few polities; most, however, have never been tried. We would be the first to admit that not all of these reforms are equally urgent or feasible or even desirable. It is the task of democratic politicians to decide which are best and which deserve priority treatment.

Our democracies in Europe can be reformed. They can be made to conform more closely to that “word that has never existed” and, in so doing, they can regain the trust in institutions and the legitimacy in processes that they seem to have lost over recent decades. But it will not be easy and it will take the collective wisdom of political theorists and practitioners in all of the 45 member states of the Council of Europe to identify which reforms seem to be the most desirable, to evaluate what their consequences have been and, finally, to share the lessons from these experiences among each other. With this Green Paper to the Council of Europe, we hope that we have made a contribution to initiating this process.