

# Democratic Rights: Decision-Making by Law Makers and Law Enforcers

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The court of law is often adversarial; the more usual question, after all, is binary: guilty or not guilty? The parliament which makes the law, however, need not subject complex questions to dichotomous judgements, or a series of dichotomies: indeed, the corresponding debate should consider all relevant options on an equal basis. Accordingly, this article questions the propriety of a majoritarian polity, considers a less adversarial voting procedure, and contemplates a more inclusive political structure, in order then to argue that human rights legislations should be far more specific on the subject of democratic rights. Such a development may depend less upon the politician and more upon the lawyer.

to rule?

Keywords: Consensus; Power-Sharing; Modified Borda Count

#### Introduction

In many instances, the legal process deals with matters of guilt or innocence. In a court of law, then, the question is often dichotomous—guilty or not guilty?—and this definitely applies to any case concerned with a suspected crime<sup>1</sup>. The ruling could go either way; so, given the frailties of the human species, reliance is often placed not just on a single person, a judge, but on a group of people, the jury.

Politics, in contrast, is not always concerned with such stark dichotomies: some topics are viewed in these terms—capital punishment, abortion and so on—and in any debates thereon, many politicians take sides, arguing for or against that which they consider to be right or wrong. Others subjects of discussion—an extreme example relates to the choice: on which side of the road shall we drive?<sup>2</sup>—are not connected to moralistic values at all. Is it wise, therefore, to reduce such subjects, let alone such complex issues as Iraq in 2002<sup>3</sup>, to a closed question and subsequent resolution (or not, as the case may be) by an adversarial, for-or-against majority vote? If the answer to this is positive, then majority rule has some justification. If, however, other decision-making procedures might be more appropriate, then is it right that so many parliaments should divide into two

legislation.

The Two-Option Majority Vote

In many instances of great complexity, or even on relatively uncomplicated matters but in plural societies, the simple binary vote may not be the most appropriate methodology by which all concerned may come to an agreement. Take, for instance, the current debates in Washington over the fiscal cliff. In such a partisan structure, both the Democratic and the Republican Parties have a vested interest in the failure of the other. If one party puts forward a proposal, the obvious inclination for the other party is to vote against, almost regardless of the qualities of that proposal. If someone suggests the threshold for higher rates of tax should be "x", for example, others will want to say

opposing blocs, a government versus an opposition<sup>4</sup>? Or should more inclusive democratic structures become the norm? If so,

should constitutional lawyers consider some amendments to

current human rights charters and other international agree-

ments? In a word, should they scrutinise the right of a majority

amines the more obvious weaknesses and dangers of majority

voting; next, it looks at the historical causes of these deficien-

cies; then it wonders whether more inclusive structures would

be more appropriate; and finally, it outlines what sort of prince-

ples should be regarded as the bases of any future human rights

In attempting to answer these questions, this paper first ex-

<sup>&</sup>lt;sup>1</sup>The divorce court may be less confrontational, and in like manner, some litigation cases may also apportion blame to both parties. Usually, however, the legal process is based on the premise that one party is guilty while the other is innocent. It is interesting to note that, in some African cultures, disputes are tackled by the court on the basis that *both* plaintiffs are, initially at least, "in the right" (Kapuściński, 2002: p. 315).

<sup>&</sup>lt;sup>2</sup>Interestingly enough, the only country ever to hold a referendum on this question—Sweden in 1955—had three options on the agenda: "left", "right" and "blank" (Emerson, 2012: p. 15).

<sup>&</sup>lt;sup>3</sup>In Oct. 2002, when the UN Security Council debated Iraq, everything was on the table—sanctions, inspections, diplomacy, and the threat and/or use of force—but only one motion was voted on: Resolution 1441, for or against.

<sup>&</sup>lt;sup>4</sup>In some countries, as in the US, the majority party rules Congress, while (as at present) the other majority party has control of the House of Representatives; such practice *might* be justifiable in a strictly two-party society. In the UK, however, where two of the three parties have formed a majority coalition, is it right that the Lib-Dems should be in government while the much larger Labour Party is not? In multi-party jurisdictions, the practice renders the theory even more of a mockery: see note 11.

"no". Would it not be better if, instead of saying "no", they put forward their own proposal of "y", "z", or whatever?

Or take another example. In the wake of the Arab Spring, Tunisia, Libya and Egypt have all elected new parliaments, and in a rather controversial process<sup>5</sup>, in Dec. 2012, the last named approved a new constitution by referendum. But that same methodology was used by Libya: in 1971, shortly after his *coup d'état*, Muammar Gaddafi managed to get 98.7 per cent support for his Libyan Arab Jamahiriya. The case in Iran is even more glaring: in 1953, the Iranian electorate voted overwhelmingly to be, in effect, socialist—99.8 per cent; ten years later came the "white revolution" and an even greater percentage, 99.9, chose a capitalist orientation; later on, they (supposedly) changed their minds yet again and opted for an Islamic republic, albeit this time with only 99.3 percent (Emerson, 2012: p. 148.)

In the light of such evidence, the accuracy of the two-option referendum as a means of reflecting the will of the people is at least suspect. In many instances, the question (and outcome) is more often a reflection of the will of he—it was usually a male—who set the question. This has been shown not only by dictators such as Napoleon and Lenin<sup>6</sup>, but also by democratic leaders such as President Theodore Roosevelt who, in his own words, "simply made up my mind what they [the people] ought to think, and then did my best to get them to think it." (Ketcham, 1984: p. 176.)

Let us now consider some rather more serious instances. In conflict resolution work, mediators invariably rely on questions which are open. Sadly, in politics, the question is invariably closed. Little surprise, then, that the majority vote has not only failed to be the means by which a people can resolve a dispute; in some troubled societies, it has actually proved to be the very opposite: the provocation by which that dispute was exacerbated, by which people then resorted to violence: "all the wars in the former Yugoslavia started with a [two-option] referendum," (Oslobodjenje<sup>7</sup>, 7.2.1999).

Now according to international law<sup>8</sup>, "All peoples have the right to self-determination. By virtue of that right they freely determine their political status..." Furthermore, it was a team of constitutional lawyers—the EU's Badinter Commission—which advocated the referendum for the Balkans<sup>9</sup>. Alas, many political leaders assumed the law and the Commission's findings meant that they could choose not only the electorate but also the question to be posed. In other words, this report was a provocation: conflict zones are invariably replete with borders both geographical and historical, the latter both religious and/or tribal/ethnic. Needless to say, the politician in power always chooses a border such that he then has majority support; next, perhaps,

is some "ethnic cleansing"; and then he holds his (often divisive and sectarian) plebiscite.

In all, therefore, international law in this regard is hopelessly inadequate. It does not define the word "people"; nor does it specify the voting procedure by which that people shall then vote. Yet by restricting the choice to only two options, political leaders in the Balkans in effect disenfranchised those who were the children of or partners in a mixed marriage, not to mention those who regarded themselves as Yugoslavs, not to mention again those who desperately wanted some form of compromise. So that vote was not a means by which voters could "freely determine" anything! Furthermore, if Croatia could opt out of Yugoslavia, why not the Krajina out of Croatia? If Georgia could opt out of the USSR, why not Abhazia and South Ossetia out of Georgia? Are countries similar to those famous Russian matryushki, the dolls inside each of which is vet another smaller one? It is all so similar to an older but still contemporary dispute: when Ireland opted out of the UK, "Ulster" opted out of Ireland.

Sadly, the lessons from these and other conflicts have still not been learnt, and self-determination by majority vote—balkanisation—has now been used in Sudan. The consequences in other parts of Sudan, as in Abyei, Blue Nile and Kurdufan, or in Africa as a whole, in multi-religious and/or tribal societies as in Nigeria and DRC, may yet prove to be horrific.

## **An Historical Perspective**

The two-option majority vote is the most inaccurate measure of collective opinion ever invented. In fact it is worse than that, for a binary vote cannot measure the degree of *consent*, not least because it measures the very opposite: the degree of *dissent*—so many "for" and so many "against".

Currently, many people believe that "Democracy is based on majority decision," and that, therefore, "Democracy works on the basis of a decision by the majority." (Government of Ireland, 1996: p. 398.) From statements like these which abound, not just politicians and punters but so too professors of political science often come to two conclusions: firstly, as was mentioned in the introduction, that an elected parliament shall divide into two opposing "halves", the bigger one to govern and the smaller to form the opposition 11; and secondly, that decisions in parliament shall be subject to a majority vote (which usually means that the bigger "half" wins, regardless of the debate, because of the party whips).

If, instead, decisions were taken by means of a non-majoritarian voting methodology, the basis of majority rule would be invalidated. At the moment, nearly every country aims to practice a form of majority rule. Electoral systems vary enormously, from the simplistic (and almost Orwellian) first-past-the-post (FPP) of many Anglo-Saxon democracies, to the more sophisticated proportional systems, some of which are two-tier {like

<sup>&</sup>lt;sup>5</sup>It was controversial because of the way, and by whom, the new constitution was drafted; there was little or no controversy over the majority vote methodology.

<sup>&</sup>lt;sup>6</sup>Only two dictators have lost a referendum: Augusto Pinochet lost his third in 1988, by 57 per cent; and Robert Mugabe lost one in 2000 by 55 per cent, but his poll was non-binding.

<sup>&</sup>lt;sup>7</sup>Sarajevo's now legendary newspaper. The statement refers to the three wars in Slovenia, Croatia and Bosnia but, in a way which was not dissimilar, the later war in Kosova was also prompted by (the prospect of) a referendum. (Emerson, 2000: pp. 49-50.)

<sup>&</sup>lt;sup>8</sup>Article 1.1, The International Covenant on Civil Rights; it was adopted by the UN in 1996.

<sup>&</sup>lt;sup>9</sup>Admittedly, Badinter added a proviso, suggesting the result of a Bosnian referendum would be valid "only if respectable numbers from all three communities of the republic approved," (Woodward, 1995: p. 280). It did not, however, define the word "respectable". The Bosnian Serbs boycotted the poll, the barricades went up on the day of the vote, and then it was war.

<sup>&</sup>lt;sup>10</sup>International unesco Education Server for Civic, Peace and Human Rights Education,

http://www.dadalos.org/int/Demokratie/Demokratie/Grundkurs5/mehrheitsprinzip.htm (accessed 15.1.2013).

<sup>&</sup>lt;sup>11</sup>In May 2010, when no party won a majority in the UK general election, the choice of majority coalition was fairly limited; (see note 4). A contrast lies in India, where the 2009 elections resulted in a parliament of 44 different parties, some already in coalitions, some not; in such a situation, forming a government becomes a matter of horse-trading if not a lottery. Furthermore, the process of government formation is often very protracted: in 2010, Iraq took 249 days to form a majority government—a world record subsequently broken by Belgium, which took 541 days!

the German multi-member proportional (MMP)<sup>12</sup> to the Irish proportional representation—single transferable vote (PR-STV)} 13. Decision-making, however, is nearly always a (simple, weighted, qualified or consociational) majority vote, a closed question, ves-or-no.

Democracy, however, should be the means by which all concerned may influence that which thus becomes the confluence. Democracy was not conceived as a means by which one "half" could dominate the rest, at least until (and maybe beyond) the next election. Admittedly, the early Greeks used majority voting, but there was "nothing resembling a "party system" in sixth/fifth century Athens or any other Greek state..." (Ste Croix, 2005: p. 198) so those (male citizens) in the forum could vote as they wished, today with a colleague, tomorrow against, without forming permanently exclusive blocs.

Political parties came later. They emerged in England as a direct consequence of members of parliament. (MPs), using the two-option majority vote, even though by this time, the binary methodology had come under scrutiny by such as Ramon Llull in 12th Century Spain and, 300 years later, Nicholas Cusanus in what is now Germany<sup>14</sup>. Initially, then, MPs took sides; next, they started to abuse each other; and finally, these terms of abuse were adopted—by the abused!—as their party labels<sup>15</sup>. In the United States, in contrast, there was initially considerable opposition to the party system of politics: George Washington for one argued that it had "perpetuated the most horrid enormities [and was] itself a frightful despotism"16 but, while the founding fathers made a brave attempt at introducing a more consensual electoral system<sup>17</sup>, they did not question the use of the majority vote in decision-making. So the two-party structure of US politics was all but inevitable.

Given the dominance of western thought in today's world, many believe that democracy must be party based, and some, most notably in the UK and US, still believe in the ever more dysfunctional two-party system. Not only that; they also decry any system which is not party-based. In Uganda, President Museveni managed to end a civil war, partially by banning political parties because, said he, they were nearly all sectarian and tribal; the West, however, disapproved. When Mikhail Gorbachev came to power in the USSR—and he does not speak English—the West rushed to advise him of the benefits of our two-party system of majority rule, without realising that the Russian word for "majoritarianism" is, or at least was, "bolshevism", Today, western wrath is often directed against China but, as implied earlier, when a country is faced with huge problems of reform, it is not necessarily wise to adopt a parliamentary system in which one "half" (under Gorbachev) is opposed by another "half" under another Nobel-peace prize winner, Andrei Sakharov; such was the scenario in the first post-perestroika Congress of 1989, which in part explains the current role of the not very democratic Vladimir Putin. Furthermore.

the adoption of any single-preference electoral system into China, be it FPP or PR-list, would doubtless result in the emergence of sectarian and secessionist parties, not least in Tibet (Xīzàng) and Xīnjiāng.

Sadly, there is a widespread tendency in the West for politicians to suggest that western norms should have universal application. Not only do they consider ours to be correct, but ipso facto, others are judged to be at fault: "the Confucian ethos [in] many Asian societies stressed... the importance of consensus... [in contrast] with the primacy in American beliefs of democracy," (Huntington, 1997: p. 225). A moron's oxymoron.

## **An Inclusive Polity**

If, instead, a more inclusive decision-making structure were to be used, could perhaps to-day's rigid party system become unsustainable?<sup>19</sup> Consider, then, a form of preference voting, which may have been advocated by Llull—the science is unclear (McLean & Urken, 1995: pp. 16-19)—but was definitely proposed by Cusanus (Sigmund, 1963: p. 212). Today's name of this voting procedure is a modified Borda count<sup>20</sup>, (MBC).

The MBC, a points system, is based on a multi-option ballot, in which voters cast their preferences on (one, some or hopefully) all the options listed. First comes the debate, in which all parties are able to propose options, make suggestions and/or offer amendments. The debate is policed not only by a chairperson or speaker, but also by a team of consensors<sup>21</sup> which draws up and then maintains a (short) list of all the options currently "on the table", computer screen and web-site. If the participants manage to come to a verbal consensus—if, in other words, the number of options under debate is eventually reduced by unanimous agreement to just one—then the chair may deem this to be the final decision. If, however—and this is the more likely scenario—there is no such verbal consensus, then the chair may decide to proceed to a vote. First, he/she will ask the participants if all of them agree that their own proposed policy option is included in the final (short) list of options, if not verbatim then at least in composite. If such is the case, then all concerned may proceed to the vote and, in most instances, between four and six options is regarded as optimum.

Let us assume there are five options on the ballot: A, B, C, D and E, and that the voters are asked to rank them all in order of preference. Well, if a voter abstains, he has no influence on the outcome. If another casts just one preference, her 1st preference gets 1 point. If another casts two preferences, his favourite gets 2 points (and his 2nd preference gets 1 point). And so on; that is, voters who participate partially have a partial influence on the outcome. So if yet another voter casts all five preferences, then her 1st preference gets 5 points, her 2nd gets 4, and so on. And those who participate fully have a full influence. In effect,

<sup>&</sup>lt;sup>12</sup>MMP consists of two ballots: one is for an FPP election in single seat constituencies; the second is for a PR-list election in multi-seat constituen-

cies.

13 Interestingly enough, both MMP and PR-STV were imposed upon the Germans and the Irish respectively by the British, but the British themselves were left with FPP. (STV, by the way, is the same as AV and IRV.)

14The first person to suggest something was wrong was Pliny the Younger in

<sup>&</sup>lt;sup>15</sup>The word "whig" was slang for a money-grabbing Scots Presbyterian, while a "tory" was an Irish papist bandit. (Churchill, 1974: Book II, p. 294.) <sup>16</sup>Farewell address, 1796.

<sup>&</sup>lt;sup>17</sup>In the first US presidential elections, the winner became the President, and the runner-up became the Vice-President.

<sup>&</sup>lt;sup>18</sup>The author is fluent in Russian, and lived in Moscow in the late 1980s.

<sup>&</sup>lt;sup>19</sup>There will probably always be parties, or groups and organisations of one sort or another. I only wish to question party political patronage, i.e., those party structures which give far too much power to the party leaders

<sup>&</sup>lt;sup>0</sup>Unaware of the work of Nicholas Cusanus, Jean-Charles de Borda suggested a points system, the Borda count, (BC), in 1784. In a five-option ballot, he argued, the voter's last preference should get 1 point; his penultimate should get 2 points, and so on. This was interpreted to mean that in an *n*-option ballot, a 1st preference gets n points, a 2nd preference gets n-1, and so on; then, on the basis that  $(n, n-1 \dots 1)$  gives exactly the same rankings as  $(n-1, n-2 \dots 0)$ , this was subsequently changed to mean that a 1st preference gets n-1, a 2nd gets n-2 etc.. The latter rule, however, cannot cater for partial voting: hence the MBC (Emerson, 2013: pp. 353-358); see also (Saari, 2008: p. 197).

<sup>21</sup>The team normally consists of three or more persons, at least one of whom

shall be from the legal profession.

then, the MBC encourages the voter to cast a full ballot. In so doing, the voter acknowledges the validity of all the options listed. Furthermore, in consensus voting, no-one votes *against* any thing or, for that matter, any body.

Consider also the position of the protagonist. If I want my option to win, I know that I will need lots of high preferences, a few medium ones perhaps, but very few low ones. It will therefore be worth my while, in debate, to talk with my erst-while opponents, to suggest to them that my proposal is not as bad as they had originally thought, and that they might consider giving it a 3rd or even a 2nd preference rather than a 5th. That would be a huge improvement in my level of support. The voting system itself, therefore, promotes dialogue or, to coin a more appropriate term, a "polylogue". The MBC can be a catalyst of consensus.

If there are 100 voters casting full ballots, and if all 100 give option A a 1st preference, A will get the maximum possible score of  $(100 \times 5 =) 500$  points. If all 100 give option D, say, a 5th preference, then D gets a score of  $(100 \times 1 =) 100$  points. If everyone gives option B a 3rd preference, then B will get a score of  $(100 \times 3 =) 300$ , the mean. And if 50 voters give option C a 2nd preference while the other 50 give it a 4th, then it will get  $(50 \times 4 + 50 \times 2 =) 300$  points again.

Now in any vote, one or more options will be above the mean, and others below. If, in another five-option example, option E gets a very high score (or consensus coefficient as it is called)<sup>22</sup>, then it may be called the collective wisdom; if on the other hand, the winning option gets rather less, then perhaps it only reflects a consensus; or, if less still, just the best possible compromise. Or if, in the last scenario, all five scores are around the 300 mark, then there is obviously no consensus at all, and the chair should resume the debate.

The MBC can best be used 1) if parliament discusses the problem under debate in an open way; i.e., if the question is not closed; and 2) if the executive acknowledges the sovereignty of parliament i.e., abides by and implements the latter's decisions. If the MBC were to be used, terms like "majority" and "minority" would become obsolescent; "Words like 'winning' and 'losing' [could] be banished from the political vocabulary," (Lewis, 1965: pp. 66-67); and there would no longer be the right of a majority to rule.

The correspondingly more inclusive polity would take shape along the following lines. The people would elect the parliament, hopefully by an electoral system which was both preferential and proportional, and the best of these, I would suggest, is the quota Borda system (QBS)<sup>23</sup>. Parliament would then use

<sup>22</sup>An option's consensus coefficient is the total number of points received divided by the maximum number of points it could have received. The highest coefficient is therefore 1. In a five-option ballot, if everyone has cast a full ballot, the lowest score will be 0.2. If some people have cast partial ballots, however, then the consensus coefficients will not be so high (Emerson, 2007: p. 17). A consensus coefficient is, therefore, a measure, not only of that option's popularity, but also of the degree to which the electorate has participated in voting on that option. It is, indeed, a measure of the collective will. In any parliament's standing orders, specific values of consensus coefficient would be laid down for when a decision could thus be considered to have been approved.

<sup>23</sup>Many jurisdictions have tried to devise inclusive electoral systems. As mentioned in note 17, the first Americans tried a less adversarial form of presidential election. Lebanon devised a multi-candidate form of FPP, such that 1) the voters are obliged to vote on a cross-confessional basis; and 2) every confessional belief is represented in fair proportion. Papua New Guinea has tried to tackle the same problem in an alternative vote (AV) system by requiring every voter to cast at least three preferences, i.e., every voter has to cross the sectarian divide (Emerson, 2012: p. 131). But arguably the most inclusive electoral system yet devised is QBS.

another electoral system, the matrix vote<sup>24</sup>, by which every member votes, in order of preference, not only for those whom he/she wishes to be in government, but also for the particular portfolio in which he/she wants each of these nominees to serve; such a cabinet would be an all-party, proportional, powersharing government of national unity, (GNU)<sup>25</sup>. Finally, on all contentious non-urgent matters, both parliament and, as and when appropriate, the electorate, would base its decisions on multi-option preference votes conducted by an MBC.

# **Human Rights Charters**

According to Art 21 of the United Nations Declaration of Human Rights:

- 1) Everyone has the right to take part in the government of his country, directly or through freely elected representatives;
- 2) The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be held by secret vote or by equivalent free voting procedures.

That's it, and other charters are equally glib. There is nothing about the right of majority rule—a right which I hope the reader now agrees does not exist<sup>26</sup>. But there is also nothing on decision-making. If, however, the democratic process is to be one of the principal means by which disputes are to be resolved, if in plural societies and especially in conflict zones, votes in parliaments and referendums are to be more than just sectarian headcounts; then voting procedures on all contentious issues should be preferential.

In the light of this essay, might I suggest democratic rights should stipulate that:

- The electorate may choose their political leaders, but the corresponding electoral system shall be both preferential and proportional; secondly, in the count, all valid cast preferences shall be taken into account;
- 2) On all contentious matters, any decision-making voting procedure, be it in parliament or in a regional/national referendum, shall be preferential; the will of the people (or that of their representatives in parliament) shall be determined in a manner which takes all preferences cast into account; and decisions shall be enacted if they receive a minimum consensus coefficient of...<sup>27</sup>
- 3) Just as parliament shall represent the whole country, so too the government shall represent the entire parliament; parliament should best elect the government in a methodology both preferential and proportional; and both bodies shall aim to make their decisions in consensus, either verbally and/or by means of a consensus vote.

# Conclusion

The word "democracy" is possibly the most undefined word in the world. The term has been used and/or abused by count-

<sup>&</sup>lt;sup>24</sup>The matrix vote is based on a QBS.

<sup>&</sup>lt;sup>25</sup>As noted earlier, many people think democracy is majority rule. When it does not work, as in the Balkans and other conflict zones such as Afghanistan, Iraq, Kenya, Syria and Zimbabwe, to name just a few, those same people then argue for its opposite, power-sharing. Countries in crisis also resort to using a GNU, and many calls in recent times have been heard for similar structures in Greece and Ireland, for example. The only country to adopt a GNU form of government without a conflict or a crisis is Switzerland.

<sup>&</sup>lt;sup>26</sup>Another right which was wrong was the almost ubiquitous divine right of kings.
<sup>27</sup>Initially, a figure of 0.4 is recommended. As societies get used to this more

<sup>&</sup>lt;sup>2</sup> Initially, a figure of 0.4 is recommended. As societies get used to this more inclusive polity, a higher level of consensus may be aspired to.

less leaders, often at considerable cost in terms of human suffering. Accordingly, international agreements on democratic rights must be much more specific.

Majority votes may be taken on matters which are non-controversial. On all contentious subjects, however, those concerned should aim to come to a consensus or at least the best possible compromise. This cannot best be done by majority vote, but it is feasible with an MBC.

No majority has the right to rule; no minority has the right to veto; rather, we all have a responsibility to come to an accommodation with each other. Accordingly, in parliamentary democracies, governance shall be based on all-party cabinets or GNUs; in presidential systems, elections, as an absolute minimum, shall always serve to appoint two persons, and ideally at least four. All-party, proportional, power-sharing coalition cabinets shall become the norm.

The ideal for any society is the rule of law under a system of separation of powers<sup>28</sup>. The politicians choose the law; the lawyers enforce it. The lawyers in turn stipulate the bases, the fundamental human rights, by which the said politicians shall govern. In a court of law, lawyers may need to take some decisions on the basis of a majority vote. When drawing up international charters, however, when drafting constitutions or when supervising public enquiries, both the lawyers and the politicians should use multi-option preferential procedures on all matters deemed to be controversial and non-urgent.

#### REFERENCES

Churchill, W. S. (1974). A history of the English-speaking peoples.

London: Cassell.

Emerson, P. (2000). From Belfast to the Balkans. Belfast: The de Borda Institute.

Emerson, P. (2007). *Designing an all-inclusive democracy*. Heidelberg: Springer.

Emerson, P. (2012). Defining democracy. Heidelberg: Springer.

Emerson, P. (2013). The original Borda count and partial voting. *Social Choice and Welfare*, 40, 353-358.

 $http://www.springerlink.com/openurl.asp?genre=article\&id=doi:10.1\ 007/s00355-011-0603-9$ 

Government of Ireland (1996). Report of the constitution review group. Dublin: Government of Ireland.

Huntington, S. P. (1997). The clash of civilisations. New York: Simon and Schuster.

Kapuściński, R. (2002). The shadow of the sun. London: Penguin.

Ketcham, R. (1984). Presidents above party. Chapel Hill: University of North Carolina.

Lewis, S. A. (1965). *Politics in West Africa*. London: George Allen and Unwin.

McLean, I., & Urken, A. B. (1995). Classics of social choice. Ann Abbor: University of Michigan.

Saari, D. G. (2008). Disposing dictators, demystifying voting paradoxes. Cambridge: Cup.

Sigmund, P. E. (1963). Nicholas of Cusa and medieval political thought. Cambridge. MA: Harvard University Press.

Ste Croix, G. E. M. (2005). Athenian democratic origins. Oxford: Oup. Woodward, S. L. (1995). Balkan tragedy. Washington DC: The Brookings Institute.

## **Abbreviations**

AV (=IRV = STV): Alternative Vote

BC: Borda Count

DRC: Democratic Republic of the Congo

EU: European Union FPP: First-Past-the-Post

GNU: Government of National Unity IRV (=AV = STV): Instant Run-off Voting

MBC: Modified Borda Count MMP: Multi-Member Proportional MP: Member of Parliament PR: Proportional Representation

PR-STV: Proportional Representation-Single Transferable Vote

OBS: Ouota Borda System

STV (=AV = IRV): Single Transferable Vote

UK: United Kingdom UN: United Nations US: United States

USSR: Union of Soviet Socialist Republics

<sup>&</sup>lt;sup>28</sup>There are of course three: The legislature, the executive and the judiciary. In the US over the years, the executive has acquired more and more legislative powers, not least by means of using majority voting.