



Citizens' Assemblies

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Author: Lucinda Maer

Section Parliament and Constitution Centre

This note sets out the proposals for citizen engagement in constitutional reform made by the Government in the *Governance of Britain* Green Paper and subsequent announcements.

It considers proposals made for a Citizens' Convention in Private Members' Bills introduced in recent years, including those made in the *Citizens' Convention (Accountability and Ethics) Bill [Bill 106] 2008-09*.

This note also looks at the experience of the citizens' assemblies on electoral reform in British Columbia and Ontario, and the Electoral System Civic Forum in the Netherlands. It provides some analysis of the arguments for and against greater public participation in the constitutional reform agenda.

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1 The role of the Citizen in Constitutional Reform – Government proposals

1.1 The *Governance of Britain* Green Paper

The Government's proposals for constitutional reform have emphasized the role of the citizen in constitutional change. When the Prime Minister announced the Government's proposals to the House of Commons, he stated that:

...Because I want this process to be one in which we consult and involve not only all political parties but the people of this country, what I propose today is not, and should be seen not as, the final blueprint for a constitutional settlement, but a route map towards it.¹

When Mr Brown went on to discuss proposals for a British bill of rights and duties, and a written constitution he stated:

In Britain we have a largely unwritten constitution. To change that would represent a fundamental and historical shift in our constitutional arrangements. So it is right to involve the public in a sustained debate about whether there is a case for the United Kingdom developing a full British Bill of Rights and duties, or for moving towards a written constitution. Because such fundamental change should happen only when there is a settled consensus on whether to proceed, I have asked my right hon. Friend the Secretary of State for Justice to lead a dialogue within Parliament and with people across the United Kingdom by holding a series of hearings, starting in the autumn, in all regions and nations of the country, and we will consult with all the other parties on this process.²

In the *Governance of Britain* Green Paper, the Government set out a process of consultation on a British Statement of Values and Bill of Rights which would include:

- The release of a series of discussion documents and materials to inform the national debate;
- Tapping into the knowledge of expert and representative groups;
- Local, regional and national level events and opportunities for deliberation and debates;
- Engagement methods which might include citizens' juries, deliberative polling, and electronic and media based outreach.³

There are details of 'public engagement meetings' and online discussion forums on the *Governance of Britain* Green Paper on the internet at <http://governance.justice.gov.uk/>.

1.2 A Citizens' Summit

In his 3 September 2007 speech to the National Council of Voluntary Organisations, the Prime Minister, Gordon Brown, announced that there would be a Citizens' Summit on a British Statement of Values:

...a Citizens Summit, composed of a representative sample of the British people, will be asked to formulate the British statement of values that was proposed in our Green Paper on the future government of Britain, a living statement of rights and

¹ HC Deb 3 July 2007 c815

² HC Deb 3 July 2007 c819

³ *The Governance of Britain*, Cm 7179, July 2007, paras 198-203.

responsibilities for the British people. It won't take root anyway unless there is a real sense that it has been brought forward by people themselves, and this will be part of the wider programme on consultation led by Jack Straw and Michael Wills on the British statement of values, the idea of a British Bill of Rights and Responsibilities, rights and duties, the components of the Constitutional Reform Bill. Jack Straw will announce the details of this programme shortly.⁴

In his speech he explained his view that:

I think we are being held back by three great failings in our political system: the political parties themselves have not reached out enough to people so we have to rise to the challenge of forging a better party politics; that the political system too often ignores or neglects new ideas that flow from outside in Westminster and often in the past have failed to listen and learn, so we have to rise to the challenge of opening up our political system to recognise and to take on board new ideas; and our participatory democracy is too weak at a local level so we have to rise to the new challenge of encouraging engagement. Indeed the power of progressive politics rests in the empowerment of people it serves and that is our purpose and I believe progressive politics in this country will only truly succeed in shaping a better Britain if we actively reach out to new ideas, if we find new ways of engaging people in their communities and then build a consensus for change. So I don't want to carry on with politics as usual.

It appears that the Citizens' Summit will put together the statement of values, and also have some say over how such a statement might be used – for example, whether it should be on display in all public buildings or placed inside passports. Further details have not been announced.

1.3 A national framework for greater citizen engagement

In July 2008 the Ministry of Justice published *A national framework for greater citizen engagement*. The discussion paper sets out a proposed constitutional framework for the use of a number of engagement mechanisms, including deliberative methods such as citizens' summits and juries. The Paper begins by considering representative democracy, stating that it:

...offers effective and fair government. It allows for the fairest distribution of power among all citizens and provides for the fair treatment of minorities. It gives government the ability to tackle complex issues continually as they arise and it gives space for effective deliberation for government to refine and improve policy – so decisions are not taken in haste and repented at leisure.⁵

However, the paper recognises that representative democracy in the UK has come under pressure from the decline in political parties, the decrease in participation in formal politics, and the impact of technological, social and economic changes. It suggests that the political system needs to become more responsive to the public and sets out areas, including issues which would result in significant constitutional change, where greater public participation would bring benefits. The paper then sets out proposals for the use of a number of engagement mechanisms including referendums, citizens' juries, and citizens' summits. On citizens' summits it states:

4.2 Citizens' Summits

⁴ Gordon Brown, *Speech to the National Council of Voluntary Organisations*, 3 September 2007, <http://www.number-10.gov.uk/output/Page13008.asp> (last viewed 8 July 2009)

Citizens' summits bring together a large body of people (usually between 500-1000) to deliberate on an issue or a number of related issues. This can either take place face-to-face or online.

Summits should only be used sparingly where there is a compelling case for submitting a national policy issue for large-scale deliberation. For example, Government proposals to make significant change of a constitutional nature might be appropriate. The issues on which summits would be held would have to meet agreed and published criteria. These criteria would follow those set out in Chapter 3.

As with referendums, summits are not intended to be used in cases where there is a clear manifesto commitment to a particular policy, voted on by the British people at a general election.

Participants

Summits should comprise a broadly representative sample of the public (500 – 1000), selected and filtered to ensure they are demographically representative. This will increase their legitimacy and involve people from groups who are less likely to participate in the formal democratic process.

Process

Criteria for summits would be published and departments would publish their assessment of these in advance of a summit being held. Government departments would submit proposals that meet these criteria for collective approval by Ministers.

Funding

Funding would be found from within departmental budgets.

Recommendations

The recommendation of a summit would then be put to Parliament for consideration. Where the Government has a position on an issue, or where there are significant resource implications for the Exchequer, the Government would make a statement on the proposed way forward alongside the recommendation of the summit. This would depend upon the issue but would likely follow with a Government debate in the Commons, preceded by a take note debate in the Lords.

The Government believes that whether the summit's decision is put to a free vote or a whipped vote should be decided on a case by case basis. Representative democracy depends on political parties and governments getting their business through Parliament. It therefore follows that a whipped vote may be constitutionally appropriate in some instances. Equally, there may be circumstances in which a free vote should take place on, for example, matters of conscience.

The Government invites views on these proposals including what sorts of issues would benefit from the use of this mechanism and what should be included in any assessment criteria.⁶

The consultation period on the discussion paper ended on 1 October 2008.

⁵ Ministry of Justice, *A National Framework for Greater Citizen Engagement*, July 2008, p6, http://webarchive.nationalarchives.gov.uk/+http://www.justice.gov.uk/docs/citizen_engagement.pdf

⁶ *Ibid*, p16-17

2 Proposals for a Citizens' Convention or Assembly

2.1 Private Members' Bills

The Citizens' Convention (Accountability and Ethics) Bill [Bill 106] 2008-09

This Private Members' Bill was introduced to the House of Commons on 8 June 2009 by Martin Caton, and was supported by Norman Lamb, Douglas Carswell, David Drew, Julia Goldsworthy, Jim Dowd and Norman Baker. The purpose of the Bill was "to set up a Citizens' Convention for the purposes of establishing minimum standards of ethics for Members of Parliament and for promoting the involvement of citizens in political decision making; and for connected purposes".⁷

Although the Bill has not been published on the Parliamentary website, the campaign group Unlock Democracy has published a version of the Bill on their website. This gives the long title of the Bill as follows:

A Bill to establish a system of political ethics in order to restore public confidence; to ensure that decisions on that matter are driven by citizens; and to establish a Citizens' Convention for that purpose.⁸

Unlock Democracy's website contains the following information about the Bill:

A Citizens' Convention would be a deliberative assembly consisting of at least 100 ordinary men and women selected from the electoral roll, just as juries are selected in the courts. The selection would be 'semi-random' as attempts would be made to ensure that the Convention represents all sections of society and all areas of the UK.

The role of the Citizens' Convention would be to make a series of recommendations to Parliament for improving UK politics. In particular, we would want it to look at:

- The payments and expenses of MPs and members of the House of Lords;
- The electoral system or systems in the UK including the composition of the Lords;
- Greater powers for citizens to hold MPs and members of the House of Lords to account including the circumstances and method by which citizens can petition for the recall of MPs and members of the House of Lords.
- The conduct of business in Parliament including the powers of the House of Commons; and of individual members of Parliament.
- The funding of political parties including the issue of caps on donations.

It could explore other areas of reform if it decided to.⁹

The Prime Minister would have to ensure that Parliament debated the report or reports of the convention within three months of receiving any report. In addition, it includes the following clauses:

(2) The Prime Minister must subject to section (3) below take all steps within his power to ensure that the recommendations of the Convention are put into practice within 12 months.

⁷ HC Deb 8 June 2009 c529

⁸ Available at <http://www.unlockdemocracy.org.uk/wp-content/uploads/2009/06/citizensconventionbill.doc> (last viewed 8 July 2009)

⁹ See http://www.unlockdemocracy.org.uk/?page_id=2033 (last viewed 8 July 2009)

(3) If the Prime Minister or any House of Parliament disagrees with any recommendation of the Convention then

- (a) either of them; or
- (b) 5% of citizens

may call a referendum on the issue and at any such referendum a simple majority shall apply.

(4) The Electoral Commission shall specify the rules

- (a) by which the 5% of citizens specified above may petition for a referendum; and
- (b) for any referendum held pursuant to this Act.

There is an Early Day Motion (Number 1573) in support of the Bill which, at time of writing, had 107 signatures.

In 2009 Jenny Willott asked Tessa Jowell, Minister for the Cabinet Office, whether the Government would support the proposals for a Citizens' Convention. Tessa Jowell stated:

...I am quite sure that proper consideration will be given to the arguments not just for a citizens commission—an argument with which I am familiar—but for other forms of sustained public engagement that will shape the conclusions of the consultation.¹⁰

The Citizens' Convention Bill [Bill 49] 2007-08

On 17 December 2007 the *Citizens' Convention Bill [Bill 49]* was introduced by Liberal Democrat MP Julia Goldsworthy, and co-sponsored by David Chaytor and Douglas Carswell. It did not progress to second reading.

An EDM (No. 621), *Consensus for Constitutional Reform*, Bill was tabled on 18 December 2008. This stated that:

That this House notes the expressed desire of the rt. hon. Member for Kirkcaldy and Cowdenbeath to build a shared national consensus for a programme of constitutional reform; believes that a participative process for achieving that consensus and involving citizens more directly in democratic decision-making is required as a matter of urgency; and therefore supports the Citizens' Convention Bill, sponsored by a cross-party group of hon. Members, which would require the establishment of that process.

At the end of the 2007-08 Session the EDM had 103 signatures.

The introduction of this Bill and the EDM mirrored the introduction of a similarly named Bill and EDM in the previous parliamentary session. The *Citizens' Convention Bill [Bill 136] 2006-07* was introduced by Julia Goldsworthy on 26 June 2007. The purpose of the Bill (its long title) was:

To establish a Citizens' Convention to facilitate the involvement of people from all sections of society in considering the way in which the United Kingdom is governed; to make provision relating to the implementation of recommendations made by the Convention, and for connected purposes.

¹⁰ HC Deb 1 July 2009 c288

An Early Day Motion in support of the Bill was also tabled which, at the end of the 2006-2007 Session had attracted 104 signatures.¹¹

2.2 The Liberal Democrats

Sir Menzies Campbell, the then leader of the Liberal Democrats, wrote an article for *The Guardian* newspaper on 6 September 2007 which argued that:

British politics is in crisis. People have become alienated from the political process. British citizens are unlikely to vote, trust politicians less than estate agents, and feel powerless to change things...

If British democracy is not to slip into terminal decline, the public must be alerted to the dangers and motivated to participate in its radical reform. Revival of our representative democracy is too serious to be left to politicians.

At our conference this month, the Liberal Democrats will provide a blueprint for Gordon Brown to follow if he is serious about reforming the obsolete political process. We have developed a 21st century vision of Britain where people would be trusted, not patronized; involved, not just "consulted".

As a first step, a written constitution is essential to ensure that the sovereignty of the citizen is established. I don't believe that the rules of the political game can gain or retain public trust if they are drawn up by politicians alone. That's why we propose a constitutional convention, at least 50% of which would be composed of members of the public, drawn by lot. This will put the political process on a real jury trial.¹²

2.3 The 'Unlock Democracy' Campaign

The Citizens' Conventions Bill was an initiative of the organisation Unlock Democracy (a campaign run by Charter 88 and the New Politics Network). Their campaign for a Citizens' Convention was launched with a full page advert in *The Guardian* on 26 June 2007.¹³ Their website explained that:

The Citizens' Convention Bill would commit the Government to establishing a Citizens' Convention within twelve months of the Bill becoming law, which would actively involve people in deliberating on how to improve the way the UK is governed. The Government would then be required to co-operate with the Convention in deciding on the implementation of those recommendations.

The Bill doesn't prescribe how the Citizens' Convention should be composed; that is a matter of further debate and we support initiatives such as Future Britain which seeks to develop new processes for engaging the public in constitutional change. But it does commit the Government to consulting widely on how it should be composed, commits the Government and Convention to take all reasonable steps to ensure that people from the most unrepresented and marginalised sections of society are heard and

¹¹ Early Day Motion 1763, *Citizens' Convention Bill*, <http://edmi.parliament.uk/EDMi/EDMDetails.aspx?EDMID=33600&SESSION=885> (last viewed 8 July 2009)

¹² Sir Menzies Campbell, 'A rescue plan for politics', *The Guardian*, 6 September 2007. See also Liberal Democrat Policy Document, *For the People, By the People*, 6 September 2007, <http://www.libdems.org.uk/government/policydoc.html?id=559> (last viewed 1 November 2007)

¹³ Unlock Democracy, Guardian advertisement, 26 June 2007, <http://www.unlockdemocracy.org.uk/wp-content/uploads/2007/06/guardian-ad-final.pdf> (last viewed 8 July 2009)

commits the Convention to holding meetings and other mechanisms to involve citizens in all parts of the United Kingdom.¹⁴

In their supporting literature, *Citizen Extra*, they went on to state:

The public would share control, not merely consulted. The public would decide what issues the Convention should deliberate. The public would have the final say, possibly via a referendum.¹⁵

Unlock Democracy have also published *A Guide to Involving Citizens in Constitutional Reform* which they state draws on the example of the British Columbia Citizens' Assembly on Electoral Reform. The Guide stated:

Citizens' assemblies have been successful where it had been established from the outset that their findings will be put straight to a referendum, without amendment or modification by government. In these cases the assembly was seen to [be] independent and consequently the public and media bought into the process. Where it is not clear what the outcome will be or the assembly merely reports to Parliament as in the Netherlands, the assembly is dismissed as yet another consultation exercise that is unlikely to lead to change. Deliberative techniques on their own are not enough, the assembly has to be seen to be independent and have the power to propose change.¹⁶

The Guide went on to state:

An essential element of the Citizens' Assembly process is that power is given to the Assembly and politicians remove themselves from the decision making process. The British Columbia experience was so successful precisely because once the Premier and legislature had agreed the terms of reference and appointed the Chair of the Assembly, their involvement ended. The Assembly was able to make its recommendations and they were put straight to a referendum. The Assembly was completely independent of the political process and it was this that encouraged the public to buy into the process. It also meant that political parties were able to campaign for and against the proposals in the run up to the referendum.¹⁷

When Unlock Democracy went on to discuss eligibility to participate in a Citizens' Assembly they stated:

In British Columbia anyone who was an elected representative or who had stood for election for any political party at the last general election was excluded. This is essential if the process is to be seen as independent.¹⁸

3 Arguments around public consultation in constitutional reform

The main arguments for involving citizens in constitutional reform in general, and in proposals around rights and citizenship in particular, can be summarised as follows:

¹⁴ Unlock Democracy, *Citizens' Convention Bill*, http://www.unlockdemocracy.org.uk/?page_id=953 (last viewed 8 July 2009)

¹⁵ Unlock Democracy, *Citizens' Extra*, Summer 2007, <http://www.unlockdemocracy.org.uk/wp-content/uploads/2007/07/0707-brown-web.pdf> (last viewed 9 July 2009)

¹⁶ Unlock Democracy, *A Guide to Involving Citizens in Constitutional Reform*, p1, <http://www.unlockdemocracy.org.uk/wp-content/uploads/2007/07/citizens-assembly-briefing.pdf> (last viewed 9 July 2009)

¹⁷ Ibid., p5

¹⁸ Ibid., p6

- If the purpose of constitutional reform is in part to reconnect the citizen with the state, the process of constitutional reform must itself involve citizens;
- Public participation increases knowledge and interest in politics both within the group of citizens taking part in the exercise, and amongst the wider general public;
- Involving citizens in discussions about what it means to be British is particularly important if assertions about citizenship are to have resonance across different sections of British society.
- If human rights are to be fully accepted and understood from the public, arguably unlike those within the *Human Rights Act 1998*, they have to have come from the public and been subject to debate and discussion across society;
- Some of the government's proposals are highly controversial and contested. By involving citizens in hard choices the government may neutralise some criticism of proposals.

There are also arguments made against giving too much say to such participatory or deliberative bodies. These include:

- Citizens lack the knowledge and capacity to be involved in deliberative decision making – experts are much better placed to do this.
- What happens to the role of elected politicians if policy and decision-making is left to the public?
- Unless proposals from consultative bodies are incorporated into policy-making, the process can be considered to be damaging to public trust as the government would be seen to 'not be listening'.

Of course, the arguments for and against such bodies depend on the tasks given to them to complete, what happens to their conclusions (i.e. whether they are consultative bodies or decision-making bodies), how large or small they are, and how representative of the population they are.

The 2006 Power Inquiry report argued that constitutional reform had previously neglected the relationship between state and citizen:

The constitutional reform agenda was chiefly about imbalances and injustices in the relationship between different elements of the polity but there is also a vital need to address, more directly and radically, the relationship between that polity and the citizen.¹⁹

This view was also reflected in a leader article in *The Guardian Newspaper* after the publication of the *Governance of Britain Green Paper*:

... The government could decide that constitutional change, like a restoration project on a vintage car, is something best carried out in its spare time: this is how it has mostly been done until now. Tony Blair created a supreme court almost without anyone noticing.

[...]

¹⁹ Power Inquiry, *Power to the People*, 2006, p128

...Constitutional reconstruction needs to be more than an elite game: it needs to take on something of the energy of the campaign to Make Poverty History, connecting campaigning with a sense that society can be made better. There is a case for a national convention, as in Scotland before devolution.²⁰

In their response to the Green Paper, the Constitution Unit at University College London explained that:

The Green Paper very sensibly suggests that new and varied forms of consultation should be set up to discuss some of the major proposals included within it. This could be extremely important in building trust. If the aim of the exercise is to increase democracy and accountability, a democratic and accountable process must be established to agree the measures introduced. However, there are also other pragmatic reasons for the government to embark on consultation, and in particular for it to experiment with genuine deliberative processes such as citizens' juries or citizens' assemblies. After 10 years of constitutional reform, many of the items remaining on the agenda are highly contested. This applies to Lords reform and electoral reform, and will also apply to any attempts to draft a British Bill of Rights or a British statement of values. The danger with traditional forms of consultation is that numerous competing voices are aired, and then whatever government proposes is rubbished by one side or the other. The benefit of mechanisms such as citizens' juries is that the citizens with competing visions are forced to reason with each other. This confronts citizens with some of the difficult choices generally left to politicians, and ensure that the outcome – even if this is that no agreement can be reached – has greater legitimacy...²¹

There are particular arguments made for involving citizens in proposals for changing the rights regime in the United Kingdom. The Constitution Unit have stated that:

The main aim should be to repatriate and repackage the ECHR and put a British label on it, in order to gain public acceptance of a catalogue of rights. As the Green Paper points out, there was significant British input into drafting the ECHR, but sections of the press will continue to portray it as an undesirable European import, and many of its readers will believe them. This negative perception is unlikely to change until the rights have been discussed by the British people and adopted as a Bill of Rights.

JUSTICE, the legal and human rights organisation, has been working on a project on a Bill of Rights for Britain. In their consultation paper published in February 2007 they stated that:

Any move to introduce a British bill of rights must start with a comprehensive public education campaign and a major consultation process, as has happened in Northern Ireland. This is essential to obtain sufficient public awareness and consensus over its content. We consider that the bill in its final form should also be confirmed by a referendum.²²

JUSTICE published their full proposals in November 2007.²³

Professor Anthony King of Essex University has been more sceptical of the 'involve the people' approach. In an article in *Prospect* Magazine he stated his view that:

²⁰ *The Guardian*, 4 August 2007

²¹ Robert Hazell, *Constitution Unit response to Cm 7170: The Governance of Britain July 2007*, July 2007, <http://www.ucl.ac.uk/constitution-unit/files/publications/GovernanceResponse.pdf> (last viewed 8 July 2009)

²² JUSTICE, *A Bill of Rights for Britain: Discussion paper*, February 2007, <http://www.justice.org.uk/publications/listofpublications/index.html> (last viewed 8 July 2009)

²³ JUSTICE, *A British Bill of Rights: Informing the debate*, 2007

At some points this trust-the-people approach evinces naivety bordering on the comic. In his statement, Brown announced that he had asked Jack Straw “to lead a dialogue within parliament and with people across the United Kingdom by holding a series of hearings, starting in the autumn, in all regions and nations of this country”. Brown insisted in parliament that “a constitutional convention of the great and the good is not as good as hearings that will be held in all parts of the country”. The trust is that hearings of this kind invariably attract the elderly, the male, the white, the middle-class and the people with both bees in their bonnets and time on their hands. Well-considered and durable constitutions do actually emerge from gatherings of the great and the good – and from nowhere else. George Washington, Benjamin Franklin, James Madison and Alexander Hamilton – the men who met in Philadelphia in the summer of 1787 – were certainly great and arguably good. It is true that they won the consent of the people in a series of state by state conventions, but the people were asked to ratify or refuse a document that had already been carefully thought through, the outcome of months of behind-the-scenes deliberation.²⁴

4 Citizens’ Assemblies overseas

4.1 British Columbia

The British Columbia Citizens’ Assembly on Electoral Reform’s website explained that:

The Citizens’ Assembly was created by the Government of British Columbia with the unanimous support of the B.C. Legislature. It was an independent, non-partisan assembly of citizens who examined the province’s electoral system — that is, how our votes determine who gets elected to sit in the provincial Legislature.

The Citizens’ Assembly had 160 members, one man and one woman from each of B.C.’s 79 provincial electoral districts (constituencies) plus two Aboriginal members. They were representative of the province as a whole, and worked for all British Columbians. Members were picked by random draw from a pool that reflected the gender, age and geographical make-up of British Columbia. Assembly chair Jack Blaney was also an additional member, the 161st.

The initiative was unique. Nowhere else in the world had such power been handed to randomly selected citizens.

What did the Assembly do?

The members spent 11 months in 2004 studying electoral systems in use around the world, holding public hearings, accepting public submissions, and finally reaching a decision. That was to recommend a new electoral system: BC-STV.

Their recommendation will be put to the voters in British Columbia as a referendum question at the next provincial election, on May 17, 2005.

To pass, the referendum would have to be approved by 60% of all voters, and by a simple majority of voters in 60% of the 79 electoral districts. If the voters endorse a new system, the government has indicated it will be in place for the following provincial election, in 2009.

For the Assembly members, 2004 was divided into three phases: From January-March, they learned about electoral systems. In May and June, they held public hearings throughout B.C., for members to hear diverse public views. From September-

²⁴ Anthony King, ‘Constitutional Fiddling’, in *Prospect*, September 2007

November, members met to decide if they believed B.C. should have a new electoral system, or retain the current one.

Their final report was submitted to the people of B.C. and the government on 10 December 2004. Then the Assembly and its staff disbanded.²⁵

The Assembly's budget was \$5.5 million (approximately £2.6 million). A brief chronology of the establishment and work of the Committee shows that the total duration of the Assembly, from conception to the delivery of the final report was over two years:

20 September 2002 The new provincial government appointed Gordon Gibson to develop recommendations on how the assembly should function and be structured.

30 April 2003 The Attorney General formally asked the House to support the creation of the Assembly. The motion was unanimously approved. A special committee of the legislature was set up.

10-11 January 2004 The Assembly began its "Learning Phase" meetings, six weekends in Jan-March 2004.

11 September 2004 The Assembly began its "Deliberation Phase"

10 December 2004 The Assembly submitted its final report and recommendations to the people and government to British Columbia.²⁶

In advance of the deliberations by the Citizens' Assembly on Electoral Reform, Members of the British Columbia Legislative Assembly unanimously approved the *Electoral Reform Referendum Act*. The legislation established that if the Citizens' Assembly recommended a new electoral model, a referendum on the proposed new model would occur in May 2005 in conjunction with the next provincial general election. Under the *Electoral Reform Referendum Act*, the results of a referendum would be binding upon government and that pre-requisite amendments to the Elections Act must be made by government in advance of the May 2009 general election.²⁷ The outcome of the referendum was a narrow defeat of the Assembly's proposals. 57.69 per cent of voters across British Columbia voted in favour of the change (just short of the 60 per cent required) with a majority of over 50 per cent in 77 of 79 electoral districts.

The Citizens' Assembly was therefore more than just a deliberative forum. As Graham Smith has pointed out in work conducted for the Power Inquiry:

...the Assembly differs in a number of important ways from innovations such as citizens' juries and deliberative polling:

- a relatively significant number of citizens were involved in an on-going process rather than a single one-off event;

²⁵ <http://www.citizensassembly.bc.ca/public/inaction> (last viewed 8 July 2009)

²⁶ See <http://www.citizensassembly.bc.ca/public/inaction/history> for a full chronology (last viewed 8 July 2009)

²⁷ The Legislative Assembly of British Columbia, *Special Committee on the Citizens' Assembly on Electoral Reform Final Report*, February 2005, <http://www.leg.bc.ca/cmt/37thparl/session-5/citizen/reports/Rpt-37-5-Final-CA.htm> (last viewed 8 July 2009)

- there was a guarantee that recommendations would be taken seriously and have an impact on the decision-making process (i.e. frame a referendum).²⁸

Graham Smith continued:

No doubt one of the reasons why citizens were so willing to engage in the process was because the government had committed itself to a referendum based on the Assembly's recommendations – they know that their deliberations and decisions would have an effect on the decision-making process.

Perhaps the one obvious weakness of the Assembly is that it did not set its own agenda – the government decided what questions the Assembly would tackle and the limits of its competence – for example, it was not allowed to recommend changes to the size of the legislature. However, once it began its work, the Assembly was independent of government.²⁹

In a lecture to the Australian Parliament, Campbell Sharman of the University of British Columbia, stated that there was initial scepticism from the media about the ability of 'ordinary people' to become familiar with the complexities of electoral rules, but this changed over time:

... as the Assembly's meetings progressed, the tone of media reporting moved from mild condescension to admiration both for the substance and the tone of the Assembly's discussions. The faith in 'ordinary people' being able to make decisions on complex political decisions had been overwhelmingly endorsed. The public goodwill towards the Citizens' Assembly process was perhaps its most important achievement.

He also noted that the Assembly also appeared to overcome the apprehensions within the governing Liberal Parliamentary Party:

...The electoral system controls access to parliament and sets the parameters for a parliamentary career. Why would members of parliament be willing to cede control over this critical issue to a bunch of ordinary people and a public referendum? The answer can be found in the conditions that were put on the timing of a possible change and the rules for the success of the referendum.

Sharman argued that with no change to the electoral system possible for five years after the report of the Assembly the possibility was a distant one. Moreover, the requirement for a referendum to gain the support of 60 per cent of the voters, and majorities in 60 percent of the 79 electoral districts was meant that "The bar for electoral change was set high, perhaps so high that change was unlikely". It is also worth noting that the British Columbia legislature established a special committee to provide a linkage between the Citizens' Assembly and elected representatives.³⁰

The Centre for the Study of Democratic Institutions at the University of British Columbia has conducted some work assessing the success of the mechanism. They stated that:

Taken together, evidence from the referendum process and the CA experience offers some important through inconclusive support for the claims of participatory and developmental democrats about the educative effects of political participation. The CA

²⁸ Graham Smith, *Beyond the Ballot Box: 57 Democratic Innovations from Around the World – A report prepared for the Power Inquiry*, May 2005, p75, <http://www.soton.ac.uk/ccd/events/SuppMat/Beyond%20the%20Ballot.pdf> (last viewed 8 July 2009)

²⁹ Ibid., p 76

³⁰ See <http://www.leg.bc.ca/cmt/37thparl/session-4/citizen/index.htm> (last viewed 8 July 2009)

members, who were deeply immersed in a year-long multi-faceted experiment in participatory and deliberative democracy, exhibited substantial gains in their interest in and knowledge about politics in general and electoral systems in particular. A few CA members even claimed that their involvement in the CA was a “profound experience”. In contrast, during the four month run-up to the referendum on proposed BC-STV system the larger public in BC seems to have exhibited the kind of attention to and understanding of the referendum that has left democratic elitist theorists... dubious about the capacities of ordinary citizens for active and responsible political participation. Even though the proposed BC-STV system would entail a major change in BC provincial politics, a large proportion of BC citizens gained little knowledge about either the Citizens’ Assembly or the CA’s BC-STV proposal.³¹

4.2 Ontario

Ontario also adopted a Citizens’ Assembly to consider electoral reform. Their Citizens’ Assembly was created in March 2006, and began work in September that year. The Assembly consisted of 103 randomly selected voters, and it followed a similar procedure to British Columbia. In their final report, published in May 2007, they recommended a change to a mixed member proportional system (MMP).³²

A referendum on the Assembly’s recommendation took place on 10 October 2007. As in British Columbia, the bar was set high for the referendum result: the proposal required at least a 60 per cent majority across the province, and at least a 50 per cent majority in each of at least 64 electoral districts. Unlike in British Columbia, however, the result of the vote was not close. The proposals received only 36.9 per cent of votes across Ontario and a majority of over 50 per cent in just 5 of the 107 districts.³³ Some press coverage of the results suggest that the short amount of time devoted to a public education campaign, the lack of information available to voters, the complexity of the proposed MMP system, and the unpopularity of the MMP system (in particular the fact the new system would have led to a larger legislature) were all factors in the outcome.³⁴

4.3 Netherlands

The Netherlands established an Electoral System Civic Forum to:

- carry out a study of various electoral systems for the election of members of the Second Chamber of the States General; and
- to issue a report containing the Civic Forum’s substantiated recommendations for the most suitable electoral system for the election of members of the Second Chamber of the Second Chamber.

A report issued by the Electoral System Civic Forum on the process explained that:

In his democratic reform agenda of 8 July 2005 the then Minister for Government Reform and Kingdom Relations, Mr Alexander Pechtold, announced the incorporation of the Electoral System Civic Forum. At the time all the customary roads towards an amendment of the electoral system had come to a dead end... The Cabinet decided to

³¹ Bruce Baum, *Experts vs Amateurs: The British Columbia Citizens’ Assembly and Dilemmas of Participatory Democracy*, Centre for the Study of Democratic Institutions, University of British Columbia, 2007.

³² <http://www.citizensassembly.gov.on.ca/assets/One%20Ballot,%20Two%20Votes.pdf> (last viewed 8 July 2009)

³³ See <http://www.elections.on.ca/en-ca> (last viewed 8 July 2009)

³⁴ See for example, ‘Bad timing undermined exercise in democracy’, *Toronto Star*, 24 October 2007 and ‘Turnout dismal despite chance to reform voting’, *National Post*, 12 October 2007 and ‘Voter reform didn’t stand a chance’, *Kitchener-Waterloo Record*, 12 October 2007

break through the impasse by adopting an entirely new approach to the discussions on the electoral system – i.e. by consulting those with the greatest interest in the electoral system, the voters.

The Cabinet was also of the opinion that the appointment of a civic forum was an interesting experiment in a new method for the involvement of citizens in democracy, since our representative democracy is based on interaction between the votes and those who represent them. A civic forum appeared to be a promising means of strengthening these ties.³⁵

The Forum followed the same model as the BC Citizens' Assembly: its work was divided up into a training phase, a consultation phase and a decision making phase. It comprised 140 citizens who were chosen after first being selected as a random sample of 50,000, then asking those interested within the sample to self-nominate, then drawing lots from that group. The group was chosen to include equal numbers of men and women, to ensure geographical distribution of the country's population, and to ensure that the age distribution matched the Dutch population as closely as possible. As in British Columbia, no persons who, at the time of selection or operations of the Civic Forum, had been elected to or were included on the list of candidates for the national or European Parliament, were eligible. In December 2006 the Civic Forum recommended the implementation of a proportional voting system.

The process was shorter than that of British Columbia (perhaps having learnt from their experience as the Process Report notes that a visit was conducted to BC at the outset of the process design). The announcement was made in July 2005 that there should be a Civic Forum, letters of invitation to citizens were sent out in February 2006, the Forum was formally installed in March 2006, and it delivered its report in December 2006. Its budget was €5.1 million (approximately £3.5 million). Unlike in British Columbia, no commitment was made to a referendum on the outcome of the process before it began. It is not clear what action will be taken as a result of the report of the Forum.

The British Columbia Citizens' Assembly, the Ontario Citizens' Assembly and the Netherlands Civic Forum have all reported relatively recently; therefore there is still a limited amount of literature assessing their operation and their impact on citizenship, trust, and civic engagement.

³⁵ Netherlands Electoral System Civic Forum, Process Report