

Re-Inventing Democracy

A Green Party/Comhaontas Glas Discussion Document on Oireachtas and Institutional Reform

Introduction: These are crisis times for representative democracy in our country. Public regard for the practice of politics has reached a nadir. It is obvious to all that if faith in our democratic systems is to be renewed, then large scale changes need to be made to those structures, to the extent that citizens can begin to believe again that such structures can represent them effectively and honourably. With these proposals the Green Party/Comhaontas Glas hopes to contribute to this necessary debate and help initiate these key changes.

Each house of the Oireachtas needs to be part of this examination. Our proposals are being made to suggest such changes as part of a holistic approach to Oireachtas reform. In addition we are making further suggested changes in the hope that we can help improve participation in the electoral process.

The Presidency/ Uachtaran na hÉireann

The role of Uachtaran na hÉireann has changed significantly in recent years due mainly to recent holders of the office creatively re-interpreting the position. The non-party political nature of the office has led the President to become distant from the public opprobrium that now seems, these days, to attach to every other elected public representative in the country. This said the expanded role of the Presidency should not solely concentrate on the ceremonial. There is a political (but non-party political) role to the office, that has rarely been effectively used, but could be made to be an active part of the office, if made a requirement rather than an option for different Presidents to choose to use in different ways.

We would envisage a strengthened role for the Council of State. The President's role as protector of the Constitution, as the prime representative of the citizens' interest, calls for more active engagement in challenging legislation that curbs the ability of the citizen to fully contribute to the decision making process. Recent examples of legislation that has compromised citizens rights and went unchallenged would include the amended Freedom of Information Act and the Public Order Act. Possible future legislation could see participation in the planning process being limited. Legislation on disability may or may not adopt a rights based approach. Future justice legislation, if current promoters are seen to be consistent, could see an undermining of civil rights. An active Presidency, with the assistance of a regularly meeting statutorily based Council of State, should be a bulwark against such threats, and would be playing a positive political role that our system, at present, sorely lacks.

Similarly the right of the President to speak to a joint sitting of the Dáil and the Seanad should be considered more than an optional extra. A State of the Nation address should be an integral and annual part of the work of the President. The opportunity to present this type of overview would bring about a degree of interdependence between all the houses of the Oireachtas that the present system does not encourage

The seven year term of office is lengthy, too lengthy to allow for proper public engagement with the office. It helps create the conditions where agreed candidates are selected, or incumbents are given additional terms without having to seek re-election. It is unhealthy for democracy for the highest political office in the nation to go uncontested. Limiting the length of term and the number of terms that could be served would help avoid these unhelpful assumptions.

However, opening up the nomination process would be of even greater help in avoiding the ready up of established political parties deciding amongst themselves, whether or not the Irish people should vote on whom their President should be. The current nomination procedures of 20 members or 4 city/county councils are unnecessarily restrictive and limits the electorate's choice. We would propose that in addition to the current nomination methods there should be allowance of a Citizens' Initiative/Petition nomination, where a set number of electors (say 20,000) would be able to collectively nominate a candidate. Such a method of nomination would help to energise and re-invigorate the electoral process.

These proposals would we believe lead to a more active Presidency - above the cut and thrust of party politics, but an obvious brake against partisan politics obvious excesses.

Summary of Proposals in relation to the Office of the President

- Placing the Council of State onto a statutory basis detailing a requirement for a minimum number of regularly held meetings.
- The President to give annual State of the Nation speech to joint sitting of the Dáil and the Seanad
- Seven year term to be shortened to five year term, with two term limit on each President
- Citizens' Initiative of 20,000 voters to become an additional means of nominating candidates for the Presidency.

Dáil Éireann

A great deal of the public discontent that exists towards politicians and political parties, has its genesis in the behaviour of several members of Dáil Éireann who have been found to be corrupt and self serving, and yet still have not had any legal sanction placed on their activities. This incongruity when contrasted with the sentencing of other citizens for lesser crimes has only served to increase public cynicism towards the political process.

However it is the everyday operation of Dáil Éireann that has driven many of our citizens to despair. The low number of sittings, the behaviour within the chamber and the sense of powerlessness of an opposition that is severely restricted from effectively challenging the government, are important factors in creating public cynicism as is any ongoing pattern of corruption.

Take the number of sitting days. In comparison with other national parliaments, it can all too clearly be seen how poorly Dáil Éireann performs. The Green Party/Comhaontas Glas would propose that Dáil Éireann sit for 45 of the 52 weeks of each year, not sitting during the month of August, not sitting for two weeks over the Christmas or for one week at Easter. We would further propose that any attempt to reduce or to extend the number of these to be statutorily defined sitting days, could only be approved by a vote of Dáil Éireann consisting of no less than two thirds of its membership. In this way governments would be prevented from a cut and run approach at avoiding parliamentary accountability.

With the end of the local government/parliament dual mandate the way is now open to have more Monday and Friday sittings. The Green Party/Comhaontas Glas would propose that each week's Dáil session would open on Mondays at 2pm and the week's proceedings would be brought to a close at 1.30pm on Fridays. Each subsequent day's business would begin at 9.30am and end at no later than 7pm. This will allow the work of the Dáil to become more focussed, and earlier finishing times will allow for travelling home for non-Dublin based TDs introducing a more family centred approach to the work.

Efficiency in the timing of Dáil sittings should also be matched with a critical examination of whether the number of TDs is appropriate for the work that should be done at this level. Bunreacht na hÉireann allows for a member of the Dáil to represent between 20,000 to 30,000 of the population. Invariably it has been the lower figure that has been aimed towards. If the 30,000 population ratio were to be adopted this would result in a Dáil of 130 members. A smaller Dáil would have a knock-on effect on other positions within the Dáil and within government. For instance a cabinet of 15 ministers could be reduced to 12, and the need for 17 Ministers of State would be brought into question. These changes would make further sense in the light of additional proposals we intend to make elsewhere in this paper.

A Dáil of this size could lead to re-consideration of the system of electing members of the Dáil. The Irish system of multi-seat constituencies elected on the single transferable votes carries with it considerable advantages. Representatives are close to the people who elect them, and smaller parties have a greater potential to elect their candidates through this system. On the negative side, there is concern about TDs being over-concerned with constituency matters at the expense of the national outlook.

To counteract this we propose that a proportion of the seats be elected by a top-up procedure. For example, in a Dáil of 130 seats, 100 could be elected by local constituencies and 30 from the national lists of parties that have achieved at least 2% of the vote. In this way we would have deputies with both local and national perspectives.

Accountability of the government of the day should be a main focus of any national parliament. The Green Party/Comhaontas Glas would seek a return to the previous system of Leaders' Questions where Taoiseach comes into the Dáil chamber on three days of the week, to answer questions on the issues of the day on a round robin basis with follow through questions from each party or group leader in the Dáil. It could be that this additional time could be given in lieu of less time being made available for Taoiseach's Questions which as a rule are more formal and are far less informative.

With the ability to ask more searching, more in depth questions to the government, the role of the Ceann Comhairle becomes more crucial. Not only should the holder of this office be given more powers, there is also a responsibility for the Ceann Comhairle to act as something more than a time referee for the business of the Dáil. The Ceann Comhairle should be the champion of the ordinary members of the Dáil. The power of the office should include the right to challenge members of the government if they fail to provide the House with full and adequate information. The failure to provide such information in the past has been the main contributory factor to the establishment and ongoing pursuit of the plethora of tribunals now in place.

Active engagement in the work of the Dáil is not given to the opposition parties and the opposition members of the house. With our proposed extension of sitting time, we believe there is scope for Private Members Time to be extended from the current three hours a week to four and a half hours a week. This can be further divided into a one and half hours each day, for three days of the Dáil week, to be given to a different opposition party/group.

The ability of ordinary members of the Dáil to fully contribute would be further enhanced if adjournment debates, four ten minutes debates on issues of concern held at the end of each day's business, were to become commencement debates at the start of each day's business. Topics to be discussed could be chosen through lottery.

The question of measuring of productivity of members of the Oireachtas in the light of the agreement on benchmarking, has been broached. Whether about measuring productivity, we believe it is certainly possible to measure contribution. To this end we would propose applying to members of the Dáil and the Seanad a measure that already exists in our local government system. Councillors only receive their full entitlement to expenses if they physically attend at least 80% of the plenary meetings of their council. Failure to meet this threshold results in a proportionate decrease in the amount of expenses that are available. This system if applied to members of the Dáil and Seanad could be linked to participation in votes of each chamber. The only caveat to this would a lower threshold for members of the Cabinet who might otherwise be engaged on State business.

A subject on which the Green Party has more practical experience than most, is the arbitrary exclusion from full participation of the business of the Dáil of political parties that have less than seven members of the House. We believe that this standing order should be changed to five members, and that further restrictions that such groupings can only be formed by those elected under a particular political banner at a general election, and cannot be formed by seats subsequently won at by-elections, or through re-configuration of the Dáil itself, be got rid of.

The committee system in the Oireachtas has only fitfully reached its potential. Failure to act on the Abbeylara High Court decision on the issue of compellability of witness is hampering the ability of committees to reach such potential, and operate at a level that can only effectively be seen at present in the operation of the Public Accounts Committee. In keeping with allowing the opposition to play as full a role as possible in the working of the Dáil, the Green Party/Comhaontas Glas believes that Oireachtas committee chairs should be allocated under a D'Hondt system (as found in Northern Ireland for allocating ministerial positions), and be in the gift of the Taoiseach. This would allow for a more active challenging of the government, and it helps to remove the concept of the payroll vote.

A further innovation we would propose is to allow outside interest groups, possibly as designated through the social partnership process, to directly contribute to the committee stage of all relevant legislation. This could be done either through presentation to the appropriate Oireachtas committee, or through be able to amendments to be discussed and voted on in committee. This would we believe help in achieving better acceptability and ownership of legislation being processed through the Oireachtas.

The ultimate focus of our proposals to reform the workings of the Dáil is to remove as many as possible of the existing discretionary powers held by the government, especially through the office of the Taoiseach, and disperse these powers among the wider membership of the Dáil. In this regard we believe the power of the Taoiseach to call a general election, at a time of his choosing in order to secure maximum political advantage, should be removed. The Dáil should sit for a fixed five year term. Any early election could only come about by the failure of a government to win a vote of confidence, and the acceptance by the President that an alternative government could not be put in place.

Summary of Proposals in relation to Dáil Éireann

- Dáil Éireann to sit for 45 of the 52 weeks of the year
- Sittings to be held from Monday afternoons to Friday lunchtimes
- Sittings to begin as early as 9.30am but end no later than 7pm
- Proposals to change Dáil sitting arrangements to be agreed by no less than two thirds of the membership of the Dáil
- Membership of the Dáil to be reduced from 166 members to 130 members
- Membership of the Cabinet to be reduced from 15 members to 12
- The office of Minister of State to be abolished
- Consideration to be given to change electoral system to Dáil Éireann
- Return to the previous system of Leaders' Question – three days a week on a round robin questioning basis

- Increase powers of Ceann Comhairle obliging members of the government to give full and adequate information to the Dáil
- Increase Private Members Time and allocate on a more regular basis
- Replace adjournment debates with commencement debates chosen through lottery
- Link expenses received to participation in Oireachtas votes
- Give Oireachtas committees powers of compellability
- Allocate Committee Chairs under D'Hondt system
- Change of standing order on the recognition of parties in the Dáil from seven members to five, however formed in the lifetime of the Dáil
- Give all Oireachtas committees the power of compellability
- Outside interest groups to direct input at committee stage of relevant legislation
- Power of Taoiseach to call early election to be removed

Seanad Éireann

The Green Party has recently made a written and an oral submission to the Seanad Sub-Committee on Seanad Reform. The written submission, and the debate that accompanied the oral submission, are included at the back of this document as an appendix. We include here a summary of our proposals with an added explanation of how Green thinking in some of these areas has changed subsequently.

Summary of Proposals in relation to Seanad Éireann

- Seanad Éireann to be fully publicly elected
- Taoiseach's nominees to ended
- Vocational panels to be abolished
- University panels to similarly phased out
- New elections under lists contested in European election constituencies
- Eight seats to be elected by Irish citizens in Northern Ireland and Rest of the World constituencies
- Seanad elections to be held at a mid term period to elections to Dáil Éireann
- Electoral lists to be constructed to allow for greater participation of women and minority groupings
- Separate Seanad committees to be established
- The Leader of the Seanad to be a full member of the Cabinet

The question of how the list system would work is open to interpretation. A close list system would see a political party, or the grouping forming a list determine the order in which their candidates are elected. An open list system would see a voter opting for a party or group, and then be given a subsequent choice on their preference within that list. After the recent recommendations of the European Election Review Group, putative Seanad constituencies may look like this –

Dublin: 16 seats

Ireland East: 12 seats

Ireland North and West: 12 seats

Ireland South: 12 seats

In our written submission to the sub-committee we argued that the government at the very least should appoint a Minister of State from the membership of the Seanad to help oversee its business programme. Having now argued in the context of overall Oireachtas reform that the office of Minister of State should be abolished, we now believe that the importance of the Seanad can only be recognised through Leader of the Seanad being given full cabinet rank

Regional Government/Local Government

The focus of Green Party thinking on bringing about democratic reforms lies not only in bringing about smaller government at national level, but also in bringing wider government at regional and local government level.

Many of the functions of national government can, we believe, be best provided - efficiently and more cost effectively - at a regional level. Services in the areas of health, education, social welfare, transport, regional planning, inland waterways, waste management and elements of policing can and should be provided at a regional level.

Elected regional authorities using the European constituencies as administrative areas, could be established in Dublin, and be based in Cork, Galway and Tullamore. Establishing such structures could be result little or no additional costs if real decentralisation, as opposed to the type of office relocation that the government presents as decentralisation, can take place. Real savings can be made by amalgamating existing regional structures such as Health Board, Vocational Education Committees, Fisheries Boards into a new system of regional governance. A Dublin regional assembly would obviate the need for the current for local government, to be replaced we would suggest with a new tier of smaller district/town councils.

Such a change, would not only make existing regional bodies subject to much needed economies, it would also make such bodies open to actual accountability the present system does not properly subject them to.

Elected assemblies using existing population ratios found for election to Dáil Eireann would produce regional assemblies of the following size:

Dublin - 56 members

Southern Regional Assembly - 52 members

Eastern Regional Assembly - 47 members

Northern and Western Regional Assembly - 40 members

More important than engaging on a real decentralisation programme and establishing a regional tier of government, is bringing about a system of local government that can be seen to be significantly different from the form of local administration that has stilted an autonomous form of publicly acceptable local government.

The introduction of a constitutional amendment recognising and valuing the role of local government seemed to be a positive move. However it has been followed since by policy initiatives of this government that have undermined, again and again, the ability of elected local representatives not even to be able to make decisions, never mind be responsible for taking decisions.

The ending of local government/parliament dual mandate, welcome in itself, and offering the opportunity to at least suggest changes in all our democratic systems, might be argued to be the least of the reforms needed in Irish local government. The biggest wedge in preventing a truly democratic system emerging in local authorities remains the concentration of decision making power in the hands of city/county managers, unelected officials with little real accountability. The fudge of the most recent Local Government Act that ended the dual mandate but scrapped plans for directly elected mayors, at least showed the lack of real commitment by this government to local government reform.

The process of reform must re-introduce the concept of directly elected mayors. Power must begin to be transferred from city and county managers to newly and existing elected public representatives. Recent legislation hampering the decision making powers of local councillors must be dismantled.

However, restoring full decision making to local representatives should not be taken as the idyllic route to true local democracy. We have learned in the past how unquestioned decision making by local representatives, particularly in the planning area, can lead to a serious undermining of public confidence. To avoid a return to such practices we need mechanisms, such as a Local Government Ombudsman, to ensure that local councils do not overstep their powers.

Elections to Local Government often offer young people the opportunity of beginning to get involved in political structures. Elsewhere in this paper we deal with other impediments to young people becoming politically involved. Other factors again contribute to the real cynicism among young people that discourages participation in the electoral process. The Green Party would propose that in order to pre-empt the onset of this cynicism, young people would be encouraged into a political culture as early as possible. Our proposal would be that the franchise for voting in local elections be extended to new voters as young as 16 years of age.

Finally, as Greens we wish to see decentralisation brought down to the lowest effective level. Local government legislation allows for the recognition of locally approved councils, such bodies being community associations and residents groups. This legislation lacks definition and as a result effective application. Approved bodies should have proper recognition and recognisable communication channels with local authorities.

Summary of Proposals in relation to Regional Government/Local Government

- Establish Elected Regional Authorities based on European Parliament constituency boundaries
- Integrate with existing regional bodies
- Dublin City/ County councils to be replaced with district/town councils
- Re-introduce Directly Elected Mayors
- Transfer decision making powers from city/county managers to elected public representatives
- Dismantle recent Local Government legislation
- Introduce Local Government Ombudsman
- Larger franchise for local government elections to include voters from 16 years of age upwards
- Strengthen legislation on Locally Approved Bodies

Bunreacht na hÉireann/ The Constitution

In recent referenda in accession countries seeking membership of the European Union, many were operating to a constitutional provision that such referenda would not be valid unless 50% of their electorate had participated in the vote. This is an excellent provision that changes the focus for those involved in political campaigning from merely trying to convince enough people to support a particular position, onto seeking maximum participation in an electoral process. There might, however, be a problem achieving a 50% turn-out with uncontentious referendums, where voters do not turn out simply because they think that the result is certain. Therefore, we propose that referendums which achieve a 2/3 Yes vote should be passed and that a simple majority would only suffice if a 50% turn-out was also achieved.

Under such a provision many of our previous constitutional referenda would have failed, for example, the pitiful turnout that accompanied the proposal to change the Bail laws. It should be the case that a constitution is difficult to change, and if change can be achieved it have been seen through sufficient participation and proper persuasion.

Our second big idea in relation to the Constitution is a measure we believe would help improve the people's sense of ownership of the document. Many jurisdictions already make use of Citizens' Initiatives to suggest constitutional amendments, or to initiate debates on matters of wide public interest. We have already suggested such a measure as a means of nominating candidates for the Presidency. A similar measure, with a different threshold say 50,000 electors, could be the mechanism to initiate a referendum on amending the constitution.

In our philosophy of wider democracy, Greens would look critically at the idea of yes/no votes being the definitive democratic act. Few decisions in life are simple. There are many grey areas that tend to get overlooked in the search for simple decisions. This is why the Green Party/Comhaontas Glas proposes the use of the preferendum, a multi-choice referendum that helps to identify the preponderant rather than the dominant view.

One constitutional provision that we believe should be changed at the earliest possible opportunity is the dichotomy that some vote for candidates, but cannot be voted for as candidates themselves. Those aged between 18 and 21 years should have the right to be considered for any elected office in the country.

Summary of Proposals in relation to the Constitution

- Referendums to require either a 2/3 Yes vote or a simple majority with at least a 50% turn-out
- Introduce a Citizens' Initiatives to bring about referenda on amending the Constitution
- Develop and use of Preferendum voting systems
- Allow 18 to 21 year olds to be candidates for all elective offices in the State

Legislative Changes

The Green Party believes that consideration be given to having a set election day each year, as exists in the United States. With fixed term elections a five year cycle could be introduced – The Presidency, The Dáil, European Parliament, Seanad and Regional Government and the local elections. Any proposal to amend the constitution or to engage in wider public consultation could also be held on these established election days. Such certainty would not only help concentrate resources, it would also we believe encourage maximum participation in the process. The first Saturday in June each year could hold certain attractions as such a date.

Participation rates continue to be a cause of concern. The difficulty remains that voter apathy is impossible to properly quantify. Is it indifference or is it loss of faith in democracy itself? Should voting become a legal obligation, as is the case in Australia and in Belgium? Perhaps a *None of the Above* option on ballot papers could give voters an opportunity to show that it isn't the act of voting with which they have disillusioned with, but the poverty of choice they are being offered?

The funding of the political process continues to be fudged. Despite evidence that money distorts the electoral process and the decision making process that results from it, established political parties continue to peddle the myth that current funding practices are acceptable, and in fact the pendulum may have swung too far in the wrong direction with a need now to reduce some of these 'unnecessary' restrictions. The Green Party believe that no corporate donations should be allowed, nor should institutional donations, nor any money donated from outside the country. If state funding of political parties, on the basis of electoral performance, is the price to pay for not having the political process compromised, we believe it is a price that should be paid.

The further legislative changes we propose would relate to how participation has become further corrupted by the hamfisted attempt to disintegrate Freedom of Information legislation. It would be a priority of the Green Party in government to restore and extend Freedom of Information legislation.

This legislation while vital for citizens to be able to claim information to vindicate their rights, has also proved a useful tool to media in keeping the political system to account. Similar reforms are needed in speedily and adequately reforming our libel laws, to help increase and improve the practice of investigative journalism.

Summary of Proposals in relation to Legislative Changes

- Establish five year electoral cycle
- Set annual voting day
- Introduce *None of the Above* option on ballot papers
- Have adequate and electorally based State Funding of political parties, in lieu of not accepting any further corporate, institutional or foreign based donations
- Restore and extend Freedom of Information legislation
- Reform Libel Laws

Conclusion: These are ideas, any single one of which if accepted would be significant, but if taken together would be truly revolutionary. We present these ideas as a challenge to all other political parties, to argue either for the status quo, or to produce any other ideas that they feel might lead us out of the morass that is Irish democracy in 2003. We await in hope.