**Northern Ireland**

**Assembly**

**Assembly and Executive Review Committee**

**Stakeholder ‘Call for Evidence’ Paper on Review of D’Hondt;**

**Community Designation and Provisions for Opposition**

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| **Section 1**  **Stakeholder Details** | | | | |
| **Stakeholder Name** | **Telephone Number** | | | |
| Peter Emerson | 02890711795  07837717979 | | | |
| **Stakeholder Address** | **Stakeholder Type (Include one or more X)** | | | |
| The de Borda Institute  36 Ballysillan Road  Belfast BT14 7QQ | **Registered Political Party** |  | **Local Government** |  |
| **Academic** |  | **Government** |  |
| **Legislature** |  | **Non-Government** | + |
| **Other (Please Specify)/ Member of the Public** | | |  |
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| **Please provide some background information on your role as a stakeholder** | | | | |
| (This box will expand as you type)  In 1986, I helped to organise the New Ireland Group’s *People’s Conventions*, the first a public meeting of over 200 persons, with Unionists (Sir Edward Archdale) and republicans (Alex Maskey, now MLA) – yet this was still eight years *before* the ceasefire. It was here that the Modified Borda Count (MBC) and matrix vote were first put to the test, and successfully so.  Five years later, in another cross-community conference, the MBC was again trialled, this time with electronic voting. Those present included members of ten political parties, not least the current President of Ireland, Michael D Higgins.  In 1993, another cross-community conference was held, this one on power-sharing, in Dungannon. Participants included Francie Molloy MLA and the late William Thompson MP.  Altogether, then , the list of prominent persons who have witnessed the use of the MBC and/or matrix vote, apart from many academics like Professor Lord Bew and Dr. Sydney Elliott, have also included the following:  Judge Catherine McGuinness,  Dr. Noel Browne TD  Bairbre de Brún, MEP  Mary Banotti, MEP  Cllr. David Cook,  Sean Farren, MLA  Monica McWilliams, MLA  Jim Wells, MLA  In 1998, the de Borda Institute invited a number of academics to a seminar on the matrix vote, as a contribution to the then Peace Talks. At about the same time, Ulster Marketing Surveys was commissioned to undertake an all-party MBC social survey, in order to demonstrate that the MBC is not only accurate but also robust.  In 2004, demonstration was given to Belfast City Council, so to suggest that it could become the world’s first democratically elected chamber to have provision for electronic preference voting. <http://www.deborda.org/belfast-city-council-role-pl/>  \* \* \* \* \*  These voting procedures have often been used, both in demonstration and ‘for real’. Furthermore, they have been held at home and abroad, not least in Bosnia. Details may be found in a number of publications, all of which are listed on the de Borda web-site: [www.deborda.org](http://www.deborda.org) | | | | |
| **Guidelines for Completion of Submissions** | | | | |
| The Committee would ask that stakeholders submit electronic responses using this pro forma.  Stakeholders should be aware that their written evidence will be discussed by the Committee in public session and included in the Committee’s published Report.  Stakeholders should also be aware that if they decide to publish their submissions, the publication would not be covered by Assembly privilege in relation to the law of defamation. | | | | |
| **Section 2**  **Introduction** | | | | |
| **Powers**   * 1. The Assembly and Executive Review Committee is a Standing Committee established in accordance with Section 29A and 29B of the Northern Ireland Act 1998 (“the 1998 Act”) and Standing Order 59 which, amongst other powers, provide for the Committee to:  1. make a report to the Secretary of State, the Assembly and the Executive Committee, by no later than 1 May 2015, on the operation of Parts III and IV of the Northern Ireland Act 1998; and 2. consider such other matters relating to the functioning of the Assembly or the Executive as may be referred to it by the Assembly.   **Assembly and Executive Review Committee’s Next Priority for Review**   * 1. The Committee agreed the **Terms of Reference** of this next Review of Parts III and IV of the Northern Ireland Act as follows:   **The Assembly and Executive Review Committee will review d’Hondt, community designation, and the provisions for Opposition Parties/Non-Executive Parties in the Northern Ireland Assembly to assist them in holding the Executive to account, guaranteeing safeguards and protections to ensure that the institutions operate on an inclusive and power-sharing basis. The Review will not only address each area separately but examine the interrelationship between the three areas in the context of any proposed changes.**  **Phase 1** **– Review Evidence Gathering**  The Review will take evidence on **d’Hondt** in relation to:   1. Whether there should be changes in the legislative provision and use of d’Hondt in the Northern Ireland Assembly in the allocation of Ministerial offices and/or Committee Chairpersons and Deputy Chairpersons.   The Review will take evidence on **community designation** in relation to:   1. Whether there should be changes in the legislative provision and use of community designation in the Northern Ireland Assembly.   The Review will take evidence on **provisions for Opposition** in relation to:  1) Whether the accountability and effectiveness of the Northern Ireland Assembly and Executive could be improved through the introduction of provisions to formally recognise Opposition, while retaining the principles of power-sharing and inclusivity.  In particular, the Committee will take evidence on whether:   1. Opposition Parties/Non-Executive Parties should be allocated appropriate financial resources to assist in their Assembly duties; 2. Arrangements for allocating Chairs and Deputy Chairs of Assembly Committees should be changed to take account of a formal Opposition; and 3. Opposition Parties/Non-Executive Parties should be guaranteed additional time to raise and debate non-Executive business in the Assembly — including priority speaking rights in response to Ministerial Statements and in Question Time.   **Phase 2 – Consideration and Report**  The Committee will consider all evidence received in relation to d’Hondt, community designation, and provisions for Opposition and report and make recommendations to the Assembly on these matters by early June 2013.  **Matters Outside the Scope of the Review**   * 1. The Committee has agreed that the following issue is outside of the scope of the Review: * Alternative electoral systems/models; for example, additional member system or alternative vote. | | | | |
| **Section 3**  **BACKGROUND**  **This section provides some background information on the issues being considered by the Committee as part of this Review.** | | | | |
| * 1. The following sections provide information relating to: * D’Hondt; * Community designation; and * Provisions for Opposition in the Northern Ireland Assembly and related factors.   1. The Northern Ireland Assembly can bring about some changes to how the Assembly operates. For example, some changes might require amendments to the Standing Orders of the Assembly and it is for the Assembly to agree any such changes on a cross-community basis. However, it can only legislate on matters that have been transferred to the Assembly by the UK Parliament, or with the consent of the Secretary of State for Northern Ireland in relation to reserved matters or excepted matters that are ancillary to other provisions dealing with reserved or transferred matters. In other areas, the UK Parliament has the power to introduce legislative change — that is, excepted matters.   2. In August 2012, the then Secretary of State for Northern Ireland launched a consultation entitled, *‘****Consultation on measures to improve the operation of the Northern Ireland Assembly****’*, one of the key areas of which was *“****Government and Opposition****”*. The consultation highlighted that the Northern Ireland Executive currently operates as a five-party coalition, as this has been important in ensuring that all parts of the community are adequately represented in government. The Secretary of State pointed out that the present structure of government is derived from the 1998 Act, which recognised that inclusive power-sharing is essential in Northern Ireland.   3. The Secretary of State’s consultation paper went on to say that there are obvious flaws in a system where there is no effective alternative government and highlights that the UK Government has regularly expressed a wish at some stage to see a move to a more normal system that allows for inclusive government but also opposition in the Assembly. The consultation paper stressed that moves to a recognised opposition must be consistent with the principles of inclusivity and power-sharing that are central to the 1998 Act.   4. The consultation closed on 23 October 2012. On 11th February 2013, the Secretary of State published the consultation responses, along with draft legislation to make provision on the following issues: donations and loans for political purposes; dual mandates; electoral registration and administration; appointment and tenure of the NI Justice Minister. The ‘Publication of Draft Legislation Northern Ireland (Miscellaneous Provisions)’ (Cm 8563) is available online (<http://www.nio.gov.uk/getattachment/Publications/Publication-of-Draft-Legislation/27250-Cm-8563-v4.pdf.aspx>).   5. The introduction to the draft legislation refers to “Government and Opposition” and states:   “While the Government would welcome moves towards a system of government and opposition, we remain clear that such changes could only come about with the agreement of parties in the Assembly. In addition, such moves must be consistent with the principles of inclusivity and of power-sharing that are central to the Belfast Agreement. We do not believe that there is sufficient consensus for statutory change at present which is why the draft Bill includes no provision on this issue.  However, the consultation document also drew attention to the possibility of procedural change within the Assembly aimed at providing for a more effective opposition. The Government notes that the Assembly and Executive Review Committee is examining these questions, amongst other institutional issues. The Assembly Research and Information Service produced a Briefing Paper entitled ‘Opposition, Community Designation and d’Hondt’ in November 2012. Procedural developments are of course matters for the Assembly itself and not for the Government to seek to impose.”   * 1. The Secretary of State has asked the Northern Ireland Affairs Committee to undertake scrutiny of the draft legislation, and that Committee will issue a call for evidence very shortly. The Secretary of State is seeking to introduce this Bill in the Third Session of Parliament.   2. **The following sections provide an overview of the issues that the Committee has identified as key to this Review. For further detail, please refer to the Assembly Research and Information Service paper *‘Opposition, Community Designation and d’Hondt’*.**   **D’HONDT**   * 1. Political Parties are entitled to seats in the Northern Ireland Executive based on their level of representation in the Northern Ireland Assembly. The process used to allocate Ministerial offices, and thereby fill seats in the Executive, is called the d’Hondt mechanism and is outlined in section 18 of the Northern Ireland Act 1998 (the 1998 Act). Through the use of d’Hondt, membership of the Executive is automatically determined based on electoral strength, rather than negotiations between Parties following an election. This particular application of d’Hondt appears unique to Northern Ireland.   2. However, there is nothing that requires Parties to take a seat in the Executive — they can refuse and the seat will be offered to the next eligible Party. In effect, there is no legislative barrier to Parties not taking their allocated seat following an election or withdrawing from the Executive if they wish. The question then arises as to what extent will those Parties be afforded the traditional role and resources allocated to Opposition Parties.   3. The position of Chairpersons and Deputy Chairpersons of Committees in the Northern Ireland Assembly are also allocated using the d’Hondt formula. This is provided for under Assembly Standing Orders, as required under section 29 of the 1998 Act. Again, should an eligible Party choose not to take the position to which it is entitled, the position will be offered to the next eligible party.   4. Amendments to section 18 and/or section 29 of the 1998 Act could only be made by legislation passed by the UK Parliament. The Assembly, does, however, have the power to amend the Standing Orders dealing with d’Hondt provided that they remain consistent with the requirements of the 1998 Act.   5. The Assembly Research paper *‘Opposition, Community Designation and D’Hondt’* refers briefly to the Sainte-Laguë allocation mechanism. This is another divisor method that has been found to produce more advantageous results for small parties, both in terms of allocations (the number of seats) and in terms of sequencing, so that smaller parties can get a higher “pick” in the allocation of Ministerial portfolios or Committee Chairs.   **COMMUNITY DESIGNATION**   * 1. The 1998 Act and Assembly Standing Orders make provision for Members of the Assembly to designate themselves as “Nationalist”, “Unionist” or “Other” at the first meeting of the Assembly after an election.   2. The 1998 Act details a number of key decisions in the Assembly for which cross community support is required. To obtain this cross community support under the 1998 Act, there must either be the support of a majority of the members voting, including a majority of the designated Nationalists and designated Unionists voting or the support of 60 per cent of the members voting including 40 per cent of the designated Nationalists voting and 40 per cent of the designated Unionists voting. Votes for which cross-community support is required are detailed in the Assembly Research and Information Service paper *‘Opposition, Community Designation and D’Hondt’*, (p. 17).   3. One of the instances in which cross-community support is required is in the event of a Petition of Concern. If 30 or more Members petition the Assembly expressing their concern about a matter that is to be voted on by the Assembly, the vote on that matter requires cross-community support.   4. A system of community designation is also used in Belgium, where there is an “alarm bell” procedure, used when one of the language groups believes that the provisions of a Bill are likely to be seriously detrimental to relations between the two language communities. Although the procedure is similar to that operating in the Northern Ireland Assembly, the threshold appears to be set higher and applies only to legislation, rather than ordinary motions (see the Assembly Research and Information Service paper ‘*Opposition, Community Designation and D’Hondt*’, p. 19).   5. A range of provisions governing the operation of the Assembly would be affected by changes to the political designation mechanism. One key area that could be affected by any changes to political designation is the appointment of the First Minister and deputy First Minister. Under current legislative provisions the largest Party of both the largest and second largest political designations are given the opportunity to appoint the First Minister and deputy First Minister respectively.   **PROVISIONS FOR OPPOSITION**   * 1. In the traditional Westminster model, the Party with the most non-government members in Parliament becomes the Official Opposition and its leader becomes the Leader of the Opposition. In broad terms, the role of the Opposition, as its name suggests, is to oppose the Government and form an “alternative government” if the existing government loses the confidence of the House. This is the model most often cited when highlighting the perceived lack of an Opposition within the Assembly. However, the Scottish Parliament and National Assembly for Wales more commonly refer to non-Executive or non-Government Parties, and there is no recognition of an Official Opposition in those legislatures, although there is proportionate provision for non-Government Parties in relation to parliamentary time and funding to carry out their functions.   2. The Assembly and Executive Review Committee has agreed that any consideration of the recognition of an Opposition in the Northern Ireland Assembly must recognise the consociational framework and the principles of inclusivity and power-sharing that underpin the workings of the Assembly and the Executive.   3. The Northern Ireland Act 1998, which sets out how the Assembly and Executive would operate, makes no reference to an Opposition.   4. Under the 1998 Act, Parties that have not reached a certain threshold in terms of elected Members do not have the opportunity to select a Ministerial office under the d’Hondt system. It is arguable that the Parties not currently in the Executive are an “Opposition”. Furthermore, as highlighted earlier, there is nothing that requires Parties to take a Ministerial office and, thereby, a seat in the Executive — they can refuse and the seat will be offered to the next eligible Party. In effect, there is no legislative barrier to Parties withdrawing from the Executive if they wish.   **Factors related to Provisions for Opposition:**   * 1. It is usual practice that non-Executive or non-Government Parties are granted certain rights within a legislature to assist them in holding the Government/Executive to account. If there were agreement to formally recognise an Opposition within the Assembly, some or all of the following would need to be taken into account:   **Financial Assistance**   * 1. In most jurisdictions, Political Parties with non-Executive or non-Government roles are usually allocated additional financial resources to assist in their Parliamentary/Assembly duties. All Political Parties represented in the Northern Ireland Assembly already receive funding under the Financial Assistance to Political Parties (FAPP) scheme, irrespective of whether they have a seat in the Executive. In the context of a move to formally recognise Opposition, consideration may need to be given by the Assembly Commission to reviewing the scheme to ensure that non-Executive Parties are appropriately funded.   2. Should the Assembly wish to provide allowances or additional salaries to individual Members of the Assembly in key positions in an Opposition, this may not require legislation, as the Independent Financial Review Panel (IFRP), which was set up following the passing of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011, could issue a Determination providing for this. This would be entirely a matter for IFRP.   3. The specific financial arrangements in place for the Opposition or non-Executive Parties in the House of Commons, the Scottish Parliament, the National Assembly for Wales and Dáil Éireann are outlined in the Assembly Research and Information Service paper *‘Opposition, Community Designation and D’Hondt’*, p. 6-9.   **Committee Chairpersons**   * 1. It has been suggested that the Committee structure in the Northern Ireland Assembly performs an important scrutiny role that is perhaps lacking in more traditional Government-Opposition models. The Chairpersons and Deputy Chairpersons of Committees in the Northern Ireland Assembly are currently selected by Parties via the d’Hondt method, as is the case in the Scottish Parliament for convenors (Chairs). In the House of Commons, the Government is allocated the majority of Chairs. Nevertheless, in the context of a move to formally recognise Opposition in the Northern Ireland Assembly, there is an argument that the Opposition Parties/Non-Executive Parties should be offered the Chair or Deputy Chair of more Committees, rather than the allocation of these Chairs continuing to be made on a proportional basis.   2. The 1998 Act prevents Statutory or Departmental Committees being Chaired or Deputy Chaired by Ministers or junior Ministers. Furthermore, arrangements for the allocation of Chairpersons and Deputy Chairpersons for these Committees provide that Parties shall “prefer” to select other Committees than those for which the Party holds Ministerial Office.   3. The arrangements in place in relation to the composition of Committees in the House of Commons, the Scottish Parliament, the National Assembly for Wales and Dáil Éireann are outlined in the Research paper *‘Opposition, Community Designation and D’Hondt’*, p. 9-10.   **Parliamentary/Assembly Time**   * 1. A key consideration with respect to the formal recognition of Opposition would be the guarantee of time to raise and debate non-Executive business — including priority speaking rights in response to Ministerial Statements and in Question Time. The House of Commons, Scottish Parliament and National Assembly for Wales guarantee time for non-Government business (see Research paper *‘Opposition, Community Designation and D’Hondt’*, p. 10-13).   2. In the Northern Ireland Assembly, Standing Order 17(5) states:   “The Speaker shall determine the order of speaking and the number of speakers in any debate having due regard to the balance of opinion on the matter, the party strengths in the Assembly and the number of members who have indicated a desire to speak.”    Standing Order 17(4) places a responsibility on the Business Committee to consult with the Speaker on these arrangements. These are the requirements that apply to the Assembly as it is currently constituted.   * 1. The speaking list agreed by the Business Committee in 2006 provides for the five largest parties to be called, in order, for the first ‘round’ of speakers. Subsequent rounds are based on party strength – identified by applying the d’Hondt formula to current party strengths. It should be noted that the threshold for inclusion in the first round of speakers was agreed as “parties with two or more members”.   2. The Business Committee reconsidered this arrangement in September 2011 in the context of a request to allow the single member parties and the, then, single independent Member more opportunity to speak. It was agreed that the current arrangements did not need to be reviewed.   3. The Speaker uses the speaking list only for calling Members to speak in debates and for questions following Ministerial Statements. While not all Members may be called to speak in debates on private Members’ motions in the time available, there is no similar constraint on debates on legislation. All who wish to do so may speak. It is rare for Members on the list not to be reached for questions to Ministerial Statements.   4. The following items of business operate outside the speaking list arrangements – Matters of the Day; Question Time; and Urgent Oral Questions. For these items, Members are required to rise in their places to indicate to the Speaker that they wish to be called. In using his discretion to call Members from among those standing, the Speaker will consider issues of cross-party balance, any relevant constituency interests, and giving priority to Committee Chairpersons. It should be noted that the selection of questions for oral answer during Question Time is done by random computer selection.   5. A Committee Chair may be given priority in the order of speaking if the relevant Minister is making a Statement or if legislation relating to that Committee is being debated. Regarding Ministerial Statements, while the speaking list order applies in broad terms, priority is given to those who have been present for the entire Statement. Members who have only been present for part of the Statement will be called last, which may result in a departure from the order in which parties are normally called.   6. Business in the Northern Ireland Assembly is currently already allocated on a proportional basis. A debate cycle rota is in place, calculated by applying the d’Hondt formula to current party voting strengths on the Business Committee. The Business Committee agrees the number of slots available for private Members’ business after Executive and Committee business has been scheduled each week. Parties next due to have motions scheduled, as per the debate cycle rota, put forward their chosen motion(s) to fill the slots agreed as available. The Business Committee agrees scheduling (e.g. running order) and timing issues in relation to the motions put forward.   7. The Business Committee reviews and agrees the order of all the business scheduled. Up to 10 additional slots are reserved in each Assembly session for cross-party motions, or for motions tabled by Parties/Members not represented on the Business Committee. In the latter case, the co-operation of a member of the Business Committee would have to be sought to put forward the motion. Use of these ‘other’ slots could be proposed at any time, but would be subject to the specific agreement of the Business Committee. The same arrangement, with a separate rota, is in place for the selection of topics for Adjournment debates.   **Other Measures to Strengthen Accountability**   * 1. In addition to the provision of resources for Opposition Parties/Non-Executive Parties, which may, in itself, strengthen accountability within the institutions of Government, the Assembly and Executive Review Committee has raised the issue of what other specific measures could strengthen accountability within the institutions.   2. For example, the Assembly Research paper *Opposition, Community Designation and D’Hondt’*  highlights the fact that Westminster, Dáil Éireann, the Scottish Parliament and the Welsh Assembly all provide for a vote of no confidence in the current Government. In Scotland, if such a motion is passed, all Members of the Executive must resign. This does not automatically result in a general election, but will do so if a new First Minister is not nominated within 28 days. There is no provision in the Northern Ireland Assembly for a vote of no confidence in the Executive.   3. As well as provision for a vote of no confidence in the Government, the Belgian Parliament has an instrument called an interpellation, which is a question for explanation from an MP and aimed at a Government Minister. The Minister’s response is followed by a vote, which can either be on a motion of no confidence in the Government or, more probably, on a “simple motion” agreeing that normal activities be continued. The latter is an implicit vote of confidence. This mechanism can be used in plenary sessions of the Parliament or, more commonly, in the parliamentary commissions. It is used for serious and important matters, mainly by the Opposition.   ***Further Information***   * 1. Stakeholders will wish to refer to a detailed Research and Information Service (RaISe) paper, produced for the Committee in respect of this Review. The Research Briefing paper, titled *‘Opposition, Community Designation and D’Hondt’,* can be accessed on the Assembly and Executive Review Committee’s webpage: <http://www.niassembly.gov.uk/Assembly-Business/Committees/Assembly-and-Executive-Review/Research-Papers-2012/> | | | | |
| **Section 4**  **Issues (as set out in Phase 1 of the Committee’s Review) and**  **Questions to consider** | | | | |
| **D’HONDT**   1. Whether there should be changes in the legislative provision and use of d’Hondt in the Northern Ireland Assembly in the allocation of Ministerial offices and/or Committee Chairpersons and Deputy Chairpersons. | | | | |
| In your view, should the d’Hondt mechanism be retained to allocate Ministerial positions? If you think it should be retained, please outline why. If you think it should be replaced, what do you think should replace it?  In your view, should the d’Hondt mechanism be retained to allocate Committee Chairpersonships and Deputy Chairpersonships? If you think it should be retained, please outline why. If you think it should be replaced, what do you think should replace it?  Please include a suggested time frame for any of your suggested changes and offer supporting evidence for your views. | | | | |
| (This box will expand as you type)  **Review of d’Hondt**  **Outline**  The de Borda Institute recommends the d’Hondt procedure should be replaced by the matrix vote. The latter is the only voting procedure so far devised by which a set electorate – an Assembly – can elect an Executive such that:  (a) every MLA is eligible to stand for any or all posts on the executive;  (b) every MLA has an equal say in the choice of that executive, voting not only for whom he/she wishes to be in cabinet, but also for the ministerial post in which he/she wants that nominee to serve.  It is PR and it is ‘ethno-colour blind’. Furthermore, it has been fully tested and tried in a number of instances, and is now well recognised in political science and social choice science literature. (Emerson, 2007: 61-85 and 2011: 20-31.) Assuming no-one is subject to bribery or other extraneous circumstances, the outcome is bound to be an all-party, power-sharing cabinet such that:  (i) individually, every minister is the one who, in the consensus of Stormont, is the best person for that department;  (ii) collectively, the Executive represents the Assembly in fair proportion.  **The Vote**  An example of a ballot paper is as shown below; (Justice and the Office of First Minister and deputy First Minister could also be added if desired). Each MLA would first list his/her nominees in the left-hand ballot paper (here shown in tint). They could then indicate in which post they wish each of these candidates to serve by ticking one of the columns shown in the matrix.  A vote would be considered valid if it contained at least one valid name. A full vote would consist of ten different names and ten ticks, one in each column and one in each row.   |  |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | **THE CABINET**  Names of candidates in  order of preference: | | **THE**  **PORTFOLIOS** | | | | | | | | | | | Agriculture | [Culture](http://www.finance.gov.ie/) | Education | Employment | [Enterprise](http://www.djei.ie/) | [Environment](http://www.defence.ie/) | [Finance](http://www.justice.ie/) | Health | Regional Development | Social Development | | **1st** |  |  |  |  |  |  |  |  |  |  |  | | **2nd** |  |  |  |  |  |  |  |  |  |  |  | | **3rd** |  |  |  |  |  |  |  |  |  |  |  | | **4th** |  |  |  |  |  |  |  |  |  |  |  | | **5th** |  |  |  |  |  |  |  |  |  |  |  | | **6th** |  |  |  |  |  |  |  |  |  |  |  | | **7th** |  |  |  |  |  |  |  |  |  |  |  | | **8th** |  |  |  |  |  |  |  |  |  |  |  | | **9th** |  |  |  |  |  |  |  |  |  |  |  | | **10th** |  |  |  |  |  |  |  |  |  |  |  |   The count is run in two stages. The first stage is a PR-STV or, better still, a Quota Borda System (QBS) election, (Emerson, 2010: 197-209) to determine who are the ten most popular MLAs. The second stage is an MBC count of the points scored in the matrix.  **Applicability**  Iraq recently took 249 days to form a government. Belgium took 541. To rely on a purely verbal process, then, is at least unwise, and it was right for those involved in writing the Belfast Agreement to seek some sort of formula.  Of those rules which have been devised so far – and here we also refer to Bosnia and Lebanon – all have been based on ethno-religious or party distinctions of some sort or other. As with the Belfast Agreement, therefore, all have tended to perpetuate, if not institutionalise, the very sectarianism they were supposed to obviate.  As noted above, the matrix vote is ethno-colour blind. This methodology could therefore be used in other conflict zones – Afghanistan and Kenya, for example – or indeed in those jurisdictions where there is seen to be a need for a government of national unity, calls for which were recently heard in Greece.  It should also be pointed out that one country – Switzerland – has moved to a form of all-party governance without first suffering the trauma of violent conflict. Again, reliance is placed on a formula – the party-based *Zauberformel* or magic formula – but so far at least, the ‘magic’ has worked.  It is submitted that in all of the above jurisdictions, the matrix vote would help to overcome some of the extreme problems which can occur when a parliament/assembly forms its government or executive.  **Conclusion**  Because it is based on the Modified Borda Count, (MBC), the matrix vote encourages those involved to submit full ballots. Secondly, because it is also based on a proportional system, QBS – this works like PR-STV in that parties tend to limit the number of candidates they nominate – it also encourages MLAs to vote on a cross-party basis. It is submitted that this is a pre-requisite for a healthy power-sharing polity.  If, then, an explanation of the matrix vote would be considered helpful, the de Borda Institute would be more than willing to conduct a demonstration. It ran a workshop on this theme in Stormont last year, in Sept. 2012, but despite being sponsored by MLAs from all six parties, it was not well attended. If serious consideration of the matrix vote were required, another demonstration would be in order.  References  Emerson, Peter, (2007), Designing an All-Inclusive Democracy, Springer, Heidelberg.   * (2010), Proportionality without Transference: the Merits of the QuotaBorda * System**,***Representation*, Vol. 46 № 2. * (2011), The Matrix Vote: Electing an all-party coalition cabinet. *Voting Matters*, № 29. | | | | |
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| **COMMUNITY DESIGNATION**   1. Whether there should be changes in the legislative provision and use of community designation in the Northern Ireland Assembly. |
| Do you believe that community designation as it currently operates should be retained? If yes, why?  If you believe that changes should be made, what changes do you propose? In particular:   * Do you believe that there should be changes to the “rules” governing Petitions of Concern? If so, what changes do you propose? * Do you believe that there should be changes to the list of matters set out in the 1998 Act that are designated as requiring a cross-community vote? If so, what changes do you propose?   Please specify how you think your suggested changes should be applied, including a time frame where relevant, and offer supporting evidence for your views. |
| (This box will expand as you type)  **Community Designation**  In a non-majoritarian polity, neither designations nor any other distinguishing identities such as a party labels, would be required.  **An inclusive polity**  In a plural society, any debate on any contentious issue will almost inevitably see a plurality of options ‘on the table’… if, that is, the question has been asked correctly, i.e., as in mediation work, in a manner which is open. As an absolute minimum, the Assembly should have the ability to take a multi-option vote, for those occasions when there *are* more than two possible outcomes.  In any such debate, the final decision-making process should be preferential, the outcome of which should be that option which has the highest average preference; and an average, of course, involves *every* voter, not just a majority of them.  The Belfast City Council issue of flags, for example, was – or should have been – a multi-option debate. If several options had been on the table (and computer screen), and if the vote had been preferential, everyone would have known from the ballots cast that the Alliance councillor thinks differently to his/her Sinn Féin counterpart.  The appropriate methodology is the MBC. It is a non-majoritarian methodology and, like the matrix vote, it too is ethno-colour blind. In other words, with an MBC, there is no need for any designations. Instead, an outcome would be considered to have been accepted if its score or ‘consensus coefficient’ (see below) is sufficiently high. That means success depends not only upon a high level of support, but also on a high degree of participation.  **Applicability**  It is at least unfortunate that many people appear to think that, for a decision to be democratic, it must be taken by (simple, weighted, qualified, twin or consociational) majority vote. Electoral systems vary considerably from one country to another; except in a few cases, however, most decision-making voting procedures are based on a dichotomy.  There are exceptions. The Norwegian parliament, for example, has provision for a two-round system of voting. Their Swedish neighbours use serial voting when discussing amendments. And many countries use non-binary decision-making in referendums. New Zealand, for example, held a five-option ballot when voting on electoral reform; they too used a two-round system, and other instances have taken place in Australia, Chile and Finland (three options), Uruguay (five) and Guam (six).  There is no reason at all, therefore, why decisions cannot be taken on the basis of a plurality of options, and not least because the modern computer makes it all very feasible.  **Accuracy**  The more accurate a voting procedure is, the more democratic it is. Of the many decision-making procedures which are available – plurality voting, two-round voting, the alternative vote, approval voting, etc, – only two (a) allow the voter to cast a full slate of preferences *and* (b) take all preferences cast into account. They are the Borda and Condorcet rules; of the two, the former is non-majoritarian; accordingly, we recommend the MBC.  **Cross-community accountability**  It was of course right and proper for the authors of the Belfast Agreement to seek guaranteed levels of cross-community support for all ‘key’ decisions. Hence, of course, the designations. With an MBC, however, neither designations nor party labels are required. Instead, if an option’s consensus co-efficient is sufficiently high (Emerson, 2012: 126) – it is a figure between 0 and 1, calculated on the basis of all the points which this option received divided by the maximum it could have achiever – all concerned can rest assured that any required threshold has been passed.  **Conclusion**  On subjects of controversy or complexity, if and when a verbal consensus proves to be elusive, we recommend the MBC for use both in the Executive/Assembly and in any future referendum on NI’s constitutional status.  The de Borda Institute commissioned a computer program for the MBC in 1991; a more up-to-date version – *Decision-Maker* – is currently available. The Institute would be happy to give a demonstration of its capabilities.  **Reference**  Emerson,Peter, (2012) *Defining Democracy*, Springer, Heidelberg. |
| **PROVISIONS FOR OPPOSITION**   1. Whether the accountability and effectiveness of the Northern Ireland Assembly and Executive could be improved through the introduction of provisions to formally recognise Opposition, while retaining the principles of power-sharing and inclusivity. |
| Do you agree or disagree that the accountability and effectiveness of the Northern Ireland Assembly and Executive could be improved through the introduction of provisions to formally recognise Opposition, while retaining the principles of power-sharing and inclusivity? If you agree, what model of Opposition do you feel would be most appropriate for the Northern Ireland Assembly?  What other changes do you consider would strengthen the accountability and effectiveness of the institutions of Government in Northern Ireland?  Please include a suggested time frame and outline the process for any changes and offer supporting evidence for your views. |
| (This box will expand as you type)  **Provisions for Opposition**  In ‘normal’ politics, there are oppositions in many parliaments, and ‘oppositions’ in most parties. Examples of the latter are legion: Blair and Brown, Heath and Thatcher, Haughey and O’Malley, etc..  **The origins of adversarial politics**  There were no political parties in ancient Greece. People voted this way and that – it was all done by majority vote – but participants in the forum did not gather into competing blocs.  Nor did the elected representatives in England… in the beginning. Because they used the majority vote, however, the temptation became irresistible. Initially, words like ‘whig’ and ‘tory’ were terms of abuse, hurled from one side of the House to the other. Only later were they adopted by those ‘abused’ to form parties as such.  **More Inclusive Structures**  In international forums, participants often rely on a purely verbal (and often nocturnal) process, by which they aim to achieve a verbal consensus. When those involved return to their domestic parliaments, however, they revert to a procedure by which consensus is not possible – the binary majority vote, which measures not the degree of consent but its very opposite – so many ‘for’ and so many ‘against’ – the degree of dissent.  In theory, though, the processes by which elected representatives identify their collective will, whether purely verbal or partly verbal and partly by voting, should produce roughly similar answers. If consensus voting is used – the MBC – then this is indeed the case.  **Conclusion**  In any power-sharing administration, there can be and will be constructive opposition, as long as topics are considered as suggested above, in a multi-optional manner. |
| **PROVISIONS FOR OPPOSITION**   1. In particular, please comment on whether Opposition Parties/Non-Executive Parties should be allocated appropriate financial resources to assist in their Assembly duties. |
| What is your view on appropriate financial assistance being provided to Opposition Parties/Non-Executive Parties?  How might this financial assistance be structured to support Opposition Parties/Non-Executive Parties with varying numbers of Members?  Please offer supporting evidence for your views. |
| (This box will expand as you type)  **Funding**  No especial funding is necessary. |

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| **PROVISIONS FOR OPPOSITION**   1. In particular, please comment on whether arrangements for allocating Chairs and Deputy Chairs of Assembly Committees should be changed to take account of a formal Opposition. |
| What is your view on changing arrangements for allocating Chairs and Deputy Chairs of Assembly Committees to take account of a formal Opposition?  If additional Chairs and Deputy Chairs were allocated to Opposition Parties/Non-Executive Parties, should this be done on a proportional basis on the number of Members of Opposition Parties/Non-Executive Parties; i.e. larger Opposition Parties/Non-Executive Parties receiving more Chairs/Deputy Chairs?  Please offer supporting evidence for your views. |
| (This box will expand as you type)  **Allocating Chairs**  This too can be done by a matrix vote. |

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| **PROVISIONS FOR OPPOSITION**   1. In particular, please comment on whether Opposition Parties/Non-Executive Parties should be guaranteed additional time to raise and debate non-Executive business in the Assembly — including priority speaking rights in response to Ministerial Statements and in Question Time. |
| Do the current arrangements provide adequate time and speaking rights for Opposition Parties/Non-Executive Parties to raise and debate non-Executive business and questions Ministers? If so, please outline why. If not, please outline how you think arrangements could be restructured.  Please offer supporting evidence for your views. |
| (This box will expand as you type)  In an inclusive political structure, the question would not be relevant. |

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| **Section 5**  **Additional Information** |
| Please provide any additional information which you believe will be of assistance to the Committee during the course of the Review. |
| (This box will expand as you type)  The director of the de Borda Institute, Peter Emerson, has lectured on the theme of consensus politics in universities and other institutions throughout these islands, in East and Southern Africa, across Europe and in North America. He has been published in peer-reviewed journals in Russia (one), Germany (two), Scotland (one), England (three) and the US (one forthcoming). He has also been published in books: two by Springer, six in *samizdats*, two in anthologies by Ashgate, and one as a co-editor by Routledge.  Most importantly of all, however, were his attempts to prevent violent conflict, not only in Northern Ireland as per the consensus conferences mentioned earlier, but also abroad:  + in 1989, he co-authored a number of articles on consensus politics in Moscow, in newspapers (*Moscow News*, *Pravda* etc), journals (*Novy Mir* and others) and one anthology;  + in 1990, he gave a press conference (in Russian) in Tbilisi, on the need for power-sharing;  + later that year, he published a newspaper article on the same theme in Yugoslavia – (he also speaks some Serbo-Croat);  + in 1991, he invited a native of Sarajevo to the Belfast consensus conference mentioned above and thus, six months *before* the outbreak of the war in Bosnia, he warned of the dangers of holding such a binary plebiscite in such a divided land;  + and in 2003, on a visit to East Africa, he proposed multi-option alternatives to the policy of exporting majority vote plebiscites – in a word, balkanisation – to Sudan. |
| **Section 6**  **Contact Details** |
| **All responses should be sent by email please to:**    The Committee Clerk **Tel:** 028 90521787 or  Assembly and Executive Review Committee 028 90521928  Room 375  Parliament Buildings  Ballymiscaw  Belfast  BT4 3XX  **To arrive no later than 27th March 2013**  **Email:** committee.assembly&executive[review@niassembly.gov.uk](mailto:review@niassembly.gov.uk) |
| **Thank you for your submission** |