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from

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on

**“Powers and competences of government parties and opposition parties in a
multi-party parliament”**

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Respect for minorities is a basic principle in a democratic society that is based on the rule of law. The right to speak openly, the right to ask questions, the right to criticise, the right to protest, the freedom of association: these are all prerequisites for a free democracy. Opposition in parliament means just that. It offers a countervailing power.

When the opposition voices a concern, it does so not only on behalf of their electorate but also on the basis of their perception of the needs of society as a whole.

Ian Shapiro, author of the book 'The moral foundations of politics', stated the following: "Democracy is an ideology of opposition as much as it is one of government". The task of the opposition is to scrutinise government decisions and policies and to represent a credible alternative government. Opposition ensures transparent and responsible government. Without this, democracy cannot exist.

Every opposition party in parliament has a legitimate right to strive to be a ruling party after elections. Each government party must reckon with the possibility that it does not come back in a new government after elections. In multi party democracies, where regime changes may occur with some regularity, political parties have an interest that the rules of the game they have to deal with, are comfortable for both government parties and opposition parties. Sometimes the majority tends to forget this, when they expect that they will remain in power forever.

A multi-party system is a system in which several major and many lesser parties exist, seriously compete for, and actually win public offices. In such a system multiple political parties have the capacity to gain control of government offices, separately or in coalition. A long list of countries can be named that are examples of nations that have used a multi-party system effectively in their democracies. To name a few: Brazil, Denmark, Finland, Germany, India, Indonesia, Ireland, Israel, Italy, Japan, Mexico, New Zealand, Norway, Pakistan, Portugal, Romania, Serbia, SouthAfrica, Spain, Sweden and Philippines. In these countries, usually no single party has a parliamentary majority by itself. Instead, multiple political parties form coalitions for the purpose of developing power blocks for governing.

An example of such a coalition is the one between the Christian-Democratic Union of Germany (CDU/CSU) and the Social Democratic Party (SPD) set up after the 2013 federal elections. In the vast majority of multi-party systems, numerous major and minor political parties hold a serious chance of receiving office, and because they all compete, a majority may not control the legislature,

forcing the creation of a coalition. In some countries, every government ever formed since its independence has been by means of a coalition. Multi-party systems tend to be more common in parliamentary systems than in presidential systems, and they are particularly common in countries that use proportional representation.

In some multi-party systems, only two or three parties have a substantial chance of forming a government with or without forming a coalition. An example of this is the United Kingdom, where only the Conservative Party, the Labour Party, and the Liberal Democrats so far have had a serious chance to win enough seats to be a part of the government; the Liberal Democrats have never had enough seats to form a Government, but have held enough seats to contribute to a Coalition. To date, the Liberal Democrats have been in power only once in a coalition, which is the incumbent Conservative-Liberal Democrat Coalition. This is also the case in Canada, where majority governments are very common.

In my country, the Netherlands, this year (2015) we celebrate the existence of 200 years of modern parliament. In those 200 years no political party has ever gained a majority of seats in parliament, whether the House of Representatives or the Senate, on its own. One third of the seats is the highest level one party has ever reached. At the moment we have fourteen political groups in the House of Representatives and twelve in the Senate.

Opposition in a multi-party system with ever-changing majorities and a fragmented political landscape can be fairly complex. The Senate of the Netherlands currently has two parties in the governing coalition and ten parties making up the opposition. Our House of Representatives includes twelve opposition parties. The current political climate in the Netherlands has put the Senate in a somewhat unique position, because for the first time in decades the reigning coalition does not have a majority in the Senate. Some say that this damages the position of the Senate because it puts all the various parties – both opposition and coalition – in an increasingly political position.

But one can also argue that it allows the Senate to fulfil its role as 'chambre de réflexion' even better than before, because it can never be assumed that a majority of senators will be in favour of a bill.

In my opinion, the current political climate has not fundamentally changed the way the Senate does its job. In fact one can witness that the current situation often enhances the quality of the debate and broadens the support for a bill a great deal. Coalition partners have to produce really excellent arguments if they want a bill to be passed by the Senate well. Last year, the coalition parties signed a political agreement with three opposition parties regarding the budget plans. The agreement involved the so-called 'constructive three' and included healthcare, pensions, education and childcare. In order to come to this

agreement, the government coalition was forced to consult, debate, persuade and compromise. This is an essential part of democracy.

The wide range of parties in the Dutch system is not ideal. Working with twelve or even fourteen different parties creates a heavy workload for the parliamentary administration and makes political compromises all the more complex. If all political parties wish to speak during the debate on a legislative proposal, the debate can be very lengthy and there can be an element of repetition in the arguments explored.

Raising the electoral threshold and thus reducing the number of political parties in parliament could address these problems. It would force the smaller parties to join forces, reducing political fragmentation. It would take away some of the imbalance in parliament and make it easier for the opposition to find support for legislative initiatives, for instance. However, so far, there has been no proposal in the Netherlands to raise the electoral threshold.

The question I would like to ask you if you have in your rules of procedure special regulations for government parties and special regulations for opposition parties. In the Netherlands we do NOT. Our rules of procedure do not include the words 'minority' or 'opposition'. This is because under the Dutch system these parties do not need special treatment because of their numerically weak position. They are considered equal and complementary partners.

In our rules of procedure there are certain guarantees for the fair and equal treatment of political parties:

- in principle all parliamentary parties must be represented in each committee (with due regard for the proportionate numerical strength of the political parties)
- committee chairmanships are distributed between all the major political parties, including the opposition;
- all members of the Senate/House are entitled to be present during submission meetings; at these meetings they shall be given the opportunity to put forward questions and make comments concerning the legislative proposal for which the meeting has been convened;
- every senator can insist on a plenary debate on a legislative proposal;
- each member shall be given the floor immediately for personal business or for a motion of order;
- all parliamentary parties are in principle granted an equal maximum amount of time during the first term of a debate in a plenary session;
- if the President has to limit the floor time, the President shall divide the available time for holding the floor fairly among those persons who have indicated that they wish to have the floor, for which he shall take into account the size of the parliamentary parties to which they belong.

- if a member requires information from one or more Ministers on a subject not included under the order of the day, he may seek the leave of the Senate to hold an interpellation, with an indication on the main points on which he wishes to ask questions;
- every member who wishes to put forward written questions to one or more Ministers shall submit these questions to the President; the President shall send these questions to the Minister concerned, unless he has serious objection to the questions on account of their form or content;
- based on the proposal of the President, of a committee or of one or more members, the House and the Senate may decide to deliberate on aspects of government policy or other matters that it considers appropriate; the House of Representatives even knows the phenomenon of a 'thirty members debate'. A thirty members debate shall be held if a request to do so is supported by at least thirty members (which is 20% of the total number of members of 150); the President sets the day on which the thirty members debate will take place;
- and there is a free election for the President of the Senate and the House.

This means that the Speaker or President can even be a member of an opposition party. Once elected, the Speaker or President of course remains aligned to his or her own party, but is thereafter considered to be above parties. He or she is the representative of the parliamentary house as a whole. Any Speaker or President who sought to favour the representatives of his or her party over those of other parties would not sit comfortably for very long.

Presidents and Speakers of parliament have a great responsibility in maintaining neutrality and making sure that all political parties can play an equal part in the debate.

In some cases, this requires giving the opposition parties a slight advantage in order to keep the balance and maintain a fair parliamentary process. However, this should never lead to a 'dictatorship of the minority'. Just as there should never be a dictatorship of the majority either.

In our Senate a very important body that maintains the balance between the majority parties and the opposition parties is the Committee of Senior Members. This committee, chaired by the President of the Senate, consists of the chairmen of the parliamentary parties. The committee assists the President in managing the business of the Senate. For this the President shall consult the committee with regard to the decisions and proposals he makes pursuant to the Rules of Procedure. It is an important task of the Secretary General of the Senate and his staff to support the President and this committee to make sure that all political parties have a fair share in the decisionmaking processes. Neutrality, integrity, expertise and service orientation are therefore key qualities of the services of parliament. All political parties should feel comfortable with the support and

services of the staff. It therefore is extremely important that the officers and employees of the parliamentary staff are politically neutral and serve all Senators without bias or prejudice.

To summarize, I would like to emphasise that democracy is an inclusive process that all political parties should be able to participate in meaningfully. Maintaining an open political debate boils down to a mind-set: parliamentarians need to keep an open mind to other points of view in the public debate – and may sometimes even be willing to change their own point of view. A parliament should never simply rubberstamp government proposals, even when the coalition has a comfortable majority.

Regulation can enhance due parliamentary processes. But regulation, even procedural rules or the constitution itself, is only an instrument. In the end it comes down to respect for free political debate. The acceptance of a legislative proposal should always be the result of a debate in which all arguments have been heard and debated. Without this, a free democracy is an empty shell.