



DEMOCRACY REVISITED

Which Notion of Democracy for
the EU's External Relations?



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**OFFICE FOR
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PARLIAMENTARY
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Executive Summary

The European Union consists of 27 Member States, each with their own form of democracy, shaped by history, culture and circumstance. All are equally valid, and their individual characteristics enrich democracy in Europe. The same is true for democracies in other parts of the world.

Democracy has underpinned the political, social, cultural and economic development of the European Union and from its collective experience the EU is convinced that it represents the best form of government. The development and consolidation of democracy worldwide has therefore become a key objective of its Common Foreign and Security Policy as well as its Development Cooperation Policy.

For some time now the EU has been discussing whether it should adopt an official definition of democracy as a basis for its democracy promotion efforts abroad.

This paper argues the opposite, as there are many available definitions, emanating from different organisations around the world, which share many common elements. It may therefore be advisable for the EU to rely on an existing, comprehensive definition of democracy adopted by the largest possible group of countries, notably the UN General Assembly, rather than adopting its own version. This definition would not only have the greatest possible authority, but

would also reflect the EU's own views. There are two reasons to refer to definitions adopted in the UN. First, using a UN-based definition of democracy makes more sense diplomatically. There is no compelling reason for EU partner countries to accept a specific EU definition; indeed they may reject it as a unilateral imposition. In contrast, they cannot easily object to a definition originating in the UN. While some other regional organisations have defined democracy, they have done so in relation to their own region, not with a view to external democracy support. Second, the EU has defined the strengthening of effective multilateralism and a rule-based international order as a strategic objective. Engaging in democracy promotion world-wide based on a UN definition would be more in line with these objectives than adopting a distinct EU definition.

There is no authoritative definition of democracy that claims to include all possible components of democracy. Indeed, the exact definition and scope is an area of some controversy. However, there is an international consensus on essential elements of democracy. These elements have been best defined in two resolutions by the UN's General Assembly, both of which have been adopted by very large majorities of the UN's member states, with no objections and only a few abstentions. These resolutions are therefore the ideal reference

point for the EU's democracy work abroad. Those resolutions also very much mirror the EU views as defined in the Treaties and in various policies and agreements.

One of the two UN resolutions is dedicated to democracy promotion by regional organisations and explicitly includes the following 'essential elements' of democracy:

- Respect for human rights and fundamental freedoms, inter alia, freedom of association and peaceful assembly, freedom of expression and freedom of opinion
- The right to take part in the conduct of public affairs, directly or through freely chosen representatives, to vote and to be elected at genuine periodic free elections by universal and equal suffrage and by secret ballot guar-

anteeing the free expression of the will of the people

- A pluralistic system of political parties and organisations
- Respect for the rule of law
- The separation of powers and the independence of the judiciary
- Transparency and accountability in public administration
- Free, independent and pluralistic media

In order to strengthen concerted worldwide actions to promote democracy, the EU could publicly endorse the UN General Assembly's definition as the reference point of its own democratisation work. The EU, in its support to third countries, should after all enable these countries to follow their own specific path to democracy.

Introduction

The Treaties signed in Rome in 1957 establishing amongst others the European Economic Community contained no article relating to democracy or fundamental rights. The Treaties were primarily seen as having a sectoral and mainly economic vocation which did not justify the inclusion of an essentially political provision. It took another 30 years before a new Treaty, the Single European Act, came into force with a preamble stating that the signatories were *'determined to work together to promote democracy on the basis of the fundamental rights'*.

In several later texts and policy frameworks, for example the Copenhagen criteria, the Stabilisation and Association process, the European Neighbourhood policy, the Cotonou Agreement or the European Consensus on Development, this commitment to democracy promotion is repeated.

Yet the European Union still did not attempt to explicitly define *'democracy'* or related terms like *'democratic governance'*, *'democratisation'* or even *'democratic politics'*.

Within the EU Member States, democracy takes many different forms: constitutional monarchies, republics, executive and non-executive heads of state, unicameral (15) and bicameral (12) parliaments, centralised and decentralised

government, federal and non-federal states, written and unwritten constitutions, the Executive drawn from the Parliament, the Executive excluded from the Parliament, and so on. Yet their citizens and fellow EU members consider all these states democracies, in spite of their differences. This suggests that it is not the formal nature of the democracy but its practice that determines its characteristics.¹

In 2006 the Policy Unit of the Council General Secretariat presented a discussion paper on democracy promotion in the EU's external relations. It claimed that there was a need *'to develop a clearer profile'*, suggesting that a better defined, more comprehensive and balanced approach would be required.

However, this attempt to define and consolidate the EU's democracy assistance agenda, to define its meaning and goals, and to identify better coordination mechanisms and policies did not succeed.

A number of changes in geopolitics and increasing demands on the EU for assistance in democratisation processes have initiated renewed thinking on this issue amongst several recent EU presidencies, notably the French, Czech and Swedish ones. It seems that the *'time is now ripe to strive for a European con-*

1. UK Foreign and Commonwealth Office, *Promoting democratic governance as part of EU CFSP and sustainable development policies, 2008*



*sensus on democracy, in other words a cross-institutional umbrella policy document on what shape the European approach to democracy support should take*².

If the EU is eager, as it claims, to foster collaboration based on genuine partnerships, it would be helpful, both in the interest of transparency and fairness towards these partners, to clarify what Europe means by ‘*democracy*’. This immediately raises the question of whether the EU should define its own notion of democracy.

International IDEA, the Stockholm-based democracy assistance think tank, has published an insightful study³ on international perceptions of EU democracy promotion. Many people feel that the EU should not only emphasise the procedures of democracy, but also its performance, in particular in addressing economic inequalities. Consequently, the study proposes a broad understanding of democracy, which includes the question of economic development. However, while it is useful to look at the nexus between development support and democracy promotion, the two should not be mixed together. First, the importance of political freedoms goes beyond simply procedures. They have an intrinsic value, and are not only a means to achieving better incomes. Second, too broad an understanding of democracy leads

to analytical confusion. China’s one-party-state has lifted millions out of poverty, but this does not make the country partly democratic.

The EU’s dilemma is that any definition it may adopt can be rejected by partner states. Why should they be judged by a standard that the EU developed unilaterally? Sure, some regional organisations have adopted democracy definitions, such as the Organization of American States (OAS) and the Organization for Security and Co-operation in Europe (OSCE). However, these are ‘*internal*’ definitions for use in their regions, while the EU looks to define democracy in its external dimension, vis-à-vis other states and international organisations around the world. Would it not be more helpful to find out what the world thinks about democracy, and take that as a base to move forward?

In 2005 the international community, represented by 172 states, including all EU member states, approved a UN General Assembly resolution, which defined ‘*essential elements of democracy*’. No state voted against it and only 15 abstained. According to the resolution, the essential elements are: Respect for human rights and fundamental freedoms, inter alia, freedom of association and peaceful assembly and of expression and opinion; the right to take part in the conduct of public affairs, directly or

2. Maria Leissner, Ambassador for Democracy in Development Cooperation, 29 September 2008, Stockholm.
3. ‘*Democracy in Development, Global Consultation on the EU’s role in democracy building*’ IDEA, July 2009.

through freely chosen representatives, to vote and to be a candidate; a pluralistic system of political parties and organisations; respect for the rule of law; the separation of powers and the independence of the judiciary; transparency and accountability in public administration; and free, independent and pluralistic media.

The EU should endorse these essential elements and make clear that they reflect its understanding of democracy. Given that these are only *'essential elements'*, this would leave the debate open on whether there are other elements that make a democracy, a debate that appears, at present, to be inconclusive. Other states could not object to a definition that they have endorsed previously. Working with a definition emanating from the UN context would also be in line with the EU's objective of strengthening multilateralism and a rule-based international order.

The time has come to move ahead and translate the core value of the European Union into a priority in its external relations.

This will not be an easy exercise and there will be conflicting interests to reconcile, but this should not refrain us from trying. *'There is little of value in political life that is accomplished without taking risks. Some say that a ship is*

*safer when it's in the harbour. But that is not where ships are meant to be.'*⁴

In order to stimulate the debate and help shape an inter-institutional understanding of the EU's role in democracy promotion, the OPPD has therefore produced this paper containing a mapping exercise of existing definitions and key elements of democracy.

This paper will highlight and explain these core elements, arguing that the EU should confirm existing commitments and use an existing definition of essential elements of democracy by the UN General Assembly as a reference point, rather than re-inventing the wheel and imposing a new unilateral *'EU definition'* on third countries in its external relations.

A compilation of selected texts of democracy commitments by the UN and regional inter-governmental organisations is presented in the Annex.



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4. Javier Solana, EU High Representative for the CFSP, Ditchley Foundation lecture, London, 11 July 2009.

METHODOLOGY

This report identifies international and regional commitments to democracy. The notion of ‘commitments’ refers to texts with a degree of international authority, adopted in the framework of inter-governmental organisations, and includes:

- Legal obligations stemming from treaties, such as the International Covenant for Civil and Political Rights (ICCPR)
- Customary international law, such as parts of the Universal Declaration of Human Rights
- Political commitments (resolutions, declarations, etc.)

A methodological difficulty in the search for a commonly agreed definition of democracy is that only a few texts explicitly define democracy. Instead, ‘democracy’ is often mentioned alongside other concepts, such as human rights, the rule of law, civil society or good governance, making it difficult to identify which components are essential to democracy.

One approach would be to establish *a priori* the components of democracy, for example based on an academic definition, and then

maintain that all these components form part of international and regional commitments. However, such a method would not be satisfactory for the EU’s purposes, because the *a priori* definition of democracy does not emerge from international commitments and would therefore not command international authority.⁵ For example, one could argue that fighting corruption is an integral part of democratic governance and then list a range of international and regional commitments to fight corruption. But this would only prove that fighting corruption is an international commitment, not that it forms part of an internationally agreed notion of democracy.

The approach of this study to the methodological problem is an ‘approximation’ to a democracy definition in two steps: First, the few explicit definitions of democracy will be presented and assessed; second – given the breadth of some of these definitions – hints will be sought for which components are considered to be *particularly* relevant for democracy and therefore form *essential elements* of democracy.

5. In addition, there is obviously no agreement in academia on how to define democracy. Definitions range from Schumpeter’s minimalist ‘competitive struggle for people’s votes’ to a long list of indicators, including social and economic rights and the international dimension of democracy in the University of Essex/International IDEA’s methodology.

2. International and Regional Organisations' Efforts in Defining Democracy

Some United Nations declarations and resolutions define or explain the notion of democracy.

The UN General Assembly (GA) stated in its 2000 Manila declaration:

*'that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and on their full participation in all aspects of their lives.'*⁶

The most relevant attempt by the UN GA to define democracy may have been a 2005 resolution declaring that:

'(...) the essential elements of democracy include respect for human rights and fundamental freedoms, inter alia, freedom of association and peaceful assembly and of expression and opinion, and the right to take part in the conduct of public affairs, directly or through freely chosen representatives, to vote and to be elected at genuine periodic free elections by universal and equal suffrage and by secret ballot guaranteeing the free expression of the will of the people, as well as a pluralistic system of political parties and organisations, respect for the rule of law, the separation of powers, the independence of the judiciary, transparency and accountability

*in public administration, and free, independent and pluralistic media;*⁷

The UN World Summit outcome document⁸ of the same year reaffirms that democracy is a universal value but that there is no single model. It stresses however that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing.

It will be argued in the conclusion of this paper that this resolution and the World Summit outcome paper should be used as the main reference points for the EU's promotion of democracy abroad.

Already in 2001 the UN GA adopted a highly relevant *'resolution on promoting and consolidating democracy'*⁹, which contained all the elements of the 2005 resolution, albeit without an operational definition.

The UN GA resolution of 2005 echoed an earlier definition by the UN Human Rights Commission¹⁰, which declared in 2003:

'that the essential elements of democracy include respect for human rights and funda-

6. UN General Assembly, A/55/L.32/Rev.1, 24 November 2000.

7. UN General Assembly, Enhancing the role of regional, sub-regional and other organisations and arrangements in promoting and consolidating democracy, 23 March 2005, UN Doc A/RES/59/201.

8. UN General Assembly, A/RES/60/1, 16 September 2005.

9. UN General Assembly, *'Promoting and consolidating democracy'*, 4 December 2000, UN Doc A/RES/55/96.

10. The UN Human Rights Commission was replaced in 2006 by the Human Rights Council.

mental freedoms, inter alia freedom of association, freedom of expression and opinion, and also include access to power and its exercise in accordance with the rule of law, the holding of periodic free and fair elections by universal suffrage and by secret ballot as the expression of the will of the people, a pluralistic system of political parties and organisations, the separation of powers, the independence of the judiciary, transparency and accountability in public administration, and free, independent and pluralistic media; (...)

Recognizes the comprehensive nature of democracy as a system of governance that encompasses procedures and substance, formal institutions and informal processes, majorities and minorities, mechanisms and mentalities, laws and their enforcement, government and civil society.¹¹

The UN GA resolution and the Human Rights Commission's declaration are most relevant, because they provide a full definition of democracy. By talking of 'essential elements', they outline the core components, while acknowledging that there may be others as well. They also imply that some human rights are particularly relevant for the notion of democracy, namely the freedoms of association, expression and opinion, as well as the right to vote and to stand in elections.

Some of these elements are explained in greater detail in another declaration by the Human Rights Commission, which states:

'(...) that the rights of democratic governance include, inter alia, the following:

- (a) The rights to freedom of opinion and expression, of thought, conscience and religion, and of peaceful association and assembly;*
- (b) The right to freedom to seek, receive and impart information and ideas through any media;*
- (c) The rule of law, including legal protection of citizens' rights, interests and personal security, and fairness in the administration of justice and independence of the judiciary;*
- (d) The right of universal and equal suffrage, as well as free voting procedures and periodic and free elections;*
- (e) The right of political participation, including equal opportunity for all citizens to become candidates;*
- (f) Transparent and accountable government institutions;*
- (g) The right of citizens to choose their governmental system through constitutional or other democratic means;*
- (h) The right to equal access to public service in one's own country.'¹²*

As explained in the introduction, the EU never formally defined democracy and it was only in

11. Commission on Human Rights, Interdependence between democracy and human rights, 23 April 2003, UN Doc E/CN.4/2003/L.11/Add.4.

12. Commission on Human Rights, Promoting and consolidating democracy, 25 April 2000, UN Doc E/CN.4/RES/2000/47.

the 1980s and 1990s that the importance of democracy, which had been central to its own development and integration, was underlined. The Treaty on European Union for instance states that the EU is founded on the principles of democracy, human rights and the rule of law and that these are objectives of its foreign policy. Furthermore, for the process of enlargement, the EU has adopted political criteria that acceding states need to fulfil: *'stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities'*.¹³ These criteria are recalled in the Stabilisation and Association process which covers the Western Balkan countries and includes provisions on eventual future EU membership.¹⁴ The same objectives guide the European Neighbourhood Policy.¹⁵ Likewise, EU policy on governance and development¹⁶ includes the protection and promotion of human rights and democracy as priority issues to be integrated in country strategies, dialogues and all relevant external assistance instruments. They are acknowledged in the European Consensus on Development¹⁷ as a common value for the EU vision of development.

Should the Lisbon Treaty enter into force, the Charter of Fundamental Rights of the Euro-

pean Union will become legally binding. While the Charter is mainly focused on human rights protection, it also includes several provisions on elements of democracy. *'Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law'*.¹⁸

The Lisbon Treaty, as well as the existing Treaty on European Union, also refers to other European documents such as the Charter of Paris for a New Europe (1990) where democracy is referred to and defined in greater detail: *'We undertake to build, consolidate and strengthen democracy as the only system of government of our nations... Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has as its foundation respect for the human person and the rule of law. Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person... Democracy, with its representative and pluralist character, entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially. No one will be above the law'*.¹⁹

13. Copenhagen European Council, 1993.

14. Zagreb summit in November 2000. http://europa.eu.int/comm/enlargement/intro/sap/summit_zagreb.htm.

15. Strategy Paper COM(2004) 373 final of 12.5.2004, Council conclusions of 14.7.2004.

16. Commission Communication COM(2003)615 final of 20 October 2003; Council conclusions of 17.11.2003.

17. Joint Statement by the Council and the representatives of the governments of the Member States. Meeting within the Council, the European Parliament and the Commission: 'The European Consensus on Development'.

18. Preamble, *Charter of Fundamental Rights of the European Union*, 2000.

19. OSCE, *Charter of Paris for a New Europe*, 1990, pp. 3-5.

Some EU agreements provide further details, such as the Cotonou Partnership Agreement concluded between the European Commission and African, Caribbean and Pacific states:

(...) 'The Parties refer to their international obligations and commitments concerning respect for human rights (...) Democratic principles are universally recognised principles underpinning the organisation of the State to ensure the legitimacy of its authority, the legality of its actions reflected in its constitutional, legislative and regulatory system, and the existence of participatory mechanisms. On the basis of universally recognised principles, each country develops its democratic culture. The structure of government and the prerogatives of the different powers shall be founded on rule of law, which shall entail in particular effective and accessible means of legal redress, an independent legal system guaranteeing equality before the law and an executive that is fully subject to the law (...).'²⁰

This does not amount to a full list of essential elements of democracy, but a number of components of the UN GA resolution are included, such as participation, human rights, the rule of law, transparency and accountability, free media and the independence of the judiciary.

Beyond what has been formally stated by

the EU on democracy, it is worth looking at the practice and essential characteristics of EU democracies. In a recent UK Foreign and Commonwealth Office paper on promoting democratic governance as part of EU CFSP and sustainable development policies²¹, an interesting overview is given of what is common to all EU democracies:

- All adult citizens have the right to vote in election and to run for public office
- Elected representatives are chosen in regular, free and fair elections, with secret ballots
- Elected representatives have power to control government decisions about policy
- Elected representatives exercise their constitutional powers without facing overriding opposition from unelected officials
- People have the right to express themselves on political matters, defined broadly, without the risk of state punishment
- People have the right to seek out diverse sources of information, such as the media, and such sources enjoy legal protection from improper interference
- People have the right to form independent associations and organisations, including independent political parties and interest groups
- Elected representatives have effective control over state force, whether civilian or military
- People are able to enjoy their human rights,

20. Article 9, Partnership Agreement ACP-EC, signed in Cotonou on 23 June 2000, revised in Luxembourg on 25 June 2005.

21. UK Foreign and Commonwealth Office, Promoting democratic governance as part of EU CFSP and sustainable development policies, 2008

and without any discrimination as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status

- The rule of law prevails, so that no one is above the law and all are equal before the law
- Government is shared between state, national, regional and local authorities, so that public participation and representation is wide and deep
- EU member states support democratic principles in international relations, abide by international law and resolve their differences through peaceful means

These characteristics reflect to a large extent what is in the UN GA resolution, while being a little more specific on a few aspects.

Some regional governmental organisations have also made declarations, seeking to clarify the meaning of democracy. The **Organization for Security and Co-operation in Europe** (OSCE) states:

'Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has as its foundation respect for the human person and the rule of law. Democracy is the best safeguard of freedom of expression, tolerance of all groups

of society, and equality of opportunity for each person.

*Democracy, with its representative and pluralist character, entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially. No one will be above the law.'*²²

This OSCE commitment includes elements of the UN GA's definition, but is less detailed.

The **Organization of American States** (OAS) states:

'Essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.

Transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press are essential components of the exercise of democracy.

The constitutional subordination of all state

22. OSCE, *Charter of Paris for a New Europe*, 1990.

*institutions to the legally constituted civilian authority and respect for the rule of law on the part of all institutions and sectors of society are equally essential to democracy.*²³

The OAS definition includes all elements of the UN GA definition, but is broader in some aspects, in particular in its reference to the ‘*respect of social rights*’.

The **African Union’s** Charter on Democracy, Elections and Governance includes as principles:

1. *Respect for human rights and democratic principles*
2. *Access to and exercise of state power in accordance with the constitution of the State Party and the principle of the rule of law;*
3. *Promotion of a system of government that is representative;*
4. *Holding of regular, transparent, free and fair elections;*
5. *Separation of powers;*
6. *Promotion of gender equality in public and private institutions;*
7. *Effective participation of citizens in democratic and development processes and in governance of public affairs;*

8. *Transparency and fairness in the management of public affairs;*
9. *Condemnation and rejection of acts of corruption, related offenses and impunity;*
10. *Condemnation and total rejection of unconstitutional changes of government;*
11. *Strengthening political pluralism and recognising the role, rights and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law.*²⁴

The AU charter includes all essential elements outlined in the UN GA resolution, although in its reference to human rights it does not single out the freedoms of expression, assembly and association.

Numerous other organisations have declared their commitment to respecting democratic standards, including the Commonwealth, the Arab League, the Association of South East Asian States (ASEAN) and the Economic Community of West African States (ECOWAS). These have not however defined ‘*essential elements*’ of democracy. Relevant documents adopted by these organisations are quoted in the Annex.

23. OAS, Inter-American Democratic Charter, 2001.

24. The Charter was concluded in January 2007, but is not yet in force for lack of sufficient ratifications by AU member states.

3. Essential Elements of a Democracy

From the definitions quoted above one can extract the core elements of democracy. It is noteworthy that these definitions by intergovernmental bodies go beyond minimalist academic definitions of democracy, such as those by Dahl or Schumpeter. Dahl's influential '*polyarchy*' concept does not include the '*separation of power*' as a core element of democracy.²⁵ What he considers '*institutional guarantees*' for democracy are all based on political rights, while the above-mentioned inter-governmental definitions include institutional aspects of democracy touching on the shape and inter-relationships of the different branches of power.

Based on the quoted documents, the following can be considered to be essential elements of democracy:

3.1. Participation in Public Affairs without Discrimination and the Right to Stand and to Vote in Elections

The right to participation in the conduct of public affairs and to stand and to vote in elections is recognised in all commitments as a core element of democracy. It is also part of even the most minimalist academic definitions of democracy

and of the Universal Declaration of Human Rights (article 21), as well as the International Covenant for Civil and Political Rights (ICCPR) (article 25).

Participation in public affairs can take place directly, for example by referenda, or more generally by being politically active²⁶ or indirectly, by voting for elected representatives. Standards for democratic elections, such as equality, secrecy, universal suffrage, periodic elections, have been well defined, for example by the UN²⁷, the Council of Europe²⁸, the OSCE²⁹ or the South African Development Community (SADC)³⁰.

Article 25 ICCPR makes clear that states not only have to give the right to citizens to take part in the conduct of public affairs, to vote and to be elected, but to also provide them the '*opportunity*' to do so. This means that states should adopt positive measures for example to allow detainees or physically disabled people to vote.

Article 25 ICCPR also makes clear that these rights should be granted to citizens '*without any of the distinctions mentioned in article 2. Article 2 prohibits discrimination of 'any kind such as race, colour, sex, language and political or other opinion*'.

25. Robert Dahl, *Democracy and its Critics*, 1989.

26. The UN Human Rights Committee, which monitors the implementation of the ICCPR, found a violation of the right to take part in the conduct of public affairs in a situation where membership of one party was a pre-condition for political activities. Individual Communication of the Committee in the case of *Bwalya v. Zambia*, No.314/1988.

27. General Comment on Article 25 ICCPR (1996) by the UN Human Rights Committee.

28. Guidelines on elections (2002) by the Venice Commission, which is the Council of Europe's advisory body on constitutional matters.

29. Among others the Copenhagen Meeting of 1990.

30. SADC Principles and Guidelines Governing Democratic Elections (2004). For a detailed overview of international election standards, see: Compendium of International Standards for Elections, Second Edition, 2007, Network of European Experts for Democracy Support (NEEDS).

Specific conventions reiterate the prohibition of discrimination and call for specific measures to overcome existing inequalities. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) calls on states to take measures to eliminate discrimination against women in the political and public life of a country. Art.4 CEDAW states: *'Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention (...)'*. This covers for example prescribing quota for female candidates in elections.

There are other conventions and commitments in favour of specific groups, reiterating the need for participation without discrimination, including the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD), the UN Convention on the Rights of Persons with Disabilities (CPRD) and the GA resolution on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities.

3.2. Freedoms of Expression and Opinion, Association, Assembly

These core political rights are mentioned in the democracy declarations by the UN GA and the UN Human Rights Commission.

Freedom of expression *'includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.'* (Article 19, Universal Declaration of Human Rights). The European Court of Human Rights has declared and often repeated that *'freedom of political debate is at the very core of the concept of a democratic society'*.³¹ The right to freedom of expression has wide-ranging implications on access of opposition to state-controlled media, election campaign regulations, media legislation and the right to access to information (see below).³²

Freedom of assembly protects *'intentional, temporary gatherings of several persons for a specific purpose'*³³ and has a *'clear democratic function in the process of forming, expressing and implementing political opinions'*.³⁴

Freedom of association is *'indispensable for a democracy, because political interests can be effectively championed only in community with others (as a political party, professional interest group, organisation or other association for pursuing particular public interests).'*³⁵

These rights are well defined in legally binding treaties, such as the ICCPR, the European

31. *Lingens v. Austria*, Judgment of 8 July 1986, Series A no. 103, at para. 42.

32. For in-depth information, see: *The article 19 Freedom of Expression Handbook*, 1983.

33. Manfred Nowak, ICCPR Commentary, 2nd revised edition, page 482.

34. *ibid*, page 481.

35. *ibid*, page 496.

Convention on Human Rights and the American Convention on Human Rights.

3.3 Separation of Powers

The separation of powers is mentioned as an essential element of democracy in international commitments. The Commonwealth governments endorsed detailed *'Principles on the Accountability of and the Relationship between the three Branches of Government'*.³⁶

The meaning of the separation of power is relatively clear as regards the independence of the judiciary from other branches of power, but more complex as far as the distinction between the executive and the legislative branches of power are concerned.

• Independent Judiciary

The independence of the judiciary is an obligation under international law in relation to criminal law. Article 14 ICCPR states: *'(...) In the determination of any criminal charge against him, or of his rights and obligations in a suit of law, everybody shall be entitled to a fair and public hearing by a competent, independent and impartial court established by law. (...)'*³⁷

36. These principles, which are also known as *'Latimer House Principles'*, were endorsed by the Commonwealth Heads of Government in Abuja, Nigeria in 2003.

37. The leading ICCPR commentary notes: *'The wording and historical background of Art.14 thus demonstrate that agreement was reached in a universal human rights treaty on a provision based on liberal principles of the separation of powers and the independence of the judiciary vis-à-vis the executive.'* Nowak, op.cit., article 14, 2.

38. Concluding Observations of the Human Rights Committee, Egypt, U.N. Doc. CCPR/C/79/Add.23 (1993) para. 9. For other cases, see Democracy Reporting international, *Discussing International Standards for Democracy*, page 6.

39. Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August to 6 September 1985; endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985.

40. For example OSCE commitments and a recommendation by the Council of Europe's Committee of Ministers.

Several country reports by the UN Human Rights Commission make clear that there is a requirement under the ICCPR for courts to be independent, beyond the realm of criminal law. For example, the Commission referred to the case of Egypt: *'The President's role as both part of the executive and part of the judiciary system is noted with concern by the Commission (...)'*³⁸.

The UN's *'Basic Principles on the Independence of the Judiciary'*³⁹ give operational guidance on how to secure the independence and tenure of judges. Regional organisations have also adopted detailed standards for an independent judiciary.⁴⁰

Courts can play a vital role in ensuring accountability by adjudicating conflicts between different branches of power, for example in the realm of administrative or constitutional law.

• The Relationship between the Legislative and the Executive

The separation of powers is a complex issue as far as legislative – executive relations are concerned, because much depends on the given

political system. Presidential systems have a clearer separation of legislative – executive powers, because directly elected presidents do not depend on parliamentary confidence, their term is independent of that of a parliament and they can name and direct their cabinet. In contrast, in parliamentary systems the executive authority of a prime minister and his or her cabinet is granted by the parliament and can be dismissed by a non-confidence vote.⁴¹ For these reasons the notion of a *'balance of power'* is sometimes preferred to that of a *'separation'*.

From the point of view of international standards for democracy, the issue is not the regime type: presidential and parliamentary systems are equally acceptable.⁴² The salient question is whether elected legislators have sufficient powers. In many struggling democracies legislatures are dominated by the executive branches of power, undermining checks and balances and rendering parliamentary elections almost irrelevant. It is in this sense that *'separation of powers'* should be understood as a standard requiring that each branch of power has the capacity to play a meaningful and sufficiently independent role, whatever the political system.

The separation of powers, as defined above, follows logically from the right to vote and to stand in elections (article 25 ICCPR). In its general comment on article 25 ICCPR the UN's Human Rights Commission has noted that:

*'Where citizens participate in the conduct of public affairs through freely chosen representatives, it is implicit in article 25 that those representatives do in fact exercise governmental power and that they are accountable through the electoral process for the exercise of that power.'*⁴³

Indeed in its case law the Human Rights Commission deals regularly with situations where the executive is too powerful. In order for the legislature to play a meaningful role a number of specific prescriptions, which also guide parliamentary strengthening assistance, need to be in place. Those will be addressed in the following section (3.4).⁴⁴

3.4 The Role of Parliament

Without strong parliaments there can be no democracy. The need for strong parliaments is implicit in many of the essential elements of democracy: the right to vote implies that the elected institution plays a decisive role; the

41. For an overview see M.S. Shugart, *Comparative Executive – Legislative Relations*, The Oxford Handbook of Political Institutions, 2006.

42. This has been made explicit in the UN Human Rights' Commission's declaration *'Promotion of the Right to Democracy'* (1999): *'The Commission on Human Rights (...) affirms (...) the right of citizens to choose their governmental system through constitutional or other democratic means'*, UN Doc E/CN.4/Res/1999/57.

43. Point 7, General Comment on article 25.

44. *Ibid*, page 10 and in detail: *'Toward the Development of International Standards for Democratic Legislatures'*, National Democratic Institute, January 2007.

separation of power and the notion of accountability suggests that the legislative branch oversees the executive branch of power; the rule of law requires that all important legislation be adopted by parliament; a pluralistic system of parties is based on parliamentary competition and transparency results from public consultation on draft legislation and debates on public affairs in Parliament. Thus, Parliament is the lynchpin of democratic institutions.⁴⁵ Some argue that stronger parliaments are automatically better for democratisation⁴⁶, but this may be contested⁴⁷.

Yet the prime importance of institutions in a democracy is fully recognised; in the words of former UN Secretary-General, Mr Kofi Annan: *'In the end, it is all about institutions'*⁴⁸. Similarly, as the Swedish Ambassador for Democracy recently underlined: *'Even though civil society is an incredibly important part of the democracy scene in a country, it cannot and should not substitute the formal democratic institutions, such as parliaments!'*⁴⁹

Legislatures should have three main functions: passing laws, maintaining oversight of the executive, and acting as a forum for public debate. These roles have been acknowledged in a number of international documents. For example, the Inter-Parliamentary Union (IPU), the international organisation of parliaments, stresses that *'Democracy (...) requires the existence of representative institutions at all levels and, in particular, a Parliament in which all components of society are represented and which has the requisite powers and means to express the will of the people by legislating and overseeing government action.'*⁵⁰ The IPU also *'urges States to safeguard the role of parliaments and political institutions so as to enable parliamentarians to play their role properly and freely, inter alia by adopting legislation, overseeing the government and debating major societal issues.'*⁵¹

Parliaments must be free to organise their work autonomously or enjoy *'effective independence.'*⁵² The IPU also mentions the need

45. ECOWAS states that *'empowerment and strengthening of parliaments and guarantee of parliamentary immunity'* is a constitutional principle of all its member states, Protocol on Democracy and Good Governance, 2001.

46. Steve Fish, *Stronger Parliaments, Stronger Democracy*, Journal of Democracy, vol.17 nr.1, 2006.

47. Taeko Hiroi; Sawa Omori, *Perils of Parliamentarism – Political systems and stability of democracy revisited*, Democratization, Volume 16, Issue 3. Clingendael Institute Symposium, 9 December 2008, The Hague.

49. Maria Leissner, Ambassador for Democracy in Development Cooperation, 29 September 2008, Stockholm.

50. IPU, op.cit. The study tests post-communist countries in Europe and Central Asia. However, it does not test whether more significant democratisation may be an effect of European Union enlargement. Furthermore, it does not test if the propensity for electoral fraud may impact on Parliaments' performances.

51. *'Ensuring lasting Democracy By Forging Close Links Between Parliament and the People'*, Resolution adopted by the 98th Inter-Parliamentary Conference, Cairo, 16 September 1997.

52. OSCE Human Dimension Seminar on Democratic Institutions and Democratic Governance, Warsaw, 12-14 May 2004, Consolidated Summary, p.12.

for legislatures to have *‘the requisite powers and means to express the will of the people by legislating and overseeing government action.’*⁵³

Detailed standards for democratic parliaments have equally been elaborated in a discussion paper by the National Democratic Institute⁵⁴ and have since been further discussed, deepened and internalised within international and regional parliamentary associations such as the Commonwealth Parliamentary Assembly (CPA)⁵⁵, the *‘Assemblée Parlementaire de la Francophonie’* (APF)⁵⁶ and the Southern African Development Community Parliamentary Forum (SADC PF). Those exercises should eventually lead to the adoption or recognition by the international community of a set of key standards for democratic parliaments.

3.5 The Rule of Law

There are few definitions of the rule of law in the context of international organisations. The clearest explanations can be found in OSCE commitments:

(The participating states) ‘consider that the rule of law does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the

*recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression.’*⁵⁷

Sometimes the rule of law is narrowly construed as an efficient system of justice and law enforcement. The OSCE Copenhagen commitment and the Charter of Paris for a New Europe make clear that it is a much broader concept, which is closely linked to human rights and a democratic order.

The rule of law commits all public authorities to comply with independently administered law and justice systems. The OSCE commitments stress the *‘duty of the government and public authorities to comply with the constitution and to act in a manner consistent with the law’*.⁵⁸ They also make clear that the authority of the law implies certain standards for the legislative process, namely:

*‘Legislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives’*⁵⁹; and:

‘legislation adopted at the end of a public procedure, and regulations will be published,

53. IPU, op. cit.

54. See National Democratic Institute, *Towards the Development of International Standards for Democratic Legislatures*, January 2007.

55. CPA, *Recommended benchmarks for Democratic Legislatures*, Study Group Report, 2007

56. APF, <http://apf.francophonie.org/spip.php?article1001>, 2009

57. Point 2, Copenhagen Meeting 1990.

58. Ibid, 5.3.

59. Point 18.1., Moscow Meeting 1991.

*that being the condition for their applicability. Those texts will be accessible to everyone.*⁶⁰

Similar points are made in the UN Human Rights Commission's resolution on '*democracy and the rule of law*'.⁶¹

The rule of law as an inherent element of democracy also means that the will of the majority has limits, not only in the form of universal human rights, but also in the constitutional framework of a state. For example, referenda should not be used to trump constitutional provisions.⁶²

The rule of law is organically linked to the other core components of democracy, namely the separation of powers, an independent judiciary, and transparency and accountability.

3.6 Pluralistic system of political parties and organisations

One could argue that the need for a pluralistic system of political parties and organisations naturally results from the protection of the freedom of association, including parties. Yet dur-

ing the Cold War it was controversial whether the freedom of association could be exercised in one-party systems.⁶³ Since then it seems clear that the existence of a one-party state or the prohibition of political parties equates to a lack of freedom of association and related freedoms.⁶⁴

Nevertheless, by mentioning a pluralistic system of political parties suggests that states should not hinder the development of political parties; indeed, they have an obligation to favour it. '*Pluralism*' indicates that a party system should not only consist of a multitude of parties, but it should also include parties that represent genuinely alternative policy choices. Political systems with a mere façade of several parties, which disguise the state-sponsored dominance of one or several parties over them, fall short of this core element of democracy.

3.7 Transparency and Accountability

'*Transparency and accountability in public administration*' is mentioned in both the 2005 UN GA resolution and the 2003 declaration by the UN Human Rights Commission.

60. Point 5.8., Copenhagen Meeting 1990.

61. Resolution 2005/32 of 19 April 2005.

62. The Council of Europe's Venice Commission notes '*that the use of referendums must comply with the legal system as a whole and especially the rules governing the revision of the Constitution.*' Point B.3. Guidelines for Constitutional Referendums at National Level, 6-7 July 2001.

63. While in 1988 the UN Human Rights Committee found a violation of the freedom of association in a case where a candidate was barred from running in elections outside the only party recognised by the constitution, it did not rule explicitly on the merit of the one-party system, see *Bwalya v. Zambia*, No.314/1988.

64. The UN Human Rights Committee noted in its 1996 General Comments on article 25 that '*the right of persons to stand for elections should not be limited unreasonably by requiring candidates to be members of parties or specific parties*' and '*political parties and membership in parties play a significant role in the conduct of public affairs and the election process.*'

The notion of accountability was explained in the Inter-Parliamentary Union's Universal Declaration on Democracy:

'Public accountability, which is essential to democracy, applies to all those who hold public authority, whether elected or non-elected, and to all bodies of public authority without exception. Accountability entails a public right of access to information about the activities of government, the right to petition government and to seek redress through impartial administrative and judicial mechanisms.'

Accountability thus implies 'answerability', i.e. the obligation to provide information and explanation, as well as holding those who are responsible accountable for their actions (enforcement)⁶⁵. Public authority can be held accountable through elections, through parliaments, as well as through the courts or other independent institutions such as human rights institutions, anti-corruption bodies, and so on. It is thus a concept closely linked to elections and the rule of law.

The concept of transparency is underpinned by freedom of expression. For example, article 19 (2) states that *'everyone shall have the right to freedom of expression; this right shall include*

freedom to seek, receive and impart information and ideas of all kinds (...)'.

The precise limits of the right to information are controversial, but at the international level the UN Special Rapporteur on freedom of expression has provided guidance:

*'the Special Rapporteur (...) emphasizes, that everyone has the right to seek, receive and impart information and that this imposes a positive obligation on States to ensure access to information, particularly with regard to information held by Government in all types of storage and retrieval systems - including film, microfiche, electronic capacities, video and photographs - subject only to such restrictions as referred to in article 19, paragraph 3, of the International Covenant on Civil and Political Rights.'*⁶⁶

This view was welcomed by the UN Human Rights Commission.⁶⁷ The Council of Europe's Committee of Ministers pointed out *'the importance in a pluralistic, democratic society of transparency of public administration and of the ready availability of information on issues of public interest'*.⁶⁸ Twelve member states of the Council of Europe signed a convention on access to official documents.⁶⁹

65. O'Donnell distinguishes answerability and enforcement as the two main aspects of accountability. *'Horizontal Accountability in New Democracies.'* in: A. Schedler, L. Diamond and M. F. Plattner (eds.), *Conceptualizing Accountability*, Boulder, 1999.

66. UN Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression, 1999 Report to the Commission on Human Rights, E/CN.4/1996/64.

67. Resolution 1999/36, para. 2.

68. Recommendation R(2002)2 on access to official documents, 21 February 2002.

69. The convention will enter into force once it is ratified by five states.

A study on freedom of information notes: *'It is perhaps as an underpinning of democracy that freedom of information is most important. Information held by public authorities is not acquired for the benefit of officials or politicians but for the public as a whole. Unless there are good reasons for withholding such information, everyone should be able to access it.'*⁷⁰ Indeed, without sufficient information there is no basis for holding state authorities accountable. The right to vote becomes less meaningful without sufficient public information allowing voters to judge a government's performance.

3.8 Free Media

The Council of Europe's Committee of Ministers noted: *'media freedoms and pluralism are vital for democracy, given their essential role in guaranteeing free expression of opinions and ideas and in contributing to peoples' effective participation in democratic processes.'*⁷¹

The freedom of the media is largely encompassed by the freedom of opinion, expression and information. The UN Human Rights Commission noted in relation to article 19 ICCPR: *'Not all States parties have provided information concerning all aspects of the freedom of*

*expression. For instance, little attention has so far been given to the fact that, because of the development of modern mass media, effective measures are necessary to prevent such control of the media as would interfere with the right of everyone to freedom of expression in a way that is not provided for in paragraph 3.'*⁷²

Freedom of expression thus includes an obligation on states to prevent excessive media concentration.⁷³ Special representatives on media freedoms of four international organisations noted: *'In recognition of the particular importance of media diversity to democracy, special measures, including anti-monopoly rules, should be put in place to prevent undue concentration of media or cross-media ownership (...).'*⁷⁴

Article 13 of the American Convention on Human Rights contains a far-reaching provision in favour of media pluralism: *'The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.'*⁷⁵

70. Toby Mendel, Freedom of Information as an Internationally Protected Human Right, briefing paper by article 19.

71. Declaration of the Committee of Ministers on protecting the role of the media in democracy in the context of media concentration, 31 January 2007.

72. General Comment nr. 10, adopted by the HRC at its 461st meeting on 27 July 1983, UN Doc. A/38/40, 109. 1983.

73. Nowak, *op.cit.*, p. 448.

74. Joint Declaration on Diversity in Broadcasting, 12 December 2007, UN Special Rapporteur on Freedom of Expression and Opinion, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression, the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and People's Rights.

75. American Convention on Human Rights (entered into force on 18 July 1978).

3.9 Table on Commitments to Democracy by International, Regional Organisations and Groupings

The table below provides an overview of the

commitments of international and regional organisations and other groupings to democracy, organised along the essential elements of democracy.⁷⁷

Grid of Commitments to Democracy by International, Regional Organisations and Groupings

	UN GA	UN Human Rights Commission	EU ⁷⁶	Council of Europe	OSCE ⁷⁷
Take Part in Conduct of Public Affairs	E	E access to power	X		X
Elections (right to vote and to stand)	E	E	X		X
Freedom of Association	E	E	X	X ⁸⁴	X
Freedom of Assembly	E		X	X	X
Freedom of Expression/Opinion	E	E	X	X	E ⁸⁵
Separation of Powers	E	E		X	
Rule of Law	E	E	X ⁸⁶	X ⁸⁷	X
Pluralistic System of Political Parties	E	E	X	X ⁸⁸	X
Transparency and Accountability	E	E	X	X	X ⁸⁹
Free, pluralistic media	E	E	X		X ⁹⁰

'E' refers to commitments that were marked as 'essential elements of democracy' by the organisation in question

'X' refers to commitments which are not specifically marked as an essential.

76. Charter of Fundamental Rights of the European Union, signed by the Presidents of the European Parliament, Council and Commission on 7 December 2000 in Nice.

77. If not otherwise indicated, this is based on commitments made at the Copenhagen meeting of 1990.

78. If not otherwise indicated, based on the Declaration on Democracy, Political, Economic and Corporate Governance signed by Heads of State and Government of the Member States of the African Union, 9 March 2003.

79. Aso Rock Commonwealth Declaration on Development and Democracy, Abuja, 7/8 December 2003.

80. Arab Charter of Human Rights, entered into force on 15 March 2008.

81. IPU Universal declaration on democracy, 1997.

82. *Towards a Community of Democracies*, Ministerial Conference, Warsaw 2000.

OAS	AU ⁷⁸	ECOWAS	Common-wealth ⁷⁹	Arab League ⁸⁰	IPU ⁸¹	Community of Democracies ⁸²
	X ⁸³		X	X		X
E	E	X	X	X	E	X
E	X	X	X	X	E	X
E	X	X	X	X	E	X
E	E					
E	E	X	X	X	E	X
E	X	X				
E	X	X	X		X	X
E	X	X				X

83. OAU/AU Declaration on the Principles Governing Democratic Elections in Africa, Durban, 8 July 2002.

84. First optional protocol of the ECHR, article 3.

85. Budapest 1994, point 36.

86. EU Treaty.

87. Recommendation by the Committee of Ministers on the Independence, Efficiency and Role of Judges, 1994.

88. Resolution 800 (1983) by the Council of Europe's Parliamentary Assembly.

89. Copenhagen 5.2. and Maastricht 2003, point 2.2.4.

90. Moscow 1991, point 26.

4. Political Commitments vs. Legal Obligations

When talking about international standards it is useful to distinguish between legal obligations and political commitments. As far as the notion of democracy is concerned, 'its status under international law remains uncertain'.⁹² However, it is clear that some essential elements of democracy represent international law, for example all those based on the International Covenant for Civil and Political Rights, which has been ratified by a large number of states.

Another source of international law is customary international law, which can be influenced by non-treaty standards. Many provisions of the Universal Declaration of Human Rights are widely considered to be customary international law and thus legally binding anywhere. Resolutions by the General Assembly may be an indication that their content represents customary international law, in particular when they were approved by a significant majority of states.

In the case of the above-mentioned UN GA resolution 'enhancing the role of regional,

sub-regional and other organisations and arrangements in promoting and consolidating democracy', a large majority of 172 states approved the resolution with no rejections and only 15 abstentions.⁹³ Given that the content of the resolution is also widely practised, one could thus argue that the democracy definition of the resolution represents international customary law. The case is strengthened by the fact that the earlier 2001 UN GA resolution on 'promoting and consolidating democracy', which was even broader than the 2005 resolution, was also approved by a large majority without rejections (157 states voted in favour and 16 abstained).

However, even if the UN GA resolutions could not be interpreted as legal obligations, they are at least for those who voted in favour an expression of political commitment, against which the conduct of these states can be measured. In that sense it serves as an appropriate reference point for the EU's democratisation efforts abroad.

92. J.Wouters, B. de Meester, C. Ryngaert, *Democracy and International Law*, Netherlands Yearbook of International Law, 2003, p.195.

93. The following states abstained: Belarus, Bhutan, China, Cuba, Democratic People's Republic of Korea, Lao People's Democratic Republic, Libya, Myanmar, Saudi Arabia, Syria, Turkmenistan, United Arab Emirates, Venezuela, Viet Nam, Zimbabwe. The following states were absent: Congo, Kiribati, Saint Kitts and Nevis, Tonga.

5. Conclusion: Which Notion of Democracy for the EU's External Relations?

A wide range of statements by international and regional organisations confirm a commitment to democracy. Yet only a few of these texts define democracy. The clearest definition is contained in the UN General Assembly's resolution on *'Enhancing the role of regional, sub-regional and other organisations and arrangements in promoting and consolidating democracy'* of 23 March 2005, which contains a range of *'essential elements of democracy'*. The resolution echoes an earlier declaration of 2003 by the UN Human Rights Commission.

The definition of democracy contained in the resolution is relatively broad, including not only the respect of political rights of citizens, but also obligations related to the organisation of a state. It thus provides a meaningful definition, beyond some minimalist definitions based on electoral competition that have occasionally been proposed by political scientists. At the same time the definition is not so broad as to make it meaningless. It also very much reflects the EU democratic practice and views.

The General Assembly's resolution was approved by 172 states, including all EU member states. While 15 states abstained from a vote, no member state of the UN rejected the resolution. All the elements contained in the resolution appear in treaties and political commitments

made by states in the context of the UN and numerous regional inter-governmental organisations, as is shown in the Annex

The definition produced by the General Assembly would therefore serve as an ideal reference for the EU's promotion of democracy abroad. This definition is all the more relevant because the resolution was specifically aimed at regional organisations.

Furthermore, there are a number of political reasons that make it more appropriate for the EU to refer to a notion of democracy emerging from the UN context, rather than adopt an *'EU definition'* of democracy: First, the EU has defined *'effective multilateralism'* and a *'rule-based international order'* as strategic objectives.⁹⁴ Engaging in democracy promotion world-wide based on a UN definition would be more in line with these objectives than a distinct EU definition of democracy. While many regional organisations have adopted declarations on democracy, these have served to clarify their work inside their particular geographic region. In contrast, the EU's search for a consensus on democracy is related to promoting democracy outside the EU.

Second, using a UN-based definition of democracy makes more sense diplomatically.

94. *'The development of a stronger international society, well functioning international institutions and a rule-based international order is our objective'*, A Secure Europe in a Better World – European Security Strategy, 12 December 2003.

There is no reason why EU partner countries should accept an EU-prescribed definition; rather, they may reject it as a unilateral imposition. In contrast, they cannot object to the UN GA's definition, which most of them have approved and to which no state has objected. This definition could also underpin the concept of benchmarking. For example, the ACP-EU Cotonou Agreement specifically calls for the development of benchmarks on human rights and democracy *'within the parameters of inter-*

nationally agreed standards and norms', to be used in political dialogue.⁹⁵

In order to clarify its stance on democracy promotion abroad, the EU could publicly reiterate and endorse the UN GA's resolution and the essential elements of democracy listed in the resolution, and declare that promoting and supporting these essential elements is the purpose of its democracy support in third states.

95. Article 2, Annex VII, Partnership Agreement ACP-EC, signed in Cotonou on 23 June 2000, revised in Luxembourg on 25 June 2005.

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Covenant for Civil and Political Rights, entry into force on 23 March 1976

Convention on the Elimination of all Forms of Discrimination against Women, entry into force 3 September 1981

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Annex – Compilation of Democracy Commitments by Inter-Governmental Organisations

I. UNITED NATIONS

General Assembly, Enhancing the role of regional, subregional and other organisations and arrangements in promoting and consolidating democracy, 23 March 2005, UN Doc A/RES/59/201

The General Assembly, (...) 1. Declares that the essential elements of democracy include respect for human rights and fundamental freedoms, inter alia, freedom of association and peaceful assembly and of expression and opinion, and the right to take part in the conduct of public affairs, directly or through freely chosen representatives, to vote and to be elected at genuine periodic free elections by universal and equal suffrage and by secret ballot guaranteeing the free expression of the will of the people, as well as a pluralistic system of political parties and organisations, respect for the rule of law, the separation of powers, the independence of the judiciary, transparency and accountability in public administration, and free, independent and pluralistic media; (...)

General Assembly, Promoting and consolidating democracy, 4 December 2000 UN Doc A/RES/55/96

1. Calls upon States to promote and consolidate democracy, inter alia, by:

- (a) Promoting pluralism, the protection of all human rights and fundamental freedoms, maximizing the participation of individuals in decision-making and the development of effective public institutions, including an independent judiciary, accountable legislature and public service and an electoral system that ensures periodic, free and fair elections;
- (b) Promoting, protecting and respecting all human rights, including the right to development, and fundamental freedoms, in particular:
 - (i) Freedom of thought, conscience, religion, belief,

peaceful assembly and association, as well as freedom of expression, freedom of opinion, and free, independent and pluralistic media;

- (ii) The rights of persons belonging to national, ethnic, religious or linguistic minorities, including the right freely to express, preserve and develop their identity without any discrimination and in full equality before the law;

- (iii) The rights of indigenous people;

- (iv) The rights of children, the elderly and persons with physical or mental disabilities;

- (v) Actively promoting gender equality with the aim of achieving full equality between men and women;

- (vi) Taking appropriate measures to eradicate all forms of racism and racial discrimination, xenophobia and related intolerance;

- (vii) Considering becoming parties to international human rights instruments;

- (viii) Fulfilling their obligations under the international human rights instruments to which they are parties;

- (c) Strengthening the rule of law by:

- (i) Ensuring equality before the law and equal protection under the law;

- (ii) Ensuring the right to liberty and security of person, the right to equal access to justice, and the right to be brought promptly before a judge or other officer authorized by law to exercise judicial power in the case of detention with a view to avoiding arbitrary arrest;

- (iii) Guaranteeing the right to a fair trial;

- (iv) Ensuring due process of law and the right to be presumed innocent until proven guilty in a court of law;

- (v) Promoting the independence and integrity of the judiciary and, by means of appropriate education, selection, support and allocation of resources, strengthening its capacity to render justice with



fairness and efficiency, free from improper or corrupt outside influence;

(vi) Guaranteeing that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person;

(vii) Ensuring appropriate civil and administrative remedies and criminal sanctions for violations of human rights, as well as effective protection for human rights defenders;

(viii) Including human rights education in the training for civil servants and law enforcement and military personnel;

(ix) Ensuring that the military remains accountable to the democratically elected civilian government;

(d) Developing, nurturing and maintaining an electoral system that provides for the free and fair expression of the people's will through genuine and periodic elections, in particular by:

(i) Guaranteeing that everyone can exercise his or her right to take part in the government of his or her country, directly or through freely chosen representatives;

(ii) Guaranteeing the right to vote freely and to be elected in a free and fair process at regular intervals, by universal and equal suffrage, conducted by secret ballot and with full respect for the right to freedom of association;

(iii) Taking measures, as appropriate, to address the representation of under-represented segments of society;

(iv) Ensuring, through legislation, institutions and mechanisms, the freedom to form democratic political parties that can participate in elections, as well as the transparency and fairness of the electoral process, including through appropriate access under the law to funds and free, independent and pluralistic media;

(e) Creating and improving the legal framework and necessary mechanisms for enabling the wide

participation of all members of civil society in the promotion and consolidation of democracy, by:

(i) Respecting the diversity of society by promoting associations, dialogue structures, mass media and their interaction as a means of strengthening and developing democracy;

(ii) Fostering, through education and other means, awareness and respect for democratic values;

(iii) Respecting the right to freedom of peaceful assembly and the exercise of the right freely to form, join and participate in non-governmental organisations or associations, including trade unions;

(iv) Guaranteeing mechanisms for consultations with and the contribution of civil society in processes of governance and encouraging cooperation between local authorities and non-governmental organisations;

(v) Providing or improving the legal and administrative framework for non-governmental, community-based and other civil society organisations;

(vi) Promoting civic education and education on human rights, inter alia, in cooperation with organisations of civil society;

(f) Strengthening democracy through good governance as referred to in the United Nations Millennium Declaration⁵ by, inter alia:

(i) Improving the transparency of public institutions and policy-making procedures and enhancing the accountability of public officials;

(ii) Taking legal, administrative and political measures against corruption, including by disclosing and investigating and punishing all those involved in acts of corruption and by criminalizing payment of commissions and bribes to public officials;

(iii) Bringing government closer to the people by appropriate levels of devolution;

(iv) Promoting the widest possible public access to information about the activities of national and local authorities, as well as ensuring access by all to

administrative remedies, without discrimination;
(v) Fostering high levels of competence, ethics and professionalism within the civil service and its cooperation with the public, inter alia, by providing appropriate training for members of the civil service; (...)

UN General Assembly, Support by the United Nations system of the efforts of Governments to promote and consolidate new or restored democracies, 16 February 1996, UN Doc A/RES/50/133

(...) Bearing in mind also that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing and that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and on their full participation in all aspects of their lives, (...)

UN General Assembly, 2005 World Summit Outcome, 16 September 2005, UN Doc A/RES/60/1

(...) 24. (...) To this end, we therefore resolve:
(b) To reaffirm that good governance is essential for sustainable development; that sound economic policies, solid democratic institutions responsive to the needs of the people and improved infrastructure are the basis for sustained economic growth, poverty eradication and employment creation; and that freedom, peace and security, domestic stability, respect for human rights, including the right to development, the rule of law, gender equality and market-oriented policies and an overall commitment to just and democratic societies are also essential and mutually reinforcing; (...)
135. We reaffirm that democracy is a universal value based on the freely expressed will of people

to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives. We also reaffirm that while democracies share common features, there is no single model of democracy, that it does not belong to any country or region, and reaffirm the necessity of due respect for sovereignty and the right of self-determination. We stress that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing. (...)

UN General Assembly, Respect for the principles of national sovereignty and diversity of democratic systems in electoral processes as an important element for the promotion and protection of human rights, 22 March 2004, UN Doc A/RES/58/189; 2 March 2006, UN Doc A/RES/60/164

The General Assembly (...) Recognizing also the richness and diversity of democratic political systems and models of free and fair electoral processes in the world, based on national and regional particularities and various backgrounds, (...)

1. Reaffirms that all peoples have the right to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development, and that every State has the duty to respect that right, in accordance with the provisions of the Charter of the United Nations;
2. Reiterates that periodic, fair and free elections are important elements for the promotion and protection of human rights;
3. Reaffirms the right of peoples to determine methods and to establish institutions regarding electoral processes and, consequently, that there is no single model of democracy or of democratic institutions and that States should ensure all the

necessary mechanisms and means to facilitate full and effective popular participation in those processes; (...)

7. Reaffirms that the will of the people shall be the basis of the authority of government and that this will shall be expressed in periodic and genuine elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures;

UN General Assembly, Promotion of a democratic and equitable international order, 8 February 2002, UN Doc A/RES/56/151; 25 March 2003, UN Doc A/RES/57/213; 18 March 2005, UN Doc A/RES/59/193; 21 February 2007, UN Doc A/RES/61/160; 18 March 2009, UN Doc A/RES/63/189

(...) Reaffirming that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing, and that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives,

Emphasizing that democracy is not only a political concept but that it also has economic and social dimensions,

Recognizing that democracy, respect for all human rights, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society are an essential part of the necessary foundations for the realization of social and people-centred sustainable development, (...)

Resolved to take all measures within its power to secure a democratic and equitable international order,

1. Affirms that everyone is entitled to a democratic and equitable international order; 2. Also affirms that a democratic and equitable international order fosters the full realization of all human rights for all; (...)

4. Affirms that a democratic and equitable international order requires, inter alia, the realization of the following:

(a) The right of all peoples to self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development;

(b) The right of peoples and nations to permanent sovereignty over their natural wealth and resources;

(c) The right of every human person and all peoples to development;

(d) The right of all peoples to peace;

(e) The right to an international economic order based on equal participation in the decision-making process, interdependence, mutual interest, solidarity and cooperation among all States;

(f) International solidarity, as a right of peoples and individuals;

(g) The promotion and consolidation of transparent, democratic, just and accountable international institutions in all areas of cooperation, in particular through the implementation of the principles of full and equal participation in their respective decision-making mechanisms;

(h) The right to equitable participation of all, without any discrimination, in domestic and global decision-making;

(i) The principle of equitable regional and gender-balanced representation in the composition of the staff of the United Nations system;

(j) The promotion of a free, just, effective and balanced international information and communications order, based on international cooperation for

the establishment of a new equilibrium and greater reciprocity in the international flow of information, in particular correcting the inequalities in the flow of information to and from developing countries;

(k) Respect for cultural diversity and the cultural rights of all, since this enhances cultural pluralism, contributes to a wider exchange of knowledge and understanding of cultural backgrounds, advances the application and enjoyment of universally accepted human rights across the world and fosters stable, friendly relations among peoples and nations worldwide;

(l) The right of every person and all peoples to a healthy environment and to enhanced international cooperation that responds effectively to the needs for assistance of national efforts to adapt to climate change, particularly in developing countries, and that promotes the fulfilment of international agreements in the field of mitigation;

(m) The promotion of equitable access to benefits from the international distribution of wealth through enhanced international cooperation, in particular in economic, commercial and financial international relations;

(n) The enjoyment by everyone of ownership of the common heritage of mankind in connection to the public right of access to culture;

(o) The shared responsibility of the nations of the world for managing worldwide economic and social development as well as threats to international peace and security that should be exercised multilaterally; (...)

Commission on Human Rights, Interdependence between democracy and human rights, 23 April 2003, UN Doc E/CN.4/2003/L.11/Add.4

The Human Rights Commission (...) declares that the essential elements of democracy include re-

spect for human rights and fundamental freedoms, inter alia freedom of association, freedom of expression and opinion, and also include access to power and its exercise in accordance with the rule of law, the holding of periodic free and fair elections by universal suffrage and by secret ballot as the expression of the will of the people, a pluralistic system of political parties and organizations, the separation of powers, the independence of the judiciary, transparency and accountability in public administration, and free, independent and pluralistic media;

(...)

4. Recognizes the comprehensive nature of democracy as a system of governance that encompasses procedures and substance, formal institutions and informal processes, majorities and minorities, mechanisms and mentalities, laws and their enforcement, government and civil society; (...)

8. Acknowledges that democracy is an always-perfectible process that should be measured by the degree to which its principles, norms, standards and values are given effect and contributes to the full realization of all human rights; (...)

Commission on Human Rights, Promotion of the right to democracy, 27 April 1999, UN Doc E/CN.4/Res/1999/57

‘The Commission on Human Rights, (...) Recognizing that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing, and that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives, Recognizing also the rich and diverse nature of the

community of the world's democracies, (...)

1. Affirms that democracy fosters the full realization of all human rights, and vice versa;

2. Also affirms that the rights of democratic governance include, inter alia, the following:

(a) The rights to freedom of opinion and expression, of thought, conscience and religion, and of peaceful association and assembly;

(b) The right to freedom to seek, receive and impart information and ideas through any media;

(c) The rule of law, including legal protection of citizens' rights, interests and personal security, and fairness in the administration of justice and independence of the judiciary;

(d) The right of universal and equal suffrage, as well as free voting procedures and periodic and free elections;

(e) The right of political participation, including equal opportunity for all citizens to become candidates;

(f) Transparent and accountable government institutions;

(g) The right of citizens to choose their governmental system through constitutional or other democratic means;

(h) The right to equal access to public service in one's own country;

3. Notes that the realization of all human rights civil, cultural, economic, political and social, including the right to development are indispensable to human dignity and the full development of human potential and are also integral to democratic society; (...)

Commission on Human Rights, Promoting and consolidating democracy, 25 April 2000, UN Doc E/CN.4/RES/2000/47

(...) Reaffirming also that good governance, including through transparency and accountability,

is indispensable for building peaceful, prosperous and democratic societies, (...)

1. Calls upon States:

(a) To consolidate democracy through the promotion of pluralism, the protection of human rights and fundamental freedoms, maximizing the participation of individuals in decision-making and the development of competent and public institutions, including an independent judiciary, effective and accountable legislature and public service and an electoral system that ensures periodic, free and fair elections

(b) To promote, protect and respect all human rights and fundamental freedoms, in particular:

(i) Freedom of thought, conscience, religion, belief, peaceful assembly and association, as well as freedom of expression, freedom of opinion, and free, independent and pluralistic media;

The rights of persons belonging to national, ethnic, religious or linguistic minorities, including the right freely to express, preserve and develop their identity without any discrimination and in full equality before the law;

The rights of indigenous people;

The rights of children, the elderly and persons with physical or mental disabilities;

By actively promoting gender equality with the aim of achieving full equality between men and women;

By considering becoming parties to international human rights instruments;

By fulfilling their obligations under international human rights instruments to which they are parties;

(c) To strengthen the rule of law by:

(ii) Ensuring equality before the law and equal protection under the law;

Ensuring the right to liberty and security of person, to equal access to justice, and to be brought promptly before a judge or other officer authorized by law to exercise judicial power in the case of detention, to avoid arbitrary arrest;

Guaranteeing the right to a fair trial;

Ensuring due process of law and the right to be presumed innocent until proven guilty in a court of law;

Promoting continuously the independence and integrity of the judiciary and, by means of appropriate education, selection, support and allocation of resources, strengthening its capacity to render justice with fairness and efficiency, free from improper or corrupt outside influence;

Guaranteeing that persons who are deprived of their liberty are treated with humanity and dignity;

Ensuring appropriate civil and administrative remedies and criminal sanctions for violations of human rights, as well as effective protection for human rights defenders;

Including information on human rights obligations in training for civil servants, police forces and the military;

(iii) Ensuring that the military remains accountable

to democratically elected civilian government;

(d) To develop, nurture and maintain an electoral system that provides for the free and fair expression of the people's will through genuine and periodic elections, in particular by:

(iv) Ensuring the right of everyone to take part in the government of his/her country, directly or through freely chosen representatives;

Guaranteeing the right freely to vote and to be elected in a free and fair process at regular intervals, by universal and equal suffrage, open to multiple parties, conducted by secret ballot;

(v) Taking measures as appropriate to address the representation of under-represented segments of society;

Ensuring, through legislation, institutions and mechanisms, the freedom to form democratic political parties as well as transparency and fairness of the electoral process, including through appropriate access to funds and free, independent and pluralistic media;

(e) To create and improve the legal framework and necessary mechanisms for enabling the wide participation of members of civil society - individuals, groups and associations - in the development of democracy, by:

(vi) Respecting the diversity of society by promoting associations, dialogue structures, mass media and their interaction as a means of strengthening and developing democracy;

(vii) Fostering, through education and other means, awareness and respect for democratic values;

(viii) Encouraging the exercise of the right to form, join and participate in non-governmental organisations, associations or groups, including trade unions;

(ix) Guaranteeing mechanisms for the involvement of civil society in processes of governance and developing cooperation between local authorities and non-governmental organisations ;

(x) Providing or improving the legal and administrative framework for non-governmental, community-based and other civil society organisations ;

(xi) Promoting active civil education and education on human rights, inter alia by organisations of civil society;

(f) To strengthen democracy through good governance by:

(xii) Improving the transparency of public institutions and policy-making procedures and enhancing the accountability of public officials;

(xiii) Taking legal, administrative and political measures against corruption, disclosing it and punishing all those involved in acts of corruption of public officials;

(xiv) Bringing government closer to the people by appropriate levels of devolution;

(xv) Promoting the widest possible public access to information about the activities of national and local authorities, as well as ensuring access by all to administrative remedies, without discrimination;

(xvi) Fostering high levels of competence, ethics

and professionalism within the civil service, and its cooperation with the public, inter alia by providing appropriate training to the civil service;

(g) To strengthen democracy by promoting sustainable development, in particular by:

(xvii) Taking effective measures aimed at the progressive realization of economic, social and cultural rights, such as the right to education and the right to a standard of living adequate for health and well-being, including food, clothing, housing and medical care and necessary social services, individually and through international cooperation;

(xviii) Also taking effective measures aimed at overcoming social inequalities and eliminating poverty;

(xix) Promoting economic freedom and pursuing active policies to provide opportunities for productive employment and sustainable livelihood;

(xx) Ensuring equal access to economic opportunities and equal pay and other rewards for work of equal value;

(xxi) Creating a legislative and regulatory framework with a view to promoting sound and sustainable economic development;

(h) To enhance social cohesion and solidarity by:

(xxii) Developing and strengthening institutional and educational capabilities, at local and national levels, to mediate conflicts, to resolve disputes peacefully, and to prevent and eliminate the use of violence in addressing societal tensions and disagreements;

(xxiii) Improving social protection systems and working towards ensuring basic social services for all;

(xxiv) Encouraging social dialogue and tripartite cooperation with respect to labour relations among government, trade unions and employer organisations, as reflected in the International Labour Organization core Conventions;'

Commission on Human Rights, Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy, 23 April 2001, UN Doc E/CN.4/2001/L.11/Add.5, 2001/36

(...)

1. Affirms that popular participation, equity, social justice and non-discrimination are essential foundations of democracy;
2. Reaffirms that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives, and that in order to achieve this, full popular participation, equity, social justice and non-discrimination should be strengthened;
3. Also reaffirms that while all democracies share common features, there is no one universal model of democracy;
4. Affirms that the consolidation of democracy requires the promotion and protection of all human rights for everyone, both civil and political rights and economic, social and cultural rights, including the right to development as a universal and inalienable right and an integral part of fundamental human rights, as established in the Declaration on the Right to Development;
5. Reaffirms that democracy, development and respect for human rights are interdependent and mutually reinforcing; (...)
7. Declares that full popular participation is only feasible if societies have democratic political and

electoral systems which guarantee to all their citizens the possibility both to take part in the government of their country, directly or through freely chosen representatives, and to have equal access to public service, without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

8. Reaffirms that the will of the people shall be the basis of the authority of government and that this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures; (...)

11. Invites all mechanisms of the Commission and the human rights treaty bodies to continue taking into account, in the discharge of their respective mandates, the question of strengthening popular participation, equity, social justice and non-discrimination as the foundations of democracy;

II. EUROPEAN UNION

EU Treaty (Lisbon Treaty, signed on 13 December 2007, not yet in force)

Article 2

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Article 9

In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices

and agencies. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.

Article 10

1. The functioning of the Union shall be founded on representative democracy.

2. Citizens are directly represented at Union level in the European Parliament.

Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.

4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

Article 11

1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.

2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

3. The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.

4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commis-

sion, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.

The procedures and conditions required for such a citizens' initiative shall be determined in accordance with the first paragraph of Article 24 of the Treaty on the Functioning of the European Union.

Article 12

National Parliaments contribute actively to the good functioning of the Union:

(a) through being informed by the institutions of the Union and having draft legislative acts of the Union forwarded to them in accordance with the Protocol on the role of national Parliaments in the European Union;

(b) by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;

(...)

(f) by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national Parliaments in the European Union.

Article 21

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (a) safeguard its values, fundamental interests, security, independence and integrity;
- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law;
- (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders; (...)

III. COUNCIL OF EUROPE

Statute of the Council of Europe, 5 May 1949

The Governments of (...)

Reaffirming their devotion to the spiritual and moral values, which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy;

Parliamentary Assembly, Resolution 800 (1983) on the principles of democracy

'The Assembly (...) proclaims the following principles (...):

B. Political and institutional life

i. Free elections, with secret ballot and universal suffrage, at reasonable intervals, to parliaments, enjoying a large measure of sovereignty and composed of representatives of political parties with freedom to organise and express themselves, remain the irreplaceable core of democratic political life.

ii. Such elections, though indispensable, are not in themselves sufficient, since the citizen's political rights cannot be limited to the act of casting a vote at intervals of some years. On the contrary, democracy atrophies without frequent participation by citizens who should, wherever possible, be consulted on matters closely concerning them, through appropriate mechanisms; only full political participation enables democracy to attain that adaptability to changing circumstances which justifies our faith in its material, as well as moral superiority.

iii. Elections should not result in excessive concentration of power (doctrine of separation of powers, or even division between government and opposition power). These principles also apply to all subordinate or autonomous authorities in countries with federal or decentralised systems of government. (...)

D. Legal standards in democracy

i. Democracy is the government of the people by the people. Its basic principles are the rule of law and the separation of powers. Under a democratic system the rule of law governs the functioning of the government and administration, and confers on judges the power to verify whether the administration has complied with that rule. (...)

IV. COMMONWEALTH

Aso Rock Commonwealth Declaration by Heads of Governments on Development and Democracy, Abuja 7/8 December 2003

(...) we are committed to democracy, good governance, human rights, gender equality and a more equitable sharing of the benefits of globalisation. Among the objectives we seek to promote are the following:

- i. a participatory democracy characterised by free and fair elections and representative legislatures
- ii. an independent judiciary
- iii. a well-trained public service
- iv. a transparent and accountable public accounts system
- v. machinery to protect human rights
- vi. the right to information
- vii. active participation of civil society, including women and youth
- viii. substantially increased and more effective financial resources

(...) We strongly reaffirm our commitment to multilateralism, international cooperation, partnership, and productive working relationships between government and civil society organisations. We also reaffirm our commitment to enhance global democracy, by ensuring that international institutions reflect the voice of their developing country members and are themselves models of good practice in democratic accountability, participation and transparency. (...)

V. INTER-PARLIAMENTARY UNION

Inter-Parliamentary Union, Universal declaration on democracy, Inter-Parliamentary Council, 161st session, 16 September 1997

‘The Inter-Parliamentary Council, (...)

Adopts the following Universal Declaration on Democracy and urges Governments and Parliaments throughout the world to be guided by its content:

FIRST PART – THE PRINCIPLES OF DEMOCRACY

1. Democracy is a universally recognised ideal as well as a goal, which is based on common values shared by peoples throughout the world community

irrespective of cultural, political, social and economic differences. It is thus a basic right of citizenship to be exercised under conditions of freedom, equality, transparency and responsibility, with due respect for the plurality of views, and in the interest of the polity.

2. Democracy is both an ideal to be pursued and a mode of government to be applied according to modalities which reflect the diversity of experiences and cultural particularities without derogating from internationally recognised principles, norms and standards. It is thus a constantly perfected and always perfectible state or condition whose progress will depend upon a variety of political, social, economic, and cultural factors.

3. As an ideal, democracy aims essentially to preserve and promote the dignity and fundamental rights of the individual, to achieve social justice, foster the economic and social development of the community, strengthen the cohesion of society and enhance national tranquillity, as well as to create a climate that is favourable for international peace. As a form of government, democracy is the best way of achieving these objectives; it is also the only political system that has the capacity for self-correction.

4. The achievement of democracy presupposes a genuine partnership between men and women in the conduct of the affairs of society in which they work in equality and complementarity, drawing mutual enrichment from their differences.

5. A state of democracy ensures that the processes by which power is acceded to, wielded and alternates allow for free political competition and are

the product of open, free and non-discriminatory participation by the people, exercised in accordance with the rule of law, in both letter and spirit.

6. Democracy is inseparable from the rights set forth in the international instruments recalled in the preamble. These rights must therefore be applied effectively and their proper exercise must be matched with individual and collective responsibilities.

7. Democracy is founded on the primacy of the law and the exercise of human rights. In a democratic State, no one is above the law and all are equal before the law.

8. Peace and economic, social and cultural development are both conditions for and fruits of democracy. There is thus interdependence between peace, development, respect for and observance of the rule of law and human rights.

SECOND PART – THE ELEMENTS AND EXERCISE OF DEMOCRATIC GOVERNMENT

9. Democracy is based on the existence of well-structured and well-functioning institutions, as well as on a body of standards and rules and on the will of society as a whole, fully conversant with its rights and responsibilities.

10. It is for democratic institutions to mediate tensions and maintain equilibrium between the competing claims of diversity and uniformity, individuality and collectivity, in order to enhance social cohesion and solidarity.

11. Democracy is founded on the right of everyone to take part in the management of public affairs; it therefore requires the existence of representa-

tive institutions at all levels and, in particular, a Parliament in which all components of society are represented and which has the requisite powers and means to express the will of the people by legislating and overseeing government action.

12. The key element in the exercise of democracy is the holding of free and fair elections at regular intervals enabling the people's will to be expressed. These elections must be held on the basis of universal, equal and secret suffrage so that all voters can choose their representatives in conditions of equality, openness and transparency that stimulate political competition. To that end, civil and political rights are essential, and more particularly among them, the rights to vote and to be elected, the rights to freedom of expression and assembly, access to information and the right to organise political parties and carry out political activities. Party organisation, activities, finances, funding and ethics must be properly regulated in an impartial manner in order to ensure the integrity of the democratic processes.

13. It is an essential function of the State to ensure the enjoyment of civil, cultural, economic, political and social rights to its citizens. Democracy thus goes hand in hand with an effective, honest and transparent government, freely chosen and accountable for its management of public affairs.

14. Public accountability, which is essential to democracy, applies to all those who hold public authority, whether elected or non-elected, and to all bodies of public authority without exception. Accountability entails a public right of access to information about the activities of government, the right to petition government and to seek re-

dress through impartial administrative and judicial mechanisms.

15. Public life as a whole must be stamped by a sense of ethics and by transparency, and appropriate norms and procedures must be established to uphold them.

16. Individual participation in democratic processes and public life at all levels must be regulated fairly and impartially and must avoid any discrimination, as well as the risk of intimidation by State and non-State actors.

17. Judicial institutions and independent, impartial and effective oversight mechanisms are the guarantors for the rule of law on which democracy is founded. In order for these institutions and mechanisms fully to ensure respect for the rules, improve the fairness of the processes and redress injustices, there must be access by all to administrative and judicial remedies on the basis of equality as well as respect for administrative and judicial decisions both by the organs of the State and representatives of public authority and by each member of society.

18. While the existence of an active civil society is an essential element of democracy, the capacity and willingness of individuals to participate in democratic processes and make governance choices cannot be taken for granted. It is therefore necessary to develop conditions conducive to the genuine exercise of participatory rights, while also eliminating obstacles that prevent, hinder or inhibit this exercise. It is therefore indispensable to ensure the permanent enhancement of, inter alia, equality, transparency and education and to remove obstacles such as ignorance, intolerance,

apathy, the lack of genuine choices and alternatives and the absence of measures designed to redress imbalances or discrimination of a social, cultural, religious and racial nature, or for reasons of gender.

19. A sustained state of democracy thus requires a democratic climate and culture constantly nurtured and reinforced by education and other vehicles of culture and information. Hence, a democratic society must be committed to education in the broadest sense of the term, and more particularly civic education and the shaping of a responsible citizenry.

20. Democratic processes are fostered by a favourable economic environment; therefore, in its overall effort for development, society must be committed to satisfying the basic economic needs of the most disadvantaged, thus ensuring their full integration in the democratic process.

21. The state of democracy presupposes freedom of opinion and expression; this right implies freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

22. The institutions and processes of democracy must accommodate the participation of all people in homogeneous as well as heterogeneous societies in order to safeguard diversity, pluralism and the right to be different in a climate of tolerance.

23. Democratic institutions and processes must also foster decentralised local and regional government and administration, which is a right and a necessity, and which makes it possible to broaden the base of public participation. (...)

VI. AFRICAN UNION

The New Partnership for Africa's Development (NEPAD), Declaration on Democracy, Political, Economic and Corporate Governance signed by Heads of State and Government of the Member States of the African Union. 9 March 2003, NEPAD/HSGIC/03-2003/APRM/MOU/Annex I

7. At the beginning of the new century and millennium, we reaffirm our commitment to the promotion of democracy and its core values in our respective countries. In particular, we undertake to work with renewed determination to enforce

- the rule of law;
- the equality of all citizens before the law and the liberty of the individual;
- individual and collective freedoms, including the right to form and join political parties and trade unions, in conformity with the constitution;
- equality of opportunity for all;
- the inalienable right of the individual to participate by means of free, credible and democratic political processes in periodically electing their leaders for a fixed term of office; and
- adherence to the separation of powers, including the protection of the independence of the judiciary and of effective parliaments.

(...)

13. In support of democracy and the democratic process

We will:

- ensure that our respective national constitutions reflect the democratic ethos and provide for demonstrably accountable governance;
- promote political representation, thus providing for all citizens to participate in the political process in a free and fair political environment;
- enforce strict adherence to the position of the

African Union (AU) on unconstitutional changes of government and other decisions of our continental organisation aimed at promoting democracy, good governance, peace and security;

- strengthen and, where necessary, establish an appropriate electoral administration and oversight bodies, in our respective countries and provide the necessary resources and capacity to conduct elections which are free, fair and credible;
- reassess and where necessary strengthen the AU and sub-regional election monitoring mechanisms and procedures; and
- heighten public awareness of the African Charter on Human and Peoples' Rights, especially in our educational institutions. (...)

VII. ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

ECOWAS, Declaration of Political Principles of the ECOWAS, 1991, A/DCL.1/7/91

We, heads of state and government of the Economic Community of West African States (ECOWAS)

(...)

Determined to concert our efforts to promote democracy in the sub-region on the basis of political pluralism and respect for fundamental human rights as embodied in universally recognized international instruments on human rights and in the African Charter on Human and Peoples Rights;

(...)

6. We believe in the liberty of the individual and in his inalienable right to participate by means of free and democratic processes in the framing of the society in which he lives. We will therefore strive to encourage and promote in each our countries, political pluralism and those representative institutions and guarantees for personal safety and freedom under the law that are our common heritage.

ECOWAS, Protocol on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security, 2001, A/SP1/12/01

Article 1

The following shall be declared as constitutional principles shared by all Member States:

a)

- Separation of powers – the Executive, Legislative and Judiciary.

- Independence of the Judiciary: Judges shall be independent in the discharge of their duties.

- The freedom of the members of the Bar shall be guaranteed; without prejudice to their penal or disciplinary responsibility in the event of contempt of court or breaches of the common law.

b) Every accession to power must be made through free, fair and transparent elections.

c) Zero tolerance for power obtained or maintained by unconstitutional means.

d) Popular participation in decision-making, strict adherence to democratic principles and decentralization of power at all levels of governance.

e) The armed forces must be apolitical and must be under the command of a legally constituted political authority; no serving member of the armed forces may seek to run for elective political.

f) Secularism and neutrality of the State in all matters relating to religion; freedom for each individual to practise, within the limits of existing laws, the religion of his/her choice everywhere on the national territory. The secularism shall extend to all parts of the State, but shall not deprive the State of the right to regulate, with due respect to human rights, the different religions practiced on the national territory or to intervene when law and order break down as a result of any religious activity.

g) The State and all its institutions belong to all the citizens; therefore none of their decisions and actions shall involve any form of discrimination, be it on an ethnic, racial, religion or regional basis. (...)

i) Political parties shall be formed and shall have the right to carry out their activities freely, within the limits of the law. Their formation and activities shall not be based on ethnic, religious, regional or racial considerations. They shall participate freely and without hindrance or discrimination in any electoral process. The freedom of the opposition shall be guaranteed. Each Member State may adopt a system for financing political parties, in accordance with criteria set under the law.

j) The freedom of association and the right to meet and organize peaceful demonstrations shall also be guaranteed.

k) The freedom of the press shall be guaranteed. (...)

Article 32

Member States agree that good governance and press freedom are essential for preserving social Justice, preventing conflict, guaranteeing political stability and peace and for strengthening democracy.

Article 33

1. Member States recognize that the rule of law involves not only the promulgation of good laws that are in conformity with the provisions on human rights, but also a good judicial system, a good system of administration, and good management of the State apparatus.

2. They are also convinced that a system that guarantees smooth running of the State and its administrative and judicial services, contributes to the Consolidation of the rule of law.

VIII. ORGANISATION OF AMERICAN STATES (OAS)

Inter-American Democratic Charter, 2001

Article 1

The peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it. Democracy is essential for the social, political, and economic development of the peoples of the Americas.

Article 2

The effective exercise of representative democracy is the basis for the rule of law and of the constitutional regimes of the member states of the Organisation of American States. Representative democracy is strengthened and deepened by permanent, ethical, and responsible participation of the citizenry within a legal framework conforming to the respective constitutional order.

Article 3

Essential elements of representative democracy include, *inter alia*, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organisations, and the separation of powers and independence of the branches of government.

Article 4

Transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press are essential components of the exercise of democracy.

The constitutional subordination of all state institutions to the legally constituted civilian authority and respect for the rule of law on the part of all institutions and sectors of society are equally essential to democracy.

Article 5

The strengthening of political parties and other political organisations is a priority for democracy. Special attention will be paid to the problems associated with the high cost of election campaigns and the establishment of a balanced and transparent system for their financing.

Article 6

It is the right and responsibility of all citizens to participate in decisions relating to their own development. This is also a necessary condition for the full and effective exercise of democracy. Promoting and fostering diverse forms of participation strengthens democracy.

II. Democracy and Human Rights

Article 7

Democracy is indispensable for the effective exercise of fundamental freedoms and human rights in their universality, indivisibility and interdependence, embodied in the respective constitutions of states and in inter-American and international human rights instruments.

Article 9

The elimination of all forms of discrimination, especially gender, ethnic and race discrimination, as well as diverse forms of intolerance, the promotion and protection of human rights of indigenous peoples and migrants, and respect for ethnic, cultural and religious diversity in the Americas contribute

to strengthening democracy and citizen participation.

Article 10

The promotion and strengthening of democracy requires the full and effective exercise of workers' rights and the application of core labor standards, as recognized in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work, and its Follow-up, adopted in 1998, as well as other related fundamental ILO conventions. Democracy is strengthened by improving standards in the workplace and enhancing the quality of life for workers in the Hemisphere.

III. Democracy, Integral Development, and Combating Poverty

Article 11

Democracy and social and economic development are interdependent and are mutually reinforcing.

Article 12

Poverty, illiteracy, and low levels of human development are factors that adversely affect the consolidation of democracy. The OAS member states are committed to adopting and implementing all those actions required to generate productive employment, reduce poverty, and eradicate extreme poverty, taking into account the different economic realities and conditions of the countries of the Hemisphere. This shared commitment regarding the problems associated with development and poverty also underscores the importance of maintaining macroeconomic equilibria and the obligation to strengthen social cohesion and democracy.

Article 13

The promotion and observance of economic,

social, and cultural rights are inherently linked to integral development, equitable economic growth, and to the consolidation of democracy in the states of the Hemisphere.

Article 14

Member states agree to review periodically the actions adopted and carried out by the Organisation to promote dialogue, cooperation for integral development, and the fight against poverty in the Hemisphere, and to take the appropriate measures to further these objectives.

Article 15

The exercise of democracy promotes the preservation and good stewardship of the environment. It is essential that the states of the Hemisphere implement policies and strategies to protect the environment, including application of various treaties and conventions, to achieve sustainable development for the benefit of future generations.

Article 16

Education is key to strengthening democratic institutions, promoting the development of human potential, and alleviating poverty and fostering greater understanding among our peoples. To achieve these ends, it is essential that a quality education be available to all, including girls and women, rural inhabitants, and minorities.

IV. Strengthening and Preservation of Democratic Institutions

Article 17

When the government of a member state considers that its democratic political institutional process or its legitimate exercise of power is at risk, it may request assistance from the Secretary General or

the Permanent Council for the strengthening and preservation of its democratic system. (...)

Article 19

Based on the principles of the Charter of the OAS and subject to its norms, and in accordance with the democracy clause contained in the Declaration of Quebec City, an unconstitutional interruption of the democratic order or an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state, constitutes, while it persists, an insurmountable obstacle to its government's participation in sessions of the General Assembly, the Meeting of Consultation, the Councils of the Organisation, the specialized conferences, the commissions, working groups, and other bodies of the Organisation.

VI. Promotion of a Democratic Culture

Article 26

The OAS will continue to carry out programs and activities designed to promote democratic principles and practices and strengthen a democratic culture in the Hemisphere, bearing in mind that democracy is a way of life based on liberty and enhancement of economic, social, and cultural conditions for the peoples of the Americas. The OAS will consult and cooperate on an ongoing basis with member states and take into account the contributions of civil society organisations working in those fields.

Article 27

The objectives of the programs and activities will be to promote good governance, sound administration, democratic values, and the strengthening of political institutions and civil society organisations. Special attention shall be given to the develop-

ment of programs and activities for the education of children and youth as a means of ensuring the continuance of democratic values, including liberty and social justice.

Article 28

States shall promote the full and equal participation of women in the political structures of their countries as a fundamental element in the promotion and exercise of a democratic culture.

Declaration of Quebec City, Third Summit of the Americas (not endorsed by Venezuela) 20-21 April 2001

We reaffirm that the constitutional subordination of armed forces and security forces to the legally constituted civilian authorities of our countries, as well as respect for the rule of law on the part of all national institutions and sectors of society, are fundamental to democracy.

Acknowledging that corruption undermines core democratic values, challenges political stability and economic growth and thus threatens vital interests in our Hemisphere, we pledge to reinvigorate our fight against corruption.

Democracy and economic and social development are interdependent and mutually reinforcing as fundamental conditions to combat poverty and inequality.

IX. ORGANISATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE)

OSCE, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE, 1990

The participating States (...)

They recognize that pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms, the development of human contacts and the resolution of other issues of a related humanitarian character. They therefore welcome the commitment expressed by all participating States to the ideals of democracy and political pluralism as well as their common determination to build democratic societies based on free elections and the rule of law. (...)

(3) They reaffirm that democracy is an inherent element of the rule of law. They recognize the importance of pluralism with regard to political organisations. (...)

OSCE, Charter of Paris for a New Europe, 1990

(...) We undertake to build, consolidate and strengthen democracy as the only system of government of our nations (...) Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has as its foundation respect for the human person and the rule of law. Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person.

Democracy, with its representative and pluralist character, entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially. No one will be above the law. (...)

X. COMMUNITY OF INDEPENDENT STATES (CIS)

CIS, Convention on the Standards of Democratic Elections, Electoral Rights and

Freedoms in the Member States of the Commonwealth of Independent States, 2002

The member states of this Convention (...)

Convinced that the recognition, observance and protection of human and civil rights and freedoms, the development and perfection of the democratic institutions of expression of the will of the people and the procedures for their realization in accordance with the universally accepted principles and norms of international law on the basis of the national constitution and legal acts are the purpose and obligation of a law-based state, one of the inalienable conditions for social stability and further strengthening of cooperation between the states in the name of the realization and protection of the ideals and principles which constitute their common democratic asset,

Wishing to facilitate the consolidation and improvement of the democratic systems of representative government, democratic traditions of expression of the will of the people in elections, realization of other forms of the power of the people based on the supremacy of law and maximum consideration for the national and historical traditions, (...)

XI. CHARTER OF THE ASSOCIATION OF SOUTH EAST ASIAN NATIONS

Article 2 Principles (...)

ASEAN and its Member States shall act in accordance with the following Principles: (...)

(h) adherence to the rule of law, good governance, the principles of democracy and constitutional government;

(i) respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice;

(j) upholding the United Nations Charter and inter-

national law, including international humanitarian law, subscribed to by ASEAN Member States

XII. COMMUNITY OF DEMOCRACIES, WARSAW DECLARATION, 2000

Hereby agree to respect and uphold the following core democratic principles and practices:

The will of the people shall be the basis of the authority of government, as expressed by exercise of the right and civic duties of citizens to choose their representatives through regular, free and fair elections with universal and equal suffrage, open to multiple parties, conducted by secret ballot, monitored by independent electoral authorities, and free of fraud and intimidation.

The right of every person to equal access to public service and to take part in the conduct of public affairs, directly or through freely chosen representatives.

The right of every person to equal protection of the law, without any discrimination as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The right of every person to freedom of opinion and of expression, including to exchange and receive ideas and information through any media, regardless of frontiers.

The right of every person to freedom of thought, conscience and religion.

The right of every person to equal access to education.

The right of the press to collect, report and disseminate information, news and opinions, subject only to restrictions necessary in a democratic society and prescribed by law, while bearing in mind evolving international practices in this field.

The right of every person to respect for private family life, home, correspondence, including electronic communications, free of arbitrary or unlawful interference.

The right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties, civic groups, trade unions or other organisations with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law.

The right of persons belonging to minorities or disadvantaged groups to equal protection of the law, and the freedom to enjoy their own culture, to profess and practice their own religion, and use their own language.

The right of every person to be free from arbitrary arrest or detention; to be free from torture and other cruel, inhumane or degrading treatment or punishment; and to receive due process of law, including to be presumed innocent until proven guilty in a court of law.

That the aforementioned rights, which are essential to full and effective participation in a democratic society, be enforced by a competent, independent and impartial judiciary open to the public, established and protected by law.

That elected leaders uphold the law and function strictly in accordance with the constitution of the country concerned and procedures established by law.

The right of those duly elected to form a government, assume office and fulfil the term of office as legally established.

The obligation of an elected government to refrain from extra-constitutional actions, to allow the holding of periodic elections and to respect their results, and to relinquish power when its legal mandate ends.



That government institutions be transparent, participatory and fully accountable to the citizenry of the country and take steps to combat corruption, which corrodes democracy.

That the legislature be duly elected and transparent and accountable to the people.

That civilian, democratic control over the military be established and preserved.

That all human rights – civil, cultural, economic, political and social – be promoted and protected as set forth in the Universal Declaration of Human Rights and other relevant human rights instruments.

