

Privileges and Procedures Committee
Sub-Committee on the Composition and Election of the States Assembly

12th May 2015

The Code of Good Practice in Electoral Matters ('The Venice Commission') and its implications for Jersey

1. Introduction

On 8th November 2001, the Council of Europe invited the Venice Commission to '*compile a list of the underlying principles of European electoral systems*' and set out guidelines constituting '*the core of a code of good practice in electoral matters*'. Whilst the recommendations of the resulting '*Code of Good Practice in Electoral Matters*' are not binding, they set out the key features that the international community recognises to be fundamental to elections.¹

The Venice Commission concluded that the five principles underpinning Europe's democratic electoral heritage were *universal, equal, free, secret and direct suffrage*. Furthermore, elections must be held *periodically*.

Jersey complies with the code of good practice in all areas except equal suffrage. All citizens have the right to vote and stand for election, subject to certain conditions (age, residence, etc.). Voters are free to formulate and express their opinions, state authorities observe their duty of neutrality and safeguards are in place to combat electoral fraud. The States Assembly is directly elected by an electorate who are empowered to vote anonymously and individually.

2. Equal suffrage

Research has demonstrated that Jersey's electoral system does not meet the standard of *equal suffrage* as recognised by the Venice Commission.

According to the Venice Commission, equal suffrage entails:

- *Equality in voting rights* – each voter has in principle one vote; where the electoral system provides voters with more than one vote, each voter has the same number of votes.
- *Equality in voting power* – requires constituency boundaries to be drawn in such a way that seats are distributed equally among the constituencies, in accordance with a specific apportionment criterion, e.g. the number of residents in the constituency, the number of resident nationals (including minors), the number of registered electors, etc.

Jersey's electoral system falls short of the Venice Commission's standards on both counts.

3. Equality in voting rights

It is regularly observed that voters do not have the same number of votes across the Island. Under the current system, a resident in the multi-member district of St. Helier 3 & 4 receives

¹ The Code can be found in full here:
[http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023-e)

a maximum of 13 votes (4 Deputies, 8 Senators, 1 Connétable), whilst residents of single-member districts such as Grouville, St. Brelade 1, St. John, St. Mary, St. Ouen, St. Peter, St. Saviour 3 and Trinity receive a maximum of 10 votes (1 Deputy, 8 Senators, 1 Connétable). This feature of Jersey's electoral system is made possible by its blend of single-member and multi-member districts.

4. Equality in voting power

A further feature of Jersey's electoral system is its significantly uneven distribution of seats across districts. The Venice Commission recommended that, “*except in really exceptional circumstances*”, the maximum admissible departure from the apportionment criterion should seldom exceed 10 per cent and never 15 per cent. The Commission further notes that “*constituency boundaries may also be determined on the basis of geographical criteria and the administrative or indeed historic boundary line, which often depend on geography.*”

Research curated by the States of Jersey Electoral Commission in 2012 found that the average deviation in the number of voters per seat in each of the 17 voting districts from the number of voters per seat in the Island as a whole exceeded 17 per cent. The highest deviation was in St Mary, where the number of voters per seat was 54 per cent below the island-wide average. The greatest underrepresentation was in St Clement, where the number of voters per seat was 27 per cent above the Island-wide mean.²

Jersey's level of malapportionment was considered to be unusually high when compared to large democracies and several other small states. Data displayed below showed that the extent of disproportionality in Jersey was greater than in Malta, Barbados and Guernsey, though it was not as extreme as in the Isle of Man.³ However, in 2013 the Isle of Man agreed to reform its electoral system and redraw constituency boundaries to equalise political representation.⁴

Table 2.3. Levels of Disproportionality in the United Kingdom and Jersey: the number of constituencies (Districts, Parishes) according to the %Deviation from the national average electorate:member ratio

	England	London	Wales	NI	Scotland	Jersey	
						Districts	Parishes
Above average							
30%<	1	0	0	0	0	4	1
20-30%	0	0	2	0	0	1	1
10-20%	19	7	5	3	3	2	2
0-10%	225	17	13	4	22	1	1
Below average							
0-10%	249	40	13	11	28	3	3
10-20%	39	9	5	0	2	1	1
20-30%	0	0	2	0	0	3	0
30%<	0	0	0	0	4	2	3
TOTAL	533	73	40	18	59	17	12

Table 2.4. Levels of Disproportionality in several small states and Jersey: the number of constituencies (Districts, Parishes) according to the %Deviation from the national average electorate:member ratio

	Guernsey**	IoMan**	Malta*	Barbados***	Jersey	
					Districts	Parishes
Above average						
30%<	0	2	0	0	4	1
20-30%	0	1	0	2	1	1
10-20%	3	0	0	8	2	2
0-10%	1	2	5	5	1	1
Below average						
0-10%	1	1	8	6	3	3
10-20%	1	4	0	9	1	1
20-30%	1	0	0	0	3	0
30%<	0	5	0	0	2	3
	7	15	13	30	17	12

It should be noted that if the Connétables are to remain Members of the States by automatic right, it will be impossible to comply fully with the Venice Commission's standards on equal suffrage. As an example, the vastly different sizes of the parishes of St. Helier and St. Mary mean that those Connétables represent very different numbers of voters. Nonetheless, even if the basic principles of the system, including the roles of the parishes and the Connétables, are left unchanged, it might be possible to moderately improve the equality of voting power.

² Renwick, Dr. A. 16th August 2012. The Jersey States Assembly in Comparative Perspective: a report for the States of Jersey Electoral Commission.

³ Johnston, Prof. R and McLean, Prof. I. 2012. Electoral systems for the States of Jersey – some briefing notes.

⁴ BBC News, 'Isle of Man electoral review gets go ahead', 19th June 2013,

<http://www.bbc.co.uk/news/world-europe-isle-of-man-22952116>.

5. Districting and reapportionment of seats

A further recommendation of the Commission was that, in order to avoid malapportionment, seats should be redistributed at least every 10 years. The Commission advocated the creation/existence of an impartial body which would be responsible for this task of maintaining the balance of the electoral system and ensuring that districts, to a specified tolerance, encompassed roughly equal electorates. Traditionally, the Privileges and Procedures Committee has fulfilled this role.

6. Stability of electoral law

As regards to implementing changes to the electoral system, the Venice Commission recommended that electoral law should not be amended too frequently or just before (within one year of) elections. This provision was made in order to protect the principle of stability of electoral law. The Sub-Committee recognised this convention at its meeting on 18th February 2015.