|  |  |  |
| --- | --- | --- |
| UNION INTERPARLEMENTAIRE | H:\Administration\IPU logos 2014\IPU_English_logo_without end line_Black for use.png | INTER-PARLIAMENTARY UNION |

# Association of Secretaries General of Parliaments

**CONTRIBUTION**

**from**

**Dr Remco NEHMELMAN**

**Secretary General of the Senate of the Netherlands**

**To the General Debate on**

**How do we make better legislation?**

**Doha Session**

**April 2019**

Dear colleagues,

I would like to say some words about the phenomenon of State Commissions. State Commissions have a long tradition in the Netherlands and are instigated by the Dutch government if there is a possible need for changes in legal and often constitutional affairs. In December 2018, the Dutch State Commission on the parliamentary system in the Netherlands presented its final report. This State Commission was assigned two years earlier to advise our government and especially the two Chambers of Dutch parliament on whether the parliamentary system of the Netherlands is ‘future-proof’. Because just like anything else, also our parliamentary democracy needs periodical maintenance.

The State Commission has come to the conclusion that although our parliamentary democratic system is quite successful and can count on great popular support, some adaptions might be necessary. Not surprisingly, the large societal and technological changes of the past decades make that the rules and practices of our parliamentary system also need maintenance.

Therefore, the State Commission drafted some interesting recommendations with regard to our parliamentary system. For example, it recommended to give the Senate the right to send bills, under certain conditions, back to the Lower House to enhance the correlation between the work of both our parliamentary houses. We do not have a rule of conflict between both Chambers of parliament. The State Commission furthermore recommended to introduce a binding corrective referendum in our country, to give voters an ultimate opportunity to reverse legislation that does not correspond with the views of the majority of the people. And it recommended to establish a Constitutional Court in the Netherlands to strengthen the rule of law.

The Commission also concluded that a reinforcement of the position of history, political science and social studies in our educational system is necessary, as well as a separate Political Parties Act to establish national rules on transparency, financing, maximising gifts and the use of digital instruments in the campaigns of political parties. Also, the Commission found that our system of proportional representation needs review and advocated a bigger role for voter preference for individual candidates to increase the regional factor in our democracy.

These and other recommendations should, according to the State Commission, make our democracy ‘future proof’ and improve the process of lawmaking. However, at this moment the big question is: will these recommendations become reality? Will our government and our parliament act and change our parliamentary system according to the final report of the State Commission?

It is very hard to adopt the major recommendations due to the strong procedure to amend our constitution. In the Netherlands, the Constitution is amended in two parliamentary readings, from which the second reading requires a two-third majority in both the House of Representatives and the Senate. It goes without saying that many of the recommendations of the State Commission require huge changes in our current legislation and often even a change of our Constitution.

Dear colleagues,

Looking at the history, we see that State Commissions have been installed by Dutch governments since 1814 to provide expert advice, research and mediation on numerous topics of public interest. State Commission have, as such, contributed greatly to the formation of government and public service in the Netherlands over the past 200 years.

The first Dutch Constitution of 1814 was created through accepting the draft made by State Commission Van Hogendorp, a prominent Dutch politician in his age. In the decades following, both the fundamental Constitutional reforms of 1848 and 1887 were realized through implementation of State Commission proposals. Also the 1917 State Commission on the financing of education and electoral reform led to constitutional changes. The majority of members of these successful State Commissions consisted of active politicians such as members of parliament and (future) ministers.

However, when looking at concrete results in more recent decades we see a strong decrease in successfulness of State Commissions with regard to the implementation of their recommendations. Only the State Commission Cals/Donner, in function from 1967 to 1971, which had many members from outside government or parliament, is being regarded as successful.

The tendency to no longer include active national politicians as members of State Commissions can be recognized in the last decades of the 20th century, as they would not be suited to independently advise on government policy. We do also see this in the recent State Commission on the parliamentary system. However, some say that the creation of this distance between the responsible officials and the advisory organ limits the effectiveness of the organ and its conclusions, as officials may not feel obliged to take on these recommendations.

This might also be the case with the recent State Commission on the parliamentary system, however it is of course still far too early to draw conclusions. My point here is: how can we make sure that a State Commission or any other important advisory organ is independent on the one hand, but also effective on the other hand?

Dear colleagues,

I wanted to share my thoughts with you on this topic, and would be happy to hear your thoughts and experience with regard to this topic.