A Brief on Proportional Representation
Lee McCormack, October 2, 2016

Summary

Under Canada's first-past-the-post electoral system, the popular vote is never translated accurately into Parliamentary seats and whole regions are routinely unrepresented on government benches. Canadian elections divide a nation that can scarcely afford it. Notwithstanding the two provincial referenda of recent years, the debate on electoral reform has rarely emerged from obscurity.

The Special Committee on Electoral Reform is to be commended for conducting broad consultations with Canadians and requesting written briefs on this matter.

My brief draws extensively on research I conducted as a course member at the National Defence College of Canada. I believe that the issues raised in this brief are far more pertinent today than when I first discussed them.

This brief defines a new solution – "Majority-Proportional" representation – but makes it clear that there are a number of other approaches (already tested around the world) that could easily improve the current situation. The critical factor is that Parliament make a decision, rather than punt the issue again to a referendum, or to another decade of paralysis-by-analysis.

I discuss many important implementation issues including the need to avoid unintended harm, ways of enhancing the legitimacy of election results, the need to sensibly limit fringe parties, ways to more effectively represent the interests of minority and special interests, the critical issue of offering first nations peoples a real voice in Parliament, and the importance of increasing voter participation – while reinforcing national integration and unity.

Finally the brief offers specific proposals to minimize the electoral "churn" of MPs, support effective parties, and lend enduring stability in Parliament given the certainty of minority and coalition governments under a proportional representation system.

Background

I thank the Special Committee on Electoral Reform for conducting broad consultations with Canadians and requesting written briefs.

In 1991-92, as a Canadian mid-career public servant, I had the privilege of graduating from the National Defence College of Canada (NDC). At the time, NDC was a staff college focused on international relations and public policy for Canadian Colonel-level officers. Equivalent officers from the USA, Australia, New Zealand and the UK also participated – as did a few academics, business people and public servants. I was fortunate enough to be one of the Canadian public servants.

As Course members, we were required to write a thesis (essentially a research paper) on a public issue – and recommend ways to strengthen Canada's national security. The NDC used a broad definition of national security focusing on "the preservation of a way of life acceptable to the Canadian people" and "freedom from the erosion of the political, economic and social values essential to the quality of life in Canada."

I chose a then-obscure subject – proportional representation. Although the Lortie Royal Commission had recently published a report on electoral reform and party financing, few Canadians had ever heard proportional representation – a subject that was well and truly under the radar in the early 90's. This brief summarizes the issues I thought through at NDC. Because the Government of Canada essentially funded my thesis, I thought it only fair and appropriate to share some of my analysis, conclusions and recommendations with the Special Parliamentary Committee.

The Case for Change

In the early 90's I wrote that Canada needs a new electoral system.

We do most things well. With few exceptions, citizens of majority age are able to vote. Our electoral laws control contribution levels and expenses, voter lists, bribery, gerrymandering, slander and all manner of unsavoury practice. We ensure that broadcasters allot some "free-time" and that Canada's bars and liquor stores are closed in time for their patrons to vote. We do all this but fail to respect what might matter most – that Parliament should somehow resemble what citizens called for in the polls.

Put differently – there should be proportionality, or a close relationship between each party's percentage of the popular vote and its share of seats in the House.

The Special Committee already knows that proportional representation is the choice of much of the developed, democratic world. Among others: Australia, Austria, Belgium, Denmark, Finland, Germany, Holland, Iceland, Ireland, Israel, Italy,

Luxembourg, New Zealand, Norway, Sweden and Switzerland run open, competitive elections using some form of proportional representation.

Representation that reflects the popular vote does not happen in Canada.

Between the late 50s and the early 90's, three federal elections produced a government that earned <u>fewer votes than its nearest rival</u> and whole regions are regularly "shut out" of any meaningful representation on government benches.

Although proportional representation has been debated since the 1930s, its merits were not seriously considered until the 1970s when the federal government was about to contest a Quebec referendum with only two Quebec MPs. When Joe Clark's government fell in 1980, this was "corrected." However, under the new Liberal regime, Western provinces and territories were shut out of the government benches. In effect, the election had replaced one shut out region with another. Shortly thereafter, a Liberal government without meaningful representation in the oil producing provinces announced the National Energy Program, an anathema to the West.

In 1992, I argued that when the people's wishes fail to get translated into a representative House, respect for government decreases, regional differences are magnified and political discussions become tarnished by a growing cynicism. A quarter century later, these issues persist.

The Solution I Proposed – Majority Proportional Representation

At NDC, I considered the experience of a number of countries and recommended a unique solution – one I described as Majority-Proportional Representation. For the record, I proposed to increase the number of MPs to 360 (today there are 338): 170 elected on a riding basis and 190 on a provincial basis. The election of riding-based members would occur using a ranked or preferential ballot (voters would rank their candidate preferences from first to last), thus ensuring that every "riding" MP would achieve greater than 50% support in his or her constituency.[1] Supplementing this, each contesting party in a province would put forward a <u>ranked list of "candidates at large"</u> for consideration, and MPs would be elected from these lists to create proportionality in the House. Effectively, each party's percentage share of <u>first preference votes</u> in each province would translate directly into its percentage of total MPs from that province. I designed the system to work with <u>one</u> preferential ballot that would present to voters the riding candidates, their party affiliations and the ranked party lists. My proposal was effectively a hybrid designed to ensure that riding-based

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[1] The rules are simple: any candidate receiving a majority of first preference votes (50% plus 1) is automatically elected. If no initial majority occurs, the candidate with the fewest first preferences is dropped and his/her second preference votes are redistributed to those remaining in the race. This counting procedure is repeated until one candidate receives more than 50% support.

MPs are supported by more than 50% of the voters and that parties win seats in each province exactly equal to their share of the first preference popular vote.

To be truthful, I am less concerned today with which system Parliament choses to adopt – provided that it respects the need for a significant number of riding-based MPs and preserves a direct linear relationship between a party's popular vote percentage and its percentage of seats in the House. Other countries are able to do this and I would prefer that the committee come to a clear and unambiguous recommendation, rather than engage in paralysis-by-analysis.

Important Considerations

I recognize that Parliament's choice will not be easy. I would like therefore, to address several important considerations for the Special Committee:

Consideration 1: Parliamentarians Should Decide, Not Punt the Issue

Given the confusion, lobbying and misinformation that surrounded two previous referenda on proportional representation in Ontario and B.C., I recommend that the Committee make a clear recommendation to Parliament – and that M.Ps exercise a free vote on the matter.

I would prefer that Parliament avoid putting the proportional representation issue before citizens in a referendum. In the last two referenda, I suspect that few citizens knew what they were voting for or against – or what the implications of their choices might be. Citizens expect MPs to understand the pros and cons of an issue and apply informed judgment that reflects the broad public interest. It is time for a decision, not another referendum.

Consideration 2: Electoral Reform Should Do No Harm

Reasonable proposals for electoral reform should meet **three conditions**:

FIRST, whether or not the number of MPs changes, existing provincial shares of MPs should remain unchanged. The proposal should not alter electoral "distribution" by giving a province a larger (or lesser) share of MPs than it now has. SECOND implementation should result in minimal disruption. Preferably, the proposal should not require new provincial or regional boundaries nor should it imply a radical departure from the current jurisdictional norm. THIRD some linkage between ridings and individual MPs must be retained. It is an important part of our political culture.

Consideration 3: The System Should Sensibly Limit Fringe Parties

Possible instability in the House is an issue. To lend stability in their legislatures, many countries apply vote thresholds to minimize the number of small, "fringe" parties. These can range from the insignificant (no seats until a 1% of the vote is

achieved), to up to 5% in some northern European countries. Because Canada would want to encourage government stability in the early years of a new system it is advisable that a significant, say 4%, threshold be instituted initially in each province. Should experience indicate that a lesser threshold would suffice, an adjustment could be taken.

Consideration 4: The System Should Encourage Effective Representation of Minority and Special Interests

House membership should not only reflect levels of party support but also other significant characteristics of the electorate such as gender, ethnicity, socio-economic class etc. Parties would have much more opportunity and incentive to ensure the election of representatives of interest groups, regions, women and ethnic groups in electoral systems that include both riding and list-based candidates. Such systems would allow parties to recruit a reasonable balance of skills and experience while encouraging them to develop a "team" approach in their candidate choice.

Consideration 5: Effective Representation of First Nations is Critical

Given their historical, treaty and socio-economic status, aboriginal peoples should be fairly and effectively represented in Parliament. Quite obviously, they are not. Although citizens with treaty status obtained the franchise in 1960, political equality has not followed and they have been underrepresented in Parliament for years. Majority Proportional Representation with its list-based MPs would provide opportunity for parties to include native Canadians on their candidate "teams." If the government would wish to provide more direct support, the earlier-discussed 4% threshold could be waived for parties that directly represent first nations' interests. Either way, the right proportional representation system would vastly improve the representational lot for native citizens and is worth implementing for that reason alone.

Consideration 6: The System Should Support National Integration and Unity

Given Canada's geography and diversity, the voting system must be as inclusive as possible while supporting the political integration necessary for unity as a nation. While the current system encourages geographically "vertical majorities" (e.g., one party tends to dominate in Quebec, while another dominates the West), proportional representation would encourage geographically "horizontal majorities" where each major party would be represented across Canada in all regions. This is substantially more supportive of national integration and unity.

Consideration 7: The System Should Stimulate Voter Participation

The voting system should be easily understood and the citizens' votes should be of equal weight in influencing election results. Canada's current method requires voters to mark a single "X" on a ballot and is well understood. My preferred method is more complex in that it would ask voters to make a candidate ranking. Note however that

Canadians (who appear able to use their smart phones) are likely qualified to mark 1-2-3-4 on a ballot. Beyond this, voters would be assured that riding-based candidates have majority support and that no votes are wasted. The current system ensures a degree of injustice on both these counts. Proportional representation is superior in its voter-attractiveness and should therefore stimulate participation.

Consideration 8: The System Should Minimize Electoral Churn and Support Effective Parties

The voting system should recognize and facilitate the essential role that parties play in formulating public policies and providing representatives for the people. Although some argue that "additional member" systems create two classes of MPs, this does not appear to be a factor in, say, the German Bundestag. The additional member approach offers greater reelection prospects for candidates and supports the strengthening of parties. Traditionally there is a large "churn" of Canadian MPs, and many good ones are lost from election to election. The prospect of less MP churn should enhance party effectiveness.

Consideration 9: The System Should Enhance the Legitimacy of Results

Voters should recognize the electoral system as fair and accept its decisions, even when they themselves prefer alternatives. Canadians view the current system as legitimate largely because they trust that it is administered honestly and fairly by Elections Canada. However, many citizens now realize that it is only a minority of voters who create "majority" governments. Disenchantment with any system can arise quickly when results are seen to be unfair and voter participation has been on a longstanding decline. Assuming that effective administration is maintained, proportional representation would (a) improve Parliamentary representativeness, (b) ensure that constituency MPs are supported by majorities and (c) allow the voice of all regions and first nations peoples to be heard. These factors should enhance the legitimacy of the system.

The Elephant in the Room: Ensuring Stability in Parliament

Governments should have the ability to act decisively when necessary and there should be reasonable continuity and stability within and between governments. Because proponents of the current "winner-take-all" system generally argue that proportional representation would lead to endless stalemate and instability in Parliament, this "elephant" deserves close examination by the Special Committee.

To state the obvious, proportional representation would entrench minority, or more likely, coalition governments in Canada. Critics argue that minority or coalition governments would be defeated regularly, forcing voters to constantly visit the polls. Fringe parties, goes the argument, would reinforce instability (sometimes called the Italian "disease") and this would hinder "good government."

These arguments are based on the view that Canada's electoral system normally, if not always, produces solid majority governments. The reality is that our political system easily and often accommodates minority governments, many of which have been viewed as more responsive than the majorities they replaced.

Supporters of the current approach also argue that our winner-take-all approach encourages two major parties – and that Parliament works best where two opponents fight for the right to govern. The idea makes no sense in Canada. Third and fourth parties have existed in Canada since the 1921 election and are highly unlikely to go away. In effect, Canadians have adopted an electoral system designed to protect a two party system that hasn't existed for about 95 years. Finally, the Scandinavian and Benelux countries (as well as Switzerland, Germany and others) have long histories of stable democracy in multi-party legislatures.

That said, the maintenance of government stability would require special measures in Parliament and I would commend three of these to the Special Committee:

First, the earlier-discussed 4% threshold should be considered. The cross- national data I examined in 1992 suggested that with a meaningful threshold, no more than five effective parties were likely to be represented. Today I might guess that it could be more, but not many more.

Second, Parliament should consider re-defining "confidence motions" as those declared by the government in advance, plus a limited number of occasions per session when an opposition party could move want of confidence.

Third, it should be stipulated that the opposition may only defeat a government on a confidence motion in cases where it commits to (and is demonstrably capable of) forming a new government. Simply put, a government would only be defeated where the opposition could form (either by voting agreement or via coalition) a new majority.

This third proposed change draws on the experience of the German Bundestag and legislatures in Spain and Sweden. If applied in Canada, it would ensure that the opposition could not defeat a government without first assuring the Governor General that it is able to establish a new government. In other words, MPs would be forced to reach workable compromises on major issues. Neither the government nor the opposition could randomly threaten a politically expedient election and the general public would be assured of reasonably sustainable government. This proposed rule, a "positive" or "constructive" non-confidence approach should be seriously considered.

As an ancillary impact, adopting a "positive" non-confidence rule would increase the discretionary authority of the Governor General. For example, that Office might have to rule on matters such as timing (How much time would a party be allowed in its attempt to form a government?) or the form of Cabinet itself. Given the importance of these decisions, the election of the Governor General by Parliament is recommended

in order to give that Office the legitimacy it would need to act decisively when necessary to maintain government stability.

Conclusion

Canada is a rich, well-respected federation with regional differences that, on occasion, have threatened to break it apart. Our current voting system magnifies these differences and returns governments that barely reflect the voiced will of citizens. In the case of electoral reform, the possibility of change is enhanced by the relative simplicity with which it might be achieved. In constitutional law Parliament alone can decide how it wants to choose its members. While major institutional reform often requires constitutional change, implementation of a made-in-Canada proportional representation system would not.

This is a time for problem recognition and decisive action by the Special Committee and Parliament, not for continued paralysis by analysis.

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