A NEW PROPOSAL FOR ELECTORAL REFORM

By Benjamin Trister and Rachel Trister

September 21, 2016

We are honoured to have the opportunity to share our views with the House of Commons Special Committee on Electoral Reform.

BACKGROUND

As you know, the voting system we use to elect Canada's federal government frequently hands the power of majority governments to parties that were not able to earn the support of a majority of the electorate. This basic fact undermines the legitimacy of our governments and the system used to elect them.

Let's look at the last two federal elections. In the election of 2011, the Conservatives won a majority government. Even though only 39.6% of the votes were cast for the Conservatives, they were awarded 53.9% of the seats in the House of Commons. In the election of 2015, the Liberals won a majority government, having been awarded 54.4% of the seats based on having earned only 39.5% of the votes cast. Clearly, there is a significant disconnect in our present system between who Canadians support and who gets to govern, so much so that our system can hardly be said to reflect the will of the electorate. When governments do not have the support of the governed, faith in government itself is eroded. Canadians deserve better.

Another way to think about it is this: the reason our electoral system awards majority governments to parties that don't have a majority of the electorate behind them is that votes cast for losing candidates are effectively ignored by our system. Candidates win their ridings simply by getting more votes than any other candidate in their riding even if they do not win the majority of the votes cast. This is called the "First Past the Post" ("FPTP") system. All of the votes cast for losing candidates have no bearing whatsoever on the makeup of the House of Commons. In 2011, 7,426,914 votes were cast for the candidates who won and 7,297,066 were cast for the candidates who lost. In 2015, 8,484,532 votes were cast for the candidates who won and 9,106,936 were cast for the candidates who lost. The will of those voters in these elections was not reflected in the governments produced by the electoral system, yet those voters have had to live with actions of those governments. Our system masquerades as a democracy when, in truth, its results are often profoundly undemocratic.

Another problem with our electoral system is that it encourages apathy and discourages the broadest possible citizen engagement. In 2011, only 60.7% of Canadians eligible to cast a vote did so. In 2015, it was 67.8%. If people believe a candidate is going to win a riding, there is little incentive to bother to vote knowing the vote won't affect the result in any way.

Some would argue that the stability offered by majority governments warrants elevating the party that won the most votes into majority governments even though they did not earn the support of a majority of Canadians. This is based on the false assumption that minority governments are less stable than majority governments. In any event, those who support electoral reform take a different view, that

whatever enhanced stability might exist with majority as opposed to minority governments is not as important as the principle that governments should generally reflect the will of the electorate.

So, if most of us agree that we need a more democratic electoral system in Canada, what should it look like and how can it be achieved? Many possible electoral systems are being proposed by interested parties. There is no perfect system. Each involve tradeoffs. For example, some have suggested that the present Liberal government is leaning toward a ranked ballot. In this system, instead of casting a single vote for the candidate you would like to see win your riding, you would rank the candidates from first to last in order of your preference. The first place votes would be counted for each candidate. The candidate with the least amount of first place votes would drop off the list and the second choices of the voters who voted for that candidate would be added to the mix as if they were first place votes for the remaining candidates. This process is repeated until a candidate earns a majority of votes. This system may sound attractive because the winning candidates can be said to have achieved a consensus in their riding that they should be its representative. The problem with this system, however, is that it tends to hand governments to parties that are in the middle of the political spectrum. Think of it this way: A Conservative voter is probably more likely to vote for a Liberal and not for an NDP candidate as their second choice. Similarly, an NDP voter is more likely to vote for a Liberal as their second or third choice rather than a Conservative. The ranked ballot system, therefore, has an important bias toward the middle and tends to deliver majority governments to middle parties, so in effect it is just another way of awarding majority governments to parties that are not the first choice of the overall electorate. It might be marginally better than our current electoral system but it would still yield unrepresentative majority governments and be more complicated for voters.

Another idea for electoral reform would be to group ridings into a single electoral district and award the seats within the district based on the percentage of the popular vote. For example, let's say five ridings exist within a district and a party earns 40% of the vote in that district. In that case, that party would be awarded two of the five seats. This would likely yield a slightly more representative Parliament than we have now, but it would not be as reflective of the votes cast nationally than other proportional representation electoral systems and there might be some confusion as to which of the elected MP's has a greater claim to represent the district and which MP a voter should go to for help.

Yet another possibility is a mixed member proportional representation system where some people win seats the same way they do now but other seats would be won based on the proportional share of the vote earned by each party. This is a compromise solution that creates more problems than it solves. There would be two types of MPs, one elected in their riding and another elected based on the overall popular vote and their ranking on a list created by their political party. Candidates who are party favorites would have a greater chance being elected if they are high on the party list than if they run in a riding, which can have the effect of entrenching party leadership. The system would also not yield a truly representative House of Commons because most of the seats would still be awarded as they are now and the seats allocated proportionally might not be enough to correct the inaccuracy.

Each of the aforementioned systems can be tweaked to change the tradeoffs inherent in them. There are also many other types of electoral systems we could consider..

The problem with the electoral reform movement in this country is that there is no consensus within the movement as to which system is best. If the people who have been most interested in promoting electoral change cannot agree on what that change should be, then it is unlikely that Canadians will be

motivated to pick one over the other. Ironically, this failure to achieve a consensus could lead to keeping our current system which is worse than most of the alternatives.

OUR PROPOSAL

The proposals outlined above are neither simple nor easily understood. So, what can be done to ensure that we adopt a new and better electoral system to restore truly representative government? We need a made-in-Canada electoral system that reflects and respects the will of our electorate. The system should involve a minimum of change and be easily understood, so that its implementation would be supported by Canadians. We have studied this issue at length and have created a system we call Ordered Proportional Representation ("OPR").

The key advantages of OPR are that it is easy to understand and it involves minimal change; Voters would cast their ballot as they do now (one vote for one candidate in one riding), votes would not be wasted, strategic voting would no longer be a factor, and the resulting seat allocations would be far more reflective of voter intent than in our present system.

Under our proposed system, while votes would be cast as they are now, what would change is how the votes are used to determine the seat winners. All of the votes would be counted across the country. Seats would be awarded based on the share of the popular vote earned by each party. After the votes are cast, Elections Canada would create lists for each party, ranking their candidates based on the share of the popular vote in their respective ridings. The candidate with the highest share of the popular vote in their riding would be at the top of their party list and the candidate with the lowest share would be at the bottom. Say, for example, that the House of Commons has 100 seats. If Party A won 50% of the vote, Party B won 30% and Party C won 20%, Party A would get 50 of the 100 seats, Party B 30 and Party C 20. The top 50 candidates on Party A's list would win seats, as would the top 30 on Party B's list and the top 20 on Party C's list. There would only be two exceptions to this allocation. First, if an independent candidate wins the most votes in a riding, that person would be awarded that riding and the riding would be taken out of the general calculation. This is the only way to ensure that it is possible to elect unaffiliated candidates when their support warrants it. Second, since it would be possible for two candidates from different parties to be high enough on their party lists to win the same riding, the candidate with the most votes in that riding would win that seat and the other candidate would be removed from their party list with the remaining candidates on that list moving up.

Had our system been implemented in the last election, this is what the seat allocation would have looked like compared to the current system:

Parties	% of Votes	Seats Awarded Under OPR	% of Seats	Distortion % +/-	Seats Awarded Under FPTP	% of Seats	Distortion % +/-
Liberal	39.8	134	39.6	**-0.2**	184	54.4	**+14.6**
Conservative	32.2	109	32.2	**0**	99	29.3	**-2.9**
NDP	19.9	67	19.8	**-0.1**	44	13.0	**-6.9**
Bloc	4.7	16	4.7	**0**	10	3.0	**-1.7**
Green	3.5	12	3.6	**+0.1**	1	0.3	**-3.2**

As you can see, the seat allocation under OPR is much closer to the popular vote than under our present system. It is also very easy to explain to voters. Essentially, they will vote as they do now and the seats will be awarded based on the percentage of the vote earned by each party. This system is simple enough to be put into place for the next election. A step-by-step description of the mechanics of OPR is contained in Appendix 1 below. This full explanation of the OPR process requires only half a page of text which is a testament to its simplicity.

OPR complies fully with the mandate of the Committee and the five principles contained in the motion that established the Committee. OPR has other benefits including, but not limited to, the following: (1) seats are more broadly distributed geographically within each of the national parties; (2) the percentage of women elected would increase; and (3) the House of Commons would be comprised of people who earned more votes on average than is the case under our current system.

THE REFERENDUM ISSUE

There is also the question of whether a referendum should be held before a change is implemented. The federal government can adopt this new system through legislation. It would not require constitutional change. Many of the people who favor a referendum argue that a change of this magnitude should be supported by a majority of Canadians and that the Liberal majority should not impose a system that does not have broad support. Many of the people who argue against a referendum are concerned that those opposed to change will frighten Canadians into keeping the current system, perhaps relying on misinformation and fear of the unknown. We are of the view that we should only adopt a new electoral system without a referendum if the system we will change to has the support of all of the political parties in the House of Commons. If unanimity is not reached, we propose that that the new system (preferably OPR) be used in the next federal election and that a referendum be held two years after that election to see if Canadians want to keep the new system or revert to the old system. This would afford Canadians with the opportunity to test the system in one election before making the change permanent. The referendum would be fairer because people would have the opportunity to live under the proposed change for a couple of years before having to finally make up their minds, and because having this experience would make it less likely that voters could be swayed by false information.

CONCLUSION

We are emphatic in our belief that our current electoral system does not serve a modern-day Canada and that change must come. We also strongly believe that electoral reform cannot be adopted unless the new system is as simple as possible for the electorate to understand and use. If we get mired in complicated systems that are nonetheless meritorious, we are unlikely to convince Canadians to change our electoral system. As good as some of these other systems might be, if they cannot be easily explained and understood they stand little chance of being adopted through a referendum. Our proposal is easy to understand and produces extremely accurate results. We respectfully submit that OPR merits careful consideration by your Committee. We would be pleased to share our underlying data with you should you so desire.

APPENDIX 1 - THE OPR PROCESS

Each voter would cast their vote in their riding for a single candidate, just as they do now. Here are the steps that would be required to determine winners in a federal election using Ordered Proportional Representation:

1. **Any independent candidates who win a plurality of votes in their ridings would win those ridings.** Doing this as a first step is the only way to ensure that an independent can win a riding.[1]
2. **Determine the number of the remaining ridings.** If no independent candidates win, this number would currently be 338.
3. **Calculate the number of the House of Commons seats won by each political party.** The math for this is as follows:
    a. **Determine the number of votes earned by each political party** (and discard the votes cast for the independent candidates).
    b. **Determine the percentage of the seats to which each party is entitled** by dividing the previous step's number for each party by the total number of votes cast for all parties. This will give you the percentage of the seats to be awarded to each party.
    c. **Determine the number of seats to be awarded to each party** by taking the percentages of the vote earned by each party and multiplying them by the total number of available seats (from step 2).[2]
    d. **Create lists for each party.** The list should contain row numbers, the names of all of their candidates, their ridings, and the percentage of the vote each candidate earned in their own ridings. The lists should be sorted by percentage of vote earned, in descending order.[3]
    e. **Award the seats to the top number of candidates on each party list that is equivalent to the number of seats to which the party is entitled.** So, if the Liberals won 100 seats, pick the top 100 candidates on the Liberal list. Do the same for each party.[4]

---

[1] To avoid the possibility of candidates masquerading as independents to take advantage of this rule, the Chief Electoral Officer would have the authority to disqualify candidates who are connected to political parties running as independents. In practical terms, the risk of this is extremely low because it is easier to win seats running for a party than as an independent. For example, there are currently no independent Members of Parliament.

[2] It is likely that the parties will not win the precise number of votes required to win the seats to which they are entitled. For example, to keep it simple, let's assume there are 7 seats in the House of Commons. In order to qualify for a seat, a party would have to get at least 14.29% of the vote (100/7). Assume that the Liberals got 64.5% and the NDP got 21.1%. Take 64.5+21.1=85.6 as the total percentage of votes earned by parties that qualify for seats. Divide that by the number of seats 85.6/7=12.23% per seat. At this point, we note that this methodology is not meant to illustrate how OPR works, but rather to enable us to illustrate our point as simply as we can. So, to continue, with 64.5% of the vote, the Liberals should get 5.27% of the 7 seats (64.5/12.23). With 21.1% of the vote, the NDP should get 1.73 seats (21.1/12.23). Since the NDP is closer to earning the fractional seat, .73 vs. .27, the NDP would get that seat. The Liberals would get 5 of the seats and the NDP would get 2.

[3] i.e., the candidate who won the highest percentage of votes in their riding would be at the top of the list and the candidate with the lowest vote percentage would be at the bottom.

[4] Check to see if more than once candidate from a riding places high enough on their party list to win that seat. If so, the top vote getter in that riding would win the seat, the other(s) would be dropped off of their party list and the people below on that list would move up a step. This is necessary to ensure that only one person can win a riding.

Here is how the OPR calculation would have played out for the results in the last election:

Party	Votes (Number)	Votes (% of Total)	Seats	Seats Awarded (after rounding)
Bloc Quebecois	821,144	4.705692	15.905	16
Conservative	5,613,633	32.169789	108.733	109
Green	602,933	3.455200	11.678	12
Liberal	6,942,937	39.787570	134.481	134
New Democratic	3,469,368	19.881748	67.200	67
TOTALS	17,450,015			338

Submitted by:

Benjamin J. Trister, LL.B., J.D., C.Dir.
Rachel E. Trister
Toronto, ON