

Translated by María Cecilia Blanco

COMMENTS ON THE WORKS OF JOSÉ MARÍA FUENTES AND PETER SIAVELIS*

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This article comments on the results of the simulations conducted by Peter Siavelis (which include the electoral system proposed by the government in 1992) as well as the electoral system proposed by José María Fuentes. Both papers were presented at the seminar on "Alternative Electoral Systems" organized by Centro de Estudios Públicos in November 1992.

In this essay, the author stresses the need to distinguish, when analyzing an electoral system, between proportionality per inhabitant (ratio of the population to the number of parliamentarians) and proportionality of results (seats/votes). With respect to proportionality per inhabitant, he points out the difficulties that arise when trying to harmonise this concept with the principle of regional representation. With regard to proportionality of the seat/vote ratio, he notes that the so-called proportional systems also can behave like majority systems and favour the larger parties to the detriment of the smaller ones.

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I would like to begin by congratulating the speakers, because I believe that these studies provide valuable elements of judgement on the subject and help people form an opinion, regardless of whether they agree or disagree with them.

However, there are certain points that need clarifying when we address the subject of proportionality of electoral systems. Normally, the term proportionality has been used in relation to two different things. One of them is proportionality between the number of inhabitants and the number of parliamentary seats to be filled ("one man, one vote"), which I will hereinafter call "proportionality per inhabitant"; the other one is proportionality between the votes of one group or one party and the number of parliamentarians elected by that group or party.

With regard to proportionality per inhabitant, it is worth pointing out that the inequality of the regions, in terms of population, poses some problems. On one hand, we would like all regions to be represented; on the other hand, this clashes against the principle of proportionality between the number of inhabitants and the number of parliamentarians to be elected. Therefore, these two criteria will simply find it impossible to coexist in practice. Here is a clear example: if the 11th Region were to elect one parliamentarian, in the interests of proportionality per inhabitant Chile should elect a total of 160 parliamentarians. If the 11th Region elected two representatives, then the country as a whole should elect 320. If we did not want the 11th Region to have a two-member representation but a minimum of three instead, then no less than 480 parliamentarians should be elected in the whole country in order to maintain proportionality per inhabitant.

In the case of a country with a bicameral Congress like Chile, the situation could be solved by applying the principle of regional representation in one of the Chambers and the principle of representation per inhabitant in the other Chamber. This, of course, is just a suggestion, since my intention is merely to highlight the incompatibility of both principles. And here is another example: when we have tried to group municipalities to establish the different constituencies for the election of parliamentarians, with an equal population, we encounter the problem of regional boundaries and, at the same time, the problem of boundaries of the senatorial constituencies into which the regions are divided. Therefore, the situation is even more complicated in this case and becomes impossible to implement.

With respect to the presentation by Peter Siavelis, there are several important points to discuss. There is no doubt that the binominal (double-member district) system is a majority system. In addition, Peter has shown us that a proportional system can also be a majority system. In this case, we are

referring to proportionality as the relationship between a party's votes and the number of seats won.

I think that the Government in its project has chosen a majority system that favours larger parties to the detriment of smaller ones, because, of the 45 deputy-electing districts, 21 of them elect three deputies. José María Fuentes suggests a threshold of 5%, which ultimately produces the same result. In short, with the exception of the affected parties (currently UCC and the Communist Party), there would seem to be a consensus about the majority system.

The idea is, in fact, to prevent smaller parties from acting as arbitrators in Congress. The intention, in a situation where there are two large majorities, is to prevent these smaller parties from becoming a key factor in determining who wins. The experience in other countries, particularly those with parliamentary systems, shows that this situation has a negative effect on governance. A handful of parliamentarians end up as arbitrators, exercising an enormous amount of power that was never conferred to them by the people. This is the reason why we seek majority systems.

Proportional systems may also be majority systems, and not just with 3 or 4 parliamentarians per district as the Government proposes, but also with 5. If districts were identical and they all elected 5 deputies, I think the UCC and the Communist Party would still fail to win more than possibly 1 or 2 seats at best.

To a large extent, I share the view of Peter Siavelis when he says that the two-member district system may cause abrupt changes to the composition of Congress if one group only just fails to reach one-third of the vote. But the fluctuations caused by such a situation in the ratio vote/seats at national level are not as sharp as they are usually claimed to be. The idea that with less than one-third of the vote no seats are won is not really true. However, the effects may be important. Conversely, if the vote obtained by one group is just above one-third it does not mean that the group will automatically win half of the seats in Congress, and it is unlikely that it will secure the quorum of two-fifths or three-sevenths.

In my view, when proportionality is discussed, we should also consider the quorum needed to pass or prevent the passage of certain laws and constitutional reforms. To pass a law, the two-thirds, the four-sevenths, the three-fifths, and the simple majority all matter. To prevent the passage of a law, what matters is the one-third, the two-fifths (40%) and three-sevenths (42.86%).

An important factor in terms of the effects on the two-member district system is the dispersion of votes. Parties do not get the same number of votes in each district and this means that the effects of the electoral system vary across the country, depending on the number of votes garnered in each constituency.

Dispersion may be calculated as a coefficient of this variation, i.e. the standard deviation of votes per district from the median. When we looked at the results of the local elections of 1992, we noted that dispersion in general was higher in the right (almost twice the dispersion observed in the Concertación).

To some extent, this means that the two-member district system will probably not bring great gains to the right if they win more than a third of the vote, and neither will it bring them great losses if they win less than a third of the vote, because they will still have some districts to fight for. The Concertación, with a lower dispersion, may obtain more benefits from the two-member district system if it wins more than a third of the vote.

There are some myths about the two-member district system which are worth discussing. In the 1989 election of deputies, the Concertación won 52.1% of votes but 58.33% of seats* i.e. 6.23% more deputies than votes. Democracia y Progreso won 34.1% of votes and 40% of seats, i.e. 5.9% more seats than votes. Therefore, the Concertación profited more from the absence of proportionality than the Opposition. List G (PAIS) obtained on that occasion only 1.67% of the seats on 5.3% of the votes, i.e. 3.63% more votes than seats.

This is an interesting situation because the elected deputies representing list G then joined the Concertación and, if we add up both percentages, we will see that with 57.4% of votes (the result of adding up the votes of list G and the Concertación) they have 60% of seats. The Concertación today has a quorum of three-fifths which does not reflect the real number of votes obtained; whereas the Opposition is below the threshold of three-fifths (40%) but has instead a quorum of one-third which equals the number of votes obtained, i.e. it does not have more power than it won through the voting, i.e. it did not make any extra profit out of the two-member district system.

It is worth commenting on the possible effects of a proportional representation system like the one implemented in the local elections of 1992. Here we can compare the number of votes and the number of councillors

* These figures include the votes and the seat obtained by an independent candidate who was, in fact, a Christian Democrat.

elected. This is a proportional system whereby 6, 8 or 10 councillors per district are elected. The Concertación won 56.87% of seats with 53.28% of votes (3.59% more councillors than votes). The Communists won 1.73% seats with 6.61% of the votes (4.8% more votes than seats). The UCC won 3.84% of seats with 8.10% of the votes (4.26% more votes than councillors). Participación y Progreso won 36.31% of the seats with 29.63% of the votes (6.68% more councillors). In short, the Opposition did better under the proportional system in the local elections.

In the Government's project, the allocation of the number of seats per district poses some serious problems. The greatest difficulty arises with three, four and five-member districts. For example, some districts elect four deputies when they have fewer voters than other 14 districts that only elect 3 deputies. This distribution of seats is very odd, as well as unreasonable and incorrect in relative terms. I think that districts were established on the basis of political convenience and this, in my opinion, invalidates the Government's initiative and delays the debate on the advantages and disadvantages of proportional systems versus two-member district systems.

The Government's initiative is not the only possible proportional majority system; better ones could still be designed. I think the proportionality indexes calculated by Peter Siavelis would improve if all districts were alike and they all elected the same number of deputies. I think we could give the idea a try and have districts with the same number of representatives, giving up the system of regional representation, at least in one of the Chambers.

With respect to the electoral system proposed by José María Fuentes, I will comment briefly on some of its possible effects. This system could cause a situation where some districts would end up with more representatives than others as a result of the relative number of votes obtained by candidates.

This could cause problems to an effective regional representation. The most serious problem, and one that the Chilean people would find very difficult to understand, especially after the complications caused by the local election system, is that seats could be won by candidates who came second or third in a district and lost the election, leaving the winner without a seat simply because his/her party did not have a larger quota assigned at national level by the distribution coefficient.

The system is based on the absence of pacts or negotiations. I think it is impossible to suppress them. There is no law banning them. Pacts can be made with or without a law. There are two ways of negotiating pacts without a law. One of them was implemented in 1973 with the creation of "cover"

parties like Unidad Popular and CODE. The other way is to make pacts by compensation and omission, for example: "We (Party A) will present candidates in this district and you (Party B) will support us; whereas you will present candidates in this other district and we will support you".

At present, there are not only pacts but also sub-pacts, as well as second distribution coefficients and pacts with independent parties, all approved by the Constitutional Court.

The other shortcoming in José María Fuentes's proposal is that independents are excluded because they are unable to reach the threshold of 5% of the vote at national level, an unfair barrier that prevents the formation of a new party. Often parties are formed in a specific place and then they gradually became larger and expand to the rest of the country. □