

Report of the Independent Commission on the Voting System: Volume 2

Submissions from academics

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Memorandum

To: The Independent Commission on the Voting System.

From: Brendan O'Leary, Professor of Political Science, London School of Economics and Political Science, Houghton Street, London, WC2A 2AE¹.

CC: Rt. Hon. Dr Marjorie Mowlam MP, Secretary of State for Northern Ireland; Mr Paul Murphy MP, Minister of State at the Northern Ireland Office; Mr Adam Ingram MP, Minister of State at the Northern Ireland Office.

Date: 27-Feb-98.

Re: The Implications for Political Accommodation in Northern Ireland of Reforming the Electoral System for the Westminster Parliament.

Summary of Recommendations.

1. Northern Ireland requires some type of proportional representation electoral system for elections to the Westminster Parliament.
2. There are three feasible systems: (i) STV, with three six-seat constituencies; or (ii) the Additional Member System, with nine single member constituencies and nine members elected by a regional top-up to ensure proportionality; or (iii) the Alternative Vote in nine constituencies with nine members elected by a regional top-up to ensure proportionality. The first of these options is the best for Northern Ireland.
3. The Commission should not be worried about recommending somewhat different arrangements for Northern Ireland to the rest of the UK as long as they are consistent with the principle of proportionality that is widely accepted in Northern Ireland, and as long as they underpin any new constitutional settlement.
4. The Commission should at all costs recommend against plurality or majoritarian systems (e.g. the pure Alternative Vote, or the pure Supplementary Vote), at least for Northern Ireland.

A. The Case for Electoral Reform in Northern Ireland.

1. Disproportionality in outcomes. Under the current system of plurality rule in single member constituencies the outcome of elections for the Westminster in Northern Ireland is grossly disproportional, both between parties, and between the two major national communities. Two illustrations follow.
2. Evidence of disproportionality. (A) In the 1997 general election the Ulster Unionist Party (UUP) won 10 of the 18 seats, or 55.6 % of the seats with 32.7% of the regional vote. One way of thinking about this outcome is to note that that the UUP won a regional majority of

¹ The author has been an informal advisor to British, Irish and American politicians on Northern Ireland. His relevant publications include Explaining Northern Ireland: Broken Images (Oxford: Basil Blackwell, 1995), The Politics of Antagonism: Understanding Northern Ireland (London: Athlone, 1996 2nd ed.), Northern Ireland: Sharing Authority (London: IPPR, 1993), and The Future of Northern Ireland (Oxford: Oxford University Press, 1990).

seats in Northern Ireland with a regional vote share that was scarcely higher than the UK share of the vote won by the Conservative Party². (B) In the 1997 general election the two Irish nationalist parties, the Social Democratic and Labour Party (SDLP) and Sinn Féin, won 40.2 % of the vote. Between them they won 5 of the 18 seats, or 27.7 % of the seats.

These two results are typical of Northern Irish Westminster elections. The UUP has been consistently disproportionately represented at Westminster. Greater electoral competition within the nationalist bloc and greater co-operation within the unionist bloc have also ensured that the UUP has been over-represented and nationalists under-represented.

3. Disproportionality in influence. Twice within two decades disproportional outcomes in Northern Ireland have led to disproportionate consequences for UK politics. The minority Labour Government of 1976-9, and the minority Conservative Government of 1995-7, reached parliamentary understandings with the Ulster Unionist Party soon after they lost secure parliamentary majorities. On both occasions this meant that a party with a dramatically smaller share of the UK vote than the Liberals or Liberal Democrats acquired influence well beyond its reasonable electoral weight.
4. Fairness. In a nationally divided territory, and one in which electoral integration is not a viable ambition, fairness in electoral outcomes is a decisive feature of any successful political accommodation. Exponents of plurality rule sometimes maintain that it encourages parties to seek widespread support and that it works well because floating voters determine outcomes, and parties have incentives to seek their support. Where there are ethnic minorities that want to be integrated into the relevant state as full and equal citizens exponents of plurality rule maintain that this electoral system creates incentives for parties to build pan-ethnic support. Whatever their general merits these arguments have no credible force in Northern Ireland. First, there are extremely few voters who float between the unionist and nationalist blocs. Floating voting is almost entirely confined within electoral blocs. Secondly, electoral integration does not work because the region contains a national minority that has demonstrated its consistent wish not to be integrated into the UK, and because British political parties have failed to organise, or, when they have, they have failed to compete successfully in the region. In the absence of floating voters and in the absence of integrative effects elections in Northern Ireland have had the character of censuses. Plurality rule, in short, encourages the worst kind of head-counting: head-counting on a non-proportional basis.
5. Inconsistency. Successive generations of British political leaders have recognised the force of the above arguments for second-order elections. In these they have abandoned plurality rule in favour of different types of proportional representation. Thus since 1973 local government elections in Northern Ireland have been conducted under the single transferable vote (STV) in multi-member constituencies. The same system has also been used for elections to two Northern Ireland Assemblies (in 1973 and in 1982) and one Constitutional Convention (in 1975). Since 1979 elections for the European Parliament have treated Northern Ireland entirely differently from the rest of the UK, electing Northern Irish MEPs in a region-wide three-seat constituency using STV. Most recently in 1996 elections to a Peace Forum were conducted under a party-list system of proportional representation with reserved seats³. However, British politicians have, so far, refused to treat Northern Ireland differently from the rest of the UK for Westminster elections. If they decide to advocate some authentic system of proportional representation for Westminster elections then Northern Ireland would plainly benefit from such a recommendation, and there would be less inconsistency between Westminster and second-order elections. However, if the Commission is minded to advocate an electoral system for the UK which

² Details and analysis of the 1997 general election result in Northern Ireland can be found in Brendan O'Leary and Geoffrey Evans, 1997, *Northern Ireland: La Fin de Siecle, The Twilight of the Second Protestant Ascendancy and Sinn Féin's Second Coming*, *Parliamentary Affairs*, 50, 4: 672-680.

³ Details can be found in Brendan O'Leary, *Party Support in Northern Ireland, 1969-1989*, in John McGarry and Brendan O'Leary (eds.) *The Future of Northern Ireland* (Oxford: Oxford University Press, 1990, 342-57, and in Geoffrey Evans and Brendan O'Leary, *Intransigence and Flexibility on the Way to Two Forums: The Northern Ireland Elections of 30 May 1996 and Public Opinion*, *Representation: Journal of Representative Democracy*, 34, 3-4: 208-218.

places greater emphasis upon the desire to secure stable governments or extending voter choice through preferential voting then it should consider advocating a different and more plainly proportional system for Northern Ireland.

6. Two issues of consistency are at stake here. The first is that there are considerable merits in Northern Ireland having similar electoral systems for all of its elections. This feature would be good for voters and parties, as it creates transparency and clarity, and enables voters and parties to have reasonable knowledge and expectations of the consequences of their actions. More importantly consistency in electoral systems in Northern Ireland will prevent the negative repercussions that might flow from rival mandates. In 1973 Northern Ireland elected an Assembly using the proportional electoral system of STV. That Assembly proceeded to support a power-sharing government. However, in February 1974 a Westminster election was held. In this election 11 of the 12 seats were won by a coalition opposed to what was known as the Sunningdale settlement. They won 50.5% of the vote. The parties that supported the Sunningdale were badly divided by the competitive dynamics of plurality rule, despite having almost half of the electorate disposed towards them. The gap between these rival mandates encouraged others to destroy the Sunningdale settlement with less than democratic methods. If in the near future the British and Irish Governments successfully encourage parties in Northern Ireland to embark upon a second power-sharing experiment, based upon a proportional representation system electing a Northern Irish Assembly, it is imperative that no subsequent Westminster elections upset any such delicate experiment.

B. Which Electoral System for choosing MPs would be best for Northern Ireland?

1. This question has both normative and empirical dimensions. This memorandum is based on the following premises. First, so long as Northern Ireland remains part of the UK its citizens are entitled to representation at Westminster. Second, if Northern Ireland re-acquires either an assembly or a parliament then its electorate should not be over-represented at Westminster. (Any argument for reduced representation at Westminster would have to be consistent with arrangements for Wales and Scotland). Third, plurality rule is the worst electoral system for a territory with divided nationalities, such as Northern Ireland. Fourth, an electoral system used for Northern Irish representation at Westminster should not be significantly different from those used to elect a Northern Irish Assembly or Northern Irish MEPs. Fifth, any electoral system for Northern Ireland should enhance rather than reduce the prospects for cross-party and cross-national support for political institutions in which both unionists and nationalists can have their identities expressed, and their reasonable interests expressed. Lastly, there is no compelling reason why the Commission should recommend uniform electoral systems for representation in the Westminster Parliament.
2. In the academic literature on electoral systems for societies divided by ethnicity, religion or nationality there are broadly speaking two schools of advocacy. One, identified with the Dutch political scientist Arend Lijphart, maintains that party-list systems of proportional representation are the best promoters of inter-ethnic accommodation⁴. The reasoning is as follows. Any equitable system of power-sharing will have to represent groups proportionally, but only if they wish to be so represented. Giving parties the opportunity to attract support from their co-ethnics must not stop parties with the ambition to win support across ethnic blocs. Proportional representation systems are to be preferred in this thinking because they are consistent with self-determination: voters can choose to be represented by national or ethnic parties or they can choose otherwise, and the results will be proportionate to their degree of political support. Lijphart and his co-thinkers then ask themselves: which proportional representation system will be best? They reason in favour of party-list systems essentially on two grounds. The first is that they make it mechanically easy to ensure proportionality. The second is more complex. They argue that party list

⁴ See Arend Lijphart Democracy in Plural Societies (New Haven, Yale University Press, 1977).

systems have the virtue of enhancing the power of party leaders over their own internal party rivals and party members. They think that politicians who can so control their own parties are more likely to be able to make and keep power-sharing deals. One can see why this argument appeals to many that have reflected on Northern Ireland – and I have shared this judgement myself, in the past.

3. The second school of advocacy is associated with the work of Donald Horowitz, an American political scientist⁵. He maintains that one should judge electoral systems by the incentives they provide for inter-ethnic co-operation. He maintains that in divided societies preferential voting systems have the virtue of encouraging politicians to seek lower-ranking preferences from voters in their rivals' ethnic blocs. He prefers systems that encourage 'vote pooling', where people from different ethnic blocs, directly or indirectly, facilitate inter-ethnic co-operation. In addition to commending preferential voting systems Horowitz approves of distributive requirements – which require successful candidates not only to win a plurality of votes but also a specified minimum in a certain number of areas within a constituency. One can see why Horowitz's arguments also have appeal in Northern Ireland, especially for those who want to encourage inter-ethnic and trans-ethnic voting.
4. These two schools of thought have some obvious deficiencies as regards Northern Ireland. Lijphart's arguments for party-list PR are subject to three principal defects. First, the impact of such systems in enhancing the autonomy of party leaders is exaggerated. Rivals to party leaders have every incentive under party-list systems to establish their own parties. They would know that any fragmentation of their ethnic group's representation would be unlikely to lead to a net reduction in representation of their ethnic group. Second, such systems create little incentives for party leaders to appeal beyond their core ethnic constituency. Third, such systems generally sever the local representational or constituency services performed by legislators, and that appears to be a concern highlighted in the Commission's terms of reference.
5. Some of Horowitz's arguments for vote-pooling are subject to different difficulties. The first is that while any imposition of distributive requirements might make sense for the direct election of a Northern Ireland chief executive it would be rather impractical for the election of 18 MPs – as there are significant demographic and mobility shifts occurring regularly within Northern Ireland. Secondly, and more importantly, Horowitz treats two preferential systems, the Alternative Vote and STV, as having rather similar 'vote pooling' properties. There is, however, a decisive difference. The pure Alternative Vote delivers majoritarian not proportional outcomes. Its introduction in Northern Ireland would advantage the UUP and the SDLP at the expense of all other parties. Some, no doubt, would argue that is an argument in its favour. However, there is an alternative view. The introduction of the pure Alternative Vote for Westminster elections would be seen to be a deliberate exclusionary strategy, targeted at more hard-line unionist and nationalist parties. It would also disadvantage the small inter-ethnic parties, such as the Alliance Party and the Northern Ireland Women's Coalition. These parties would understandably be aggrieved at the new disproportional representation system and they would correctly argue that it was at odds with the inclusive nature of the political settlement presently being sought in Northern Ireland. The building of the centre advocated by the supporters of the Alternative Vote might backfire by adding to the grievances felt amongst hard-line unionists and nationalists. If the Commission is nevertheless minded to recommend the Alternative Vote for Northern Ireland then it is essential that it do so on a 50: 50 basis, electing 9 MPs in new constituencies with 9 MPs to be elected through a top-up to ensure proportionality to the first preference vote.
6. This memorandum has suggested a strong case for proportional representation for all elections in Northern Ireland, to reflect Northern Ireland's status as a region deeply divided by ethno-national tensions, and to ensure consistency across elections in ways which inhibit possible conflicts arising from 'rival mandates' won under different systems. The memorandum has suggested that the arguments in favour of party-list PR are best made

⁵ See Donald Horowitz, Ethnic Groups in Conflict (Berkeley: University of California Press, 1995).

on technical grounds, viz. that they make mechanical proportionality easier to achieve, and not on the grounds that they enhance the power of party leaders to make accommodative deals. It has also suggested that the Alternative Vote (and systems akin to it, such as the Supplementary Vote) should be rejected on the grounds that they are disproportional and unlikely to encourage the type of inclusive politics presently being advanced by the British and Irish Governments. Such systems should be employed in Northern Ireland, if at all, only if 50 % of Northern Ireland's seats were allocated through a top-up procedure – which would ensure proportionality. Such 50:50 systems do, however, have the disadvantage of creating two classes of MP.

7. The conclusion of this argument is straightforward. A proportional representation system with preferential voting to encourage vote-pooling, and with provisions for (multi-member) constituencies to represent the local interests of voters is best adapted to the current needs of Northern Ireland. STV is the best known system that meets these requirements. No one, of course, should argue that STV is a panacea for Northern Ireland. Its usage in local government has however facilitated an increasing inclusiveness in representation and some voluntary (albeit restricted) power-sharing. It achieves proportionality between unionists and nationalists and assists non-ethnic or bi-ethnic parties. Moreover, the voters know the system.
8. If the Commission accepted this reasoning three questions would arise. One is whether a case for STV for the election of Northern Ireland's MPs is a decisive argument for the same system being adopted in Great Britain. The answer must be 'No'. STV has multiple merits⁶ but the Commission may consider them more obvious for Northern Ireland than for Great Britain. The second issue is whether the Commission might reasonably conclude by recommending STV for Northern Ireland but another system for Great Britain. The author submits that the answer to this question is 'Yes'. Northern Ireland is different from the rest of the United Kingdom and that is why successive Governments have sought to argue that it should be governed differently. Northern Ireland is a major issue of conflict-management for UK Governments and it would make sense for them to ensure that the election of Northern Ireland's MPs does not result in the over-representation of one party or community, especially as that would be inconsistent with the other institutions established in Northern Ireland itself. It would also make sense for UK Governments to ensure that Northern Irish MPs do not exercise disproportionate influence when no British party enjoys a parliamentary majority. The best means of achieving that objective is to ensure that Northern Ireland is fairly and proportionately represented in the House of Commons. The third issue is how Northern Ireland would be carved up into multi-member constituencies under STV. There are several possible answers: three six-seat constituencies would produce the highest degree of proportionality, would be easy to implement, and would not over-represent Northern Ireland at Westminster.
9. Other systems can be devised to ensure proportionality in Northern Irish elections to Westminster. They include the Alternative Vote +, the Supplementary Vote +, and the Additional Member System. Such systems, however, create two functionally different classes of MPs. STV does not have this problem, and it has the advantages of being the most widely used electoral system in Northern Ireland, and of being easy to implement.

⁶ See for example Brendan O'Duffy and Brendan O'Leary, *Tales from Elsewhere and an Hibernian Sermon*, in Helen Margetts and Gareth Smyth (eds.) *Turning Japanese? Britain with a Permanent Party of Government* (London: Lawrence and Wishart, 1994), 193-211.