

Public Justice in Representation

A CPJ Position Paper on Electoral Reform and Representation

Approved by the Board of Directors: April 16, 2009

CITIZENS *for* PUBLIC JUSTICE





CITIZENS *for* PUBLIC JUSTICE

Our Vision

- CPJ is committed to seek human flourishing and the integrity of creation as our faithful response to God’s call for love, justice and stewardship.
- We envision a world in which individuals, communities, societal institutions and governments all contribute to and benefit from the common good.

Our Mission

- CPJ’s mission is to promote *public justice* in Canada by shaping key public policy debates through research and analysis, publishing and public dialogue. CPJ encourages citizens, leaders in society, and governments to support policies and practices which reflect God’s call for love, justice and stewardship.

Public Justice

- Public Justice is the *political* dimension of loving one’s neighbour, caring for creation and achieving the common good, and is particularly the responsibility of government and citizens.

CPJ addresses a range of public justice issues, from eliminating poverty to creating a climate of welcome for newcomers to fostering hopeful citizenship. CPJ’s professional staff actively engage in a number of activities to realize CPJ’s mission and keep public justice front and centre in policy debates.

Our members, who come from a wide variety of faith communities, are committed to public justice and its contributions to public dialogue. They participate in CPJ’s work through campaigns, dialogue and financial support. CPJ’s 13-member board of directors includes representation from across Canada and meets regularly three times per year.

The CJL Foundation
operating as CPJ.

Charitable registration
89438 3512 RR0001

309 Cooper Street
Suite 501
Ottawa, Ontario
K2P 0G5

T 613-232-0275
F 613-232-1275
cpj@cpj.ca
www.cpj.ca

Table of Contents

EXECUTIVE SUMMARY	1
INTRODUCTION	2
POLICY ANALYSIS	2
Current Situation	2
What is Being Advocated	3
Core Principles and Values	4
CPJ'S WORK ON ELECTORAL REFORM	6
PUBLIC JUSTICE: ELECTORAL REFORM AND REPRESENTATION	7
CPJ'S POSITION ON ELECTORAL REFORM AND REPRESENTATION	8

Public Justice in Representation: A CPJ Position Paper on Electoral Reform and Representation

Approved by Board: April 2009

Executive Summary

Canada's First Past the Post (FPTP) electoral system is criticized by some for its disproportionality, the prevalence of strategic voting and the perception of wasted votes, underrepresentation of women and minorities, and declining voter turnout. CPJ has long advocated for electoral reform at both the provincial and federal levels, proposing a proportional representation (PR) system. PR systems have greater proportionality in their distribution of seats, which is viewed as more fair, and eliminates the perception of wasted votes. Hybrid systems also combine an element of strong geographic representation with proportionality at the national level.

The electoral system must be viewed as a part of representation. But representation is not a simple concept; it combines many components or facets of representation, often in creative tension with one another. Different electoral systems have an impact on authorization, accountability, access to representatives, geographic representation, and descriptive and substantive representation.

The role of the party system is important to representation, particularly since in Canada most public policy debate takes place at the party level. For some Canadians, the problem lies less with the electoral system than with the control exercised by the political parties, and changing the electoral system will not necessarily change this. Reform of the electoral system cannot be expected to resolve every problem that Canadians have with representation and governance.

CPJ has long advocated for electoral reform, engaging with the electoral system and its implications for politics from the very beginning of its work. CPJ's public justice framework calls for government to promote just relationships and foster conditions that enhance the common good, and for citizens to participate in the creation of laws in order to ensure that public justice is pursued. Representation is essential to the fulfillment of both tasks, as well as to ensuring respect for the rights, responsibilities and dignity of all people. Accountability, dialogue, descriptive and substantive representation are all important for achieving representation, but they also need to be constructed in a way that respects the wishes of citizens. This has implications for how electoral reform should be pursued from a public justice perspective.

CPJ's position on electoral reform is grounded in the belief that respect for the choices of citizens and public dialogue is more important than any particular electoral system. However, in the present context, CPJ believes that introducing PR to our electoral system, whether through a PR or hybrid system, would make it fairer for the representation of views expressed through political parties. Any reforms should be made based on consultation with Canadians in the context of sufficient information and informed public debate, however. CPJ also understands that electoral reform will not solve every issue Canadians might have with the political system, and that other political reforms should be considered on that basis.

Introduction

Citizens for Public Justice has long advocated for electoral reform in Canada. With five provinces considering or having considered options for change and a federal government study of democratic practices that included questions on electoral reform, the issue of electoral reform has gone mainstream. These explorations of electoral reform appear to be the result of dissatisfaction with how we as Canadians are represented and governed. There have also been disappointments with the provincial debates and referendums on electoral change, however. CPJ believes that citizens should be consulted on their preferences for the electoral system in the context of substantial public dialogue about representation.

1. Policy analysis

Current Situation

In Canada, the electoral system at both the federal and provincial levels is a single-member district, plurality system, commonly referred to as First Past the Post (FPTP). Canada's FPTP system is frequently characterized by decisive majority governments elected by less than a majority of voters, and seat distribution that does not reflect votes proportionally on a national scale. The strengths of this electoral system are seen by its supporters as stable government, direct accountability of elected representatives, geographic representation, and a strong constituent-representative link.

Five provinces have recently considered alterations to their electoral system as a result of commissions or citizens' assemblies. In Quebec, the 2003 Bédard Commission recommended a form of regional proportional representation (PR) although the Quebec government has not acted on the recommendation. Prince Edward Island defeated a motion on multi-member proportional representation (MMP) with 63.5% of votes opposed in a 2005 referendum. In New Brunswick, the 2005 Commission on Legislative Democracy recommended a referendum on MMP, which is expected to be held in 2009. British Columbia failed to achieve electoral reform in 2005 when a majority of voters approved a Single Transferable Vote (STV) system, because the government's imposed threshold of 60% approval was not met. However, because the vote total was so close to the threshold, at 57%, the referendum will run again during the 2009 election. In October, 2007, Ontarians voted against an MMP system with 63.1% of voters opposed.

In 2004, the Law Commission of Canada issued a report on electoral reform that recommended MMP for federal elections, following public consultations that identified electoral reform as an issue of interest to many Canadians. However, while the federal government has occasionally given electoral reform some consideration, only procedural changes to the electoral system have been made as a result of various studies. In general, there have not been any significant reforms promoted by the federal government.

Desire for electoral reform is fuelled by dissatisfaction with the disproportionality of the current system, the prevalence of strategic voting, underrepresentation of women and minorities, and declining voter turnout. The key issue is disproportionality. The 2006 federal election, for instance, gave the Conservative party a minority government with 124 seats and a popular vote of 36.27%, and the Liberal party Official Opposition status with 103 seats and a popular vote of 30.23%. However, with 10.5% of the popular vote, the Bloc Québécois gained 51 seats, or nearly 17% of the seats in the House of Commons while with 17.5% of the popular vote, the New Democratic Party gained only 9.4% of the

seats in the house, a total of 29. Similarly, an independent candidate won a seat with 0.52% of the vote, but the Green Party, which won 4.5% of the popular vote, did not win any seats.

The principal distortions of the lack of proportionality are majority governments elected with less than a majority of votes, and small parties being shut out entirely from the House of Commons or legislative assembly, even when they receive significant votes. Because broad, national support or highly concentrated geographic support is required, parties that speak in the broadest terms are rewarded with seats while parties that take distinctive stances on issues or that represent specific voices tend to be marginalized.

The zero sum nature of the battle in each electoral district gives rise to strategic voting, whereby voters opt for a second or third choice candidate in hopes of preventing a candidate they do not want from winning. Others feel that if the candidate they have voted for is not elected, their vote is wasted. Some have suggested that these two phenomena have contributed to voter disillusionment and to the falling trend of voter turnout.

Meanwhile, many point to the power that incumbency holds in a FPTP system and the gatekeeping role that political parties are allowed to play as being partly responsible for the current numerical underrepresentation of women and minorities among elected members. In the last decade, the percentage of seats held by women in the House of Commons has remained very close to 20%, despite the fact that women comprise 50.47% of Canada's population. Visible minorities and aboriginals also hold a lower proportion of seats than their proportion of the Canadian population.

What is Being Advocated

Proposed reforms to the political system generally advocate a variant of proportional representation. Using different methods, PR systems distribute seats to political parties with a greater degree of proportionality than plurality or majoritarian systems. Strict PR has broad, multi-member districts – in some cases, a single nationwide district – with party lists of candidates, and seats are allocated solely on the basis of party votes.

Variations include mixed member proportional representation (MMP) and single transferable vote (STV). These variations combine elements of strong geographic representation with proportionality at the national or provincial level. These are the two models that have been proposed as options for electoral reform in Canada. In an MMP system, each voter casts two votes, one for a local candidate and one for a political party. In addition to those seats in the legislature won by local candidates, parties are given additional seats to fill with list candidates, according to the number of total votes they received as a political party. The result is overall proportionality. STV allows voters to rank their preferred candidates in a multi-member district. If a candidate is eliminated, the vote is given to the voter's second preference. If a candidate is elected, some systems allow unused votes to be transferred as well. STV can also be a majoritarian electoral system, if single-member districts are used rather than multi-member.

Supporters of PR type systems believe that proportionality is fairer than the current electoral system, in particular for the representation of ideas as expressed through political parties. Within Canada's system of strong party discipline, policy views are expressed through party platforms with much of the public policy debate taking place outside of the legislature. This contributes to the feeling of many Canadians that if the party they vote for does not have any seats in the legislature or if their Member of Parliament (MP) is not from the party they voted for, their views and concerns are not represented.

Not everyone who is dissatisfied with Canada's current political climate believes that electoral reform is the answer to the biggest issues affecting political representation in Canada today. For some, the issue of party discipline is the greatest problem in marginalizing dissenting voices – weakening controls of the party Whip and House Leader would heighten the freedom of representatives to speak on issues in the House, while more free votes would allow representatives to vote their conscience or the will of their constituents without significant reprisals. For others, it is a political culture that has focused solely on winning elections, thereby minimizing public debate and silencing creativity and ingenuity, especially in the context of a 24 hour news media which is quick to capitalize on anything that can be spun as a “misstep.” Meanwhile, there are those who point out that simply increasing the numerical representation of women and minorities is not enough – the larger question of how we value women and non-white ethnicities must be dealt with in order to truly address issues of representation.

Core Principles and Values

When voting, citizens *authorize* someone to represent them and/or hold their elected representative *accountable*. This transfer of responsibility and exercise of power create the *legitimacy* of representation and elections are thus an important component of the continual dialogue between citizens and their representatives. However, while representation is the central issue of democratic governance, it is not easy to define or characterize. Competing elements of representation exist in creative tension: descriptive representation, substantive representation, delegated power to vote as citizens wish, reliance on expertise and wisdom to make choices on citizens' behalf, giving voice to particular interests, mediating many competing interests and the national interest, consultation and explanation. The challenge for any democratic system is to be able to maintain the different components of representation in such a way that citizens retain confidence in the system.

In particular, electoral systems can be seen to balance competing elements of representation in different ways, such that specific elements are prioritized, minimized or forced to co-exist. In this way, the electoral system has a direct effect upon representation and the culture of governance, even as it is not the sole factor that defines political reality. In particular, different electoral systems have an impact on authorization, accountability, access to representatives, geographic representation, and descriptive and substantive representation.

Authorization – voters in a FPTP system convey a mandate to one person to represent their geographical region and their political views, based on a decision to vote for the candidate or their party (and that party's platform). Voters in a PR system give a party (or parties) a mandate to govern according to their platform. Voters in a hybrid system do both.

Accountability – FPTP allows constituents to directly hold one person responsible, although that person's power to enact the changes desired by constituents may be limited. PR type systems emphasize accountability at the party level, allowing voters to reward or punish the party as a whole for keeping or breaking promises, or for the behavior of some party members.

Access to representatives – FPTP creates a direct constituent-representative link by having a single member for every electoral district. PR variants that include an element of FPTP retain this link. PR variants that have only multi-member districts tend to have fewer direct links, and access tends to be issue-oriented rather than geographically-based.

Geographic representation – FPTP mandates one representative to represent geographic concerns, as do variants of PR that retain some single-member districts or regionally specific lists. The larger the multi-member districts of PR become, however, the less focused this mandate becomes. Geographic representation may contribute to the exaggeration of regional differences as well.

Descriptive representation – FPTP is theoretically as open to descriptive representation as PR; in practice, the opportunity to select only one representative narrows that possibility, as do many practices common in FPTP systems like incumbency, party gatekeeping, and nomination battles. PR systems, in contrast, tend to do better because lack of diversity becomes more apparent when considering a list of candidates rather than an individual. Depending on the rules of the system, parties may also be more susceptible to pressure from activists seeking greater diversity among candidates. PR by no means guarantees more descriptive representation than FPTP however.

Substantive representation – FPTP tends to create brokerage parties, that adhere to broadly stated values and mainstream interests, while marginalizing minority voices. PR-type systems, in contrast, stress the representation of ideas as expressed through political parties that is both proportional to support and doesn't exclude small parties that have the support of some of the electorate.

<p>Descriptive representation: Representation of common characteristics</p> <p>Substantive representation: Representation of shared interests</p>

Canadians' Core Values

In an October 2007 poll conducted by the Innovative Research Group for *The Hill Times*¹, 48% of respondents said there should be a national referendum on PR in Canada's next general election and 45% said they would support a system of PR in any such a referendum. While there is reason to be cautious about the results of this poll (46% of Ontarians polled said they supported PR, although this poll was conducted right around the time of the Ontario referendum where only 36.9% of Ontarians did vote in favour of MMP), this nonetheless demonstrates a significant desire for a national dialogue about the electoral system, combined with some dissatisfaction about current representation.

At the same time, a 2007 study commissioned by the Privy Council Office from Compas and the Frontier Centre for Public Policy in Winnipeg on public perceptions of democratic institutions and practices including electoral reform suggests that there is a stronger desire for public consultation on government decisions and legislation than for electoral reform.² The same Compas study suggests that more Canadians report satisfaction with the electoral system than dissatisfaction, and that when ranking values that should underpin an electoral system, more Canadians list a clear winner, a majority government to hold accountable, and a single MP for a local constituency as than those who selected multi-member ridings and proportionality.³

The Law Commission of Canada, the Ontario Citizens' Assembly on Electoral Reform, the Quebec Estates General and the BC Citizens' Assembly all acknowledged Canadians' strong attachment to local representation. In fact, all the provinces who have considered electoral reform so far have focused on hybrid models which would retain local constituencies. Only BC's proposed model would change constituencies from single member to multi-member, although the constituencies would remain small, with between two and seven MLAs.⁴

For more on representation and the principles and values that underlie the electoral system, see the CPJ Backgrounder on Electoral Reform and Representation.

2. CPJ's Work on Electoral Reform

CPJ has long advocated for electoral reform, beginning in 1972 and continuing through the present:

- In 1972, The CJL Newsletter identified PR as the only hope for electing Christian political representatives and criticized FPTP for creating politics devoid of principle.
- The CJL Newsletter addressed FPTP's inadequate representation of minority viewpoints in 1973, suggesting that PR was one way of creating a genuine pluralization of politics by forcing parties to adopt distinct principled stances.
- In 1979, a brief to parliament in response to the report of the Canadian Task Force on unity suggested PR would mitigate regional tensions, but that provincial rather than national lists were needed in order to ensure regional representation.
- Following the 1980 election, CPJ issued another statement on PR, pointing out that with only 44% of the popular vote, the Liberal government lacked a true majority and encouraging Prime Minister Pierre Trudeau to reform the system in favour of PR.
- A political service bulletin dedicated to the issue of electoral reform in 1981 argued that people should not be represented on a geographical basis, but according to their basic political and religious commitments. FPTP and hybrid systems would not be effective in achieving this type of representation, therefore PR was necessary.
- In 1992, "A "Triple-E" ...House of Commons: Effective and Equitable through Election by Proportional Representation" argued that a PR system would correct injustices created by the FPTP system, including: arbitrary electoral boundaries, winner-takes-all emphasis, regional tensions, the disappearance of smaller parties, the magnification of small shifts in voting, and the rise of interest group politics. A PR system would ensure citizens got the MP they voted for; parties would get only the seats their popular vote merited; and citizens could expect implementation of principles and promises which they supported. CPJ's specific proposal of PR was for a list system with provincial districts and a 5% cut-off for national support.
- Former Catalyst editor Murray MacAdam published a Catalyst article in 2000 and a Catholic New Times article in 2001 advocating for PR because of its fairness to political parties and respect for diversity.
- CPJ submitted a brief to the Law Commission of Canada's public consultation in 2003 urging the replacement of FPTP with PR in the name of justice and equity. CPJ criticized the lack of room for diversity of public philosophy and policy, the winner-takes-all nature, and the inequity of FPTP. CPJ also suggested that declining voter turnout was at least in part related to wasted votes, and that a new electoral system would revitalize democracy.
- In a 2007 brief to the Ontario Citizens' Assembly, CPJ recommended electoral reform with "a strong proportional representation component as a first step towards broader democratic renewal." The brief emphasized the qualities of fairness, proportionality, and effectiveness as essential for any electoral system, and highlighted the necessity of incorporating diverse views and values in political institutions. The brief also rejects criticisms of PR – that it creates unstable minority governments, gives "single-issue" parties undue power, and confuses voters – as unfounded. These arguments were repeated in a brief sent to Ontario supporters in advance of the Ontario referendum on MMP.

3. Public Justice: Electoral Reform and Representation

CPJ believes that the role of government is to promote just relations and foster conditions that enhance the common good by adopting fair laws, legally recognizing rights and responsibilities, identifying and resolving injustices and ensuring access to services and infrastructure that benefit all. Citizens, meanwhile, have the right and the obligation to participate in the creation of laws, with the responsibility to ensure that public justice is pursued and the rights of the marginalized are protected and promoted. Democratic political representation is therefore important for both governments and citizens to be able to fulfill their tasks.

Representation is an important component in ensuring government maintains respect for the rights, responsibilities and dignity of all people. The legitimacy of any system of representation, and by extension, its electoral system, is thus essential. The competing facets of representation must be carefully balanced, according to the wishes and the needs of citizens. An appropriate balance must also be found between national and regional concerns, respect for individual opinions and minority rights, and a space for public dialogue about collective values to guide our governing process. Citizens should be able to change their political system or their electoral system when they believe it is no longer representative of their political reality or their political values. But changes must always be made in consultation with all citizens and with significant public support. Neither change nor the status quo should be imposed upon a reluctant public by those in power.

Authorization and accountability are essential to representation that respects the dignity of all people and promotes their rights and responsibilities as citizens. Citizens should find that their representatives are responsive to their concerns and reflective of their values, and that they have an appropriate way to express themselves and follow-up with their representatives and to hold them accountable.

Furthermore, opportunities for *dialogue* should be maximized nationally and locally, in order to consult, explain and debate questions of value and policy options. Citizens also have the right to see their views and opinions expressed and to see those opinions taken seriously, whether through the party system or otherwise. Respect for the dignity of all human beings implies the presence of all voices in deliberations and public dialogue.

The extent of *descriptive and substantive representation* should be decided by the people who are represented. Citizens should be able to decide which characteristics are important for representation and to what extent they should be represented. However, it is equally important to remember that self-identification is a right and that imposed identities can be a burden.¹ We need to be careful about labeling individuals as representative of a viewpoint or of a group if they do not choose to see themselves that way. Both citizens and representatives should have the right to define their identity/identities, what that means for their politics, and how they will express that identity politically. As well, sometimes expressed preferences significantly undermine the rights and opportunities of others. One of the responsibilities of citizens collectively is to recognize the harmful nature of these views and to limit their participation in or influence over public dialogue.

Because CPJ's public justice framework emphasizes the importance of other social structures and aspects of community life, it should be noted that representation is not an issue of government or political systems only. Many structures and practices affect identity, choices and daily living, and social change that is not conducted or started in the political arena can have an impact on public justice,

¹ CPJ will be exploring issues of identity further in our work on diversity.

human dignity, relationships and responsibilities. The ways in which identity and opinions are expressed in these fora also have an impact on the dignity of all persons and their right to participate in society. How people are represented and their concerns identified in other structures are also significant public justice issues.

Questions of justice, equity and the empowerment of all people are essential from a public justice point of view. Electoral reform would reduce inequities for the expression of ideas through political parties by ensuring that seats allocated to political parties more closely matched total votes received. This might in turn encourage active participation in the political system by making people feel that their voices are respected in the representation of their chosen political party.

However, electoral reform does not necessarily change political parties or the context in which they operate. In fact, electoral reform that gives political parties more power may discourage participation, as people feel that dialogue is controlled entirely by political parties. Those who are disempowered might not have access to political parties, or the necessary resources to form their own. Electoral reform is likely also insufficient to resolve the injustice of underrepresentation of women and minorities.

Electoral reform doesn't address the central issue of justice and empowerment – it only addresses a part of the problem that has given rise to the marginalization of certain views and the disempowerment of some people. The ultimate issue is the importance of dialogue in which all voices are represented and respected, and views and competing concerns balanced consultatively. Electoral reform addresses only part of current unhappiness with our political system: the inadequacy of public dialogue and the nature of political debate.

CPJ's public justice framework also provides guidelines for debate and public dialogue around electoral reform. Dialogue must demonstrate respect for those who hold alternate views, especially in recognition that participants, no matter their preference of electoral system, all want the same thing: representation that is just, fair and equitable. Labeling an electoral system undemocratic or unrepresentative is not respectful of those who appreciate the representative elements of that system, and undermines the legitimacy of representatives elected within that system. Representation is a collective effort, not a zero sum game.

4. CPJ's Position on Electoral Reform and Representation

CPJ's overriding commitment is not to any particular type of electoral system but to a political system and electoral system that respect citizens' choices and public dialogue, including respect for the values citizens choose to privilege in their system of representation and elections. CPJ is firmly committed to government that is fair, transparent, respectful and representative in all aspects and in all of its tasks. CPJ also believes in just representation in other organizations and bodies of social power.

In this context, at this time CPJ believes that proportional representation or a hybrid system of PR would make our electoral system and political system fairer for the representation of views expressed through political parties. By reducing disproportionality, PR would more closely represent the political views of Canadians and encourage the inclusion of more voices by giving smaller parties an equal opportunity for inclusion. It is also likely to influence the tone of political debate, making it more conciliatory as parties deal with the greater likelihood of minority governments and coalitions and encouraging parties to take defined stances to differentiate themselves from other parties. It is also likely to increase the numerical representation of women and visible minorities.

However, CPJ recognizes that there are also many Canadians who express strong attachment to features of our current electoral system, including the direct accountability of a strong constituent-representative link, and the geographic representation provided by giving one representative a mandate to represent a (comparatively) small geographic area. CPJ does not wish to see these preferences ignored. Rather, CPJ acknowledges the necessity of public conversation on both our electoral system and our political system. This dialogue must include both a strong element of public education and respectful, thoughtful debate. CPJ also believes that change to our electoral system must depend on public consultation based on sufficient information, including significant public support for reforms before they are implemented.

Electoral reform might be part of the puzzle in addressing the insufficiency of public debate, but it is not the sole answer. CPJ also believes that structural reforms to the political system should be considered, such as the question of free votes and protocol that gives political parties extensive power to discipline; structural reforms within political parties to democratize them and encourage them to balance centralized concerns with independence for representatives and participation from the grassroots; and value changes that will lessen political parties' extensive disciplinary control over their members, increase respect for diversity of views and opinions, and fully recognize the equality of women and non-white ethnicities and allow for their full and equal participation in public life.

CPJ believes that women and minorities must be represented in greater numbers in our legislative bodies than they currently are. This diversity of voices and experiences is essential to our democracy and to ensuring public policy that respects the rights and dignity of all. However, recognizing that the representation of women and minorities relates to larger value questions and how people are defined and treated as "other," this issue will be further addressed in CPJ's ongoing work on diversity.

End Notes

¹ "Half Support National Referendum on PR: Poll," *The Hill Times*, October 15, 2007.

² "Public Consultations on Canada's Democratic Institutions and Practices," A Report for the Privy Council Office by Compas and the Frontier Centre for Public Policy, September 10, 2007, p. 78.

³ *Ibid.*, p. 74-75.

⁴ "All About BC-STV," BC Citizens' Assembly, <http://www.bc-stv.ca/allabout.htm>.