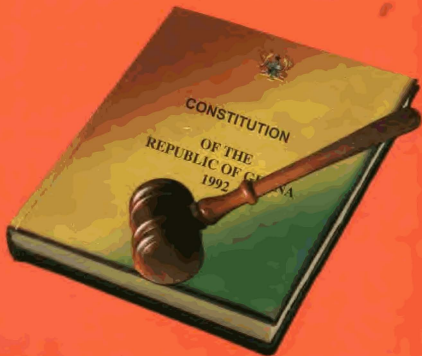

Constitutional Review Series 11

**PROPORTIONAL REPRESENTATION
VERSUS
WINNER-TAKES-ALL:
THE WAY FORWARD**



**IEA
Ghana**

THE INSTITUTE OF ECONOMIC AFFAIRS

Proportional Representation versus Winner-Takes-All: The Way Forward

By

**Prof. Kenneth Agyemang Attafuah,
Dr. Vladimir Antwi-Danso and
Dr. K. Afari-Gyan**

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PREFACE

On December 7, 2009, The Institute of Economic Affairs (IEA), in collaboration with the Editors Forum Ghana (EFG) – an affiliate of the Ghana Journalists Association, organised a debate on the topic, **“Proportional Representation Versus Winner-Takes-All: The Way Forward.”** This event was significant as it was organised one year after the nerve-racking 2008 General Election in Ghana. The 2008 election was not only characterised by acrimony, it also resulted in a statistical dead-heat, thus making it necessary for a run-off on the 28th of December, 2009. Indeed a third election held at a constituency named Tain was the determinant of the winner of the election.

The atmosphere that surrounded the elections brought to the fore several issues regarding the manner in which elections are held in Ghana, and in particular, how to manage the fall-out when there is no clear winner.

One of the quagmires of the 1992 Constitution has been the resultant two-party state with a single party – the winner of the elections – dominating and steering affairs in the Executive and Legislature. This has led to the polarisation of Ghana's democratic dispensation. This is the “Winner-Takes-All” system of governance.

Two debaters, one representing the “Winner-Takes-All” (First-Past-The-Post) and the other, “Proportional Representation”, presented their positions. Respondents and participants also shared diverse and varied views for and against the two stances.

Prof. Ken Attafuah, one of the debaters, is all for Proportional Representation and also states his case for the formula in clear and unequivocal terms.

Dr. Vladimir Antwi-Danso, on the other hand, is a proponent of the Winner-Takes-All position. He debates on the various theories of representation, the advantages of both formulae and concludes that Ghana has tried and tested the Winner-Takes-All formula and should stick to it.

In the concluding chapter, Dr. K. Afari-Gyan discusses different electoral formulas and concludes that no one system is perfect for all the various elections conducted in the country. It is worth considering using different formulas for different elections.

The consensus reached at the end of the debate was that the Winner-Takes-All system was not the problem. Rather the problem stemmed from weaknesses within our institutions, systems and structures. Polarisation was also identified as a major problem. To address the problem of an increasingly polarised society that was eroding the democratic gains of our nation, it was proposed that Ghana's constitutional and democratic institutions should be strengthened. It was agreed that the decentralisation process should be deepened and energised to ensure that it works effectively. It was also proposed that should the system of Proportional Representation be introduced, it must first be considered at the local government level through the decentralisation process before being initiated at the national level.

We look forward to receiving your feedback and hope you find this publication useful.

Thank you.

Mrs. Jean Mensa
Executive Director,
The Institute of Economic Affairs

CHAPTER 1

THE PROSPECTS AND CASE FOR PROPORTIONAL REPRESENTATION IN GHANA

A. Introduction and Background

After decades of a convulsive history that featured embarrassing misrule, four major *coups d'état*, a horrible record of egregious human rights violations, large scale corruption, and the wanton destruction of the economy that generated debilitating levels of poverty and an exodus of biblical proportions, Ghana is now recognised and celebrated around the world as a rare beacon of peace, democracy as well as of political and economic stability on the African continent. This is especially significant measured against much of Africa's continuing horrendous experiences with civilian and military dictatorships, frequent coups, and protracted ethnic conflicts and election-related carnage and civil wars¹. Since the commencement of the Fourth Republic in January 1992, Ghana has successfully managed five presidential and parliamentary elections in 1992, 1996, 2000, 2004 and 2008. It has also transferred power peacefully between two decidedly hostile political parties in 2001 and 2009. In addition, Ghana has registered gradual improvements in its scale of respect for human rights, the rule of law and democratic accountability. These developments present multi-party democracy as a workable framework for political governance and the rule of law.

¹ US President Barack Obama's visit to Ghana in July 2009 was a celebration of Ghana's laudable democratic and rule of law credentials. Obama put it this way: "Here in Ghana, you show us a face of Africa that is too often overlooked by a world that sees only tragedy or the need for charity. The people of Ghana have worked hard to put democracy on a firmer footing, with peaceful transfers of power even in the wake of closely contested elections. And with improved governance and an emerging Civil Society, Ghana's economy has shown impressive rates of growth". For the full text, visit <http://www.ibtimes.com/articles/20090711/obamas-speech-accra-ghana-july-11-text.htm>

But the picture is far from perfect as exclusionary politics and politically-motivated violence frequently mar the beauty of Ghana's elections. The behaviour of victorious parties, under the electoral system of Winner-Takes-All, often evinces intolerance of political dissent, victimisation of real and perceived opposition political elements and sympathisers and, most significantly, a decided exclusion of the political opposition from the business of Government.

1. Legitimate Political Exclusion of Opponents from Government

Although such exclusion is technically legal, it is antithetical to nation building and constitutionalism. Indeed, such tendencies by political victors, from the constituency to the national level, seem designed to undermine the foundations of multi-party democracy in Ghana in order to entrench themselves in power and perpetuate their rule. The First-Past-The-Post system of voting, by which, like a race, the first athlete to run past the post takes the crown and all the glory, provides legal justification and excuse for our exclusionary attitudes and conduct toward the opposition. Indeed, there is an intense, decidedly negative and debilitating competition between the two dominant political parties in Ghana – the National Democratic Congress (NDC) and the New Patriotic Party (NPP) – whose political forces, resources and numerical strength were equally matched. In the 2008 Presidential elections, the NDC presidential candidate, Prof. John Evans Atta Mills, won with 50.23% of valid votes cast, while the NPP's Nana Addo Danquah Akufo-Addo obtained 49.77%. The total number of valid votes cast was 98.98%.² Yet, legally, President Mills is not required to accommodate, let alone include, his closest rival, Nana Akufo-Addo, in the governance of the country!

² See http://en.wikipedia.org/wiki/Ghanaian_presidential_election,_2008#Results

2. Mutual Loathing and Mistrust

Critically related to the adverse impact of the intense political competition is the phenomenon of mutual loathing and mistrust. Excessive partisanship perennially undermines the national interest and state agenda. The two parties seem incapable of moving jointly on many issues of key importance to the nation due to excessive disdain and mistrust. There is a significant deficit in the ability of the two parties to demonstrate political accommodation and tolerance of dissent. Indeed, at any given time, it appears to be the express intent of the electorally victorious party to physically and morally destroy the vanquished party. This anti-democratic and destructive ethos is mutual and cyclical between the NDC and the NPP.

3. Ethnicity

Ethnic diversity is one of Ghana's major blessings. Though a small country covering only 94,000 square miles with an estimated population of 23 million, Ghana boasts of approximately 92 different ethnic groups, with the major ones being, in alphabetical order – the Akan (49.1%), Ga Adangbe (8.0%), Ewe (12.7%), Grunsi (2.8%), Guan (4.4%), Gurma, (3.9%), Mande-Busanga, (1.1%) and Mole Dagbani (16.5%).³ Ghana has drawn much dividend and pride from its multicultural heritage. But, like the two-faced Janus, however, this ethnic diversity has become a bane in the context of nation building and the construction of a supranational identity.

Although inherently neutral and biologically meaningless, ethnicity has become a significant marker of identity and the organising ethic for much unethical politics. Ethnicity has, in the process, become a source of great social fracture and unhealthy fragmentation in Ghanaian society, due partly to the perennially problematic nature of difference for most people, and the tendency for charlatan politicians

³Ghana Statistical Service Report (2000).

to ideologise, manipulate and exploit primeval ethnic ties and loyalties for narrow political ends in the context of electoral politics and at the expense of the modern nation-state. Through these and other disreputable methods such as shameless vote-buying and the promotion of in-group solidarity and out-group hostility, deep canyons of ethnic-based hatred have been socially constructed and carefully nurtured between certain key ethnic groups in the country. This situation guarantees near-perfect predictable electoral outcomes without regard to the substance of policies, or the suitability of candidates.

The foregoing situation prevails, notwithstanding the implementation of a long catalogue of strategies since the dawn of democracy, aimed at promoting nation-building:

a. Symbolic measures such as:

- i. Introduction of superficial national paraphernalia such as flags, anthems, pledges, currencies and national identity cards;
- ii. Institution of national holidays;
- iii. Establishment of national colleges and universities, airlines and stadia;
- iv. Institution of a *lingua franca* or national language for the state;
- v. Production, articulation or propagation of national myths;
- vi. Establishment of a one-party state; and even
- vii. The designation of one man as *President-for-life!*

b. Legislation that makes ethnicity a prohibited ground for discrimination;

- i. Laws to prohibit the formation of ethnic-based and ethnic-oriented political parties;
- ii. Affirmative action policies and programmes;
- iii. Developing and promoting a national peace architecture;
- iv. Promotion of national cohesion through various independent constitutional and social dialogue bodies;

- v. Confronting and remedying past injustices via the National Reconciliation Commission.

The dangers of ethnicity in Ghanaian politics are compounded by the constitutional framework for the election of the country's President. Article 63(e) of the 1992 Constitution simply requires a presidential candidate to obtain a simple plurality (50% + 1) of the votes cast at the elections. This electoral formula effectively means that a person can be elected president of Ghana with a total of 50% plus one vote garnered from two or three regions of the country that may be dominated by particular ethnic groups supportive of that candidate. It is conceivable that the system of Winner-Takes-All may lead to the creation of a virtual one party state in Ghana.

A constitutional amendment that requires a prospective President to obtain a simple majority in each region of the country may help attenuate the adverse effects of ethnic politics and contribute to fostering national unity. Additionally, the principle of Proportional Representation or consociationalism may be adopted as Ghana's principal electoral formula.

B. What is Proportional Representation?

The Merriam-Webster Online Dictionary defines **Proportional Representation** as "*an electoral system designed to represent in a legislative body each political group or party in proportion to its actual voting strength in the electorate*".⁴ In other words, it refers to an electoral system in which seats in parliament are assigned to parties based on their respective share of the popular valid votes cast.

Proportional Representation is a form of consensus democracy that fosters inclusion and undermines the politics of exclusion of large numbers of people simply because their preferred party or candidate

⁴ Retrieved December 3, 2009, from [http://www.merriam-webster.com/dictionary/proportional representation](http://www.merriam-webster.com/dictionary/proportional%20representation)

lost out in an election based on a simple majority. By compelling *coalition* building in the formation of government and necessitating *negotiation* in the running of the state under some circumstances, Proportional Representation fosters nation-building and enlarges the pool of parties and groups from which potential appointees to public office may be drawn.

The popular practice of Winner-Takes-All, on which is based the electoral systems of most African countries, is inimical to national integration and nation building. It provides an excuse and justification for bloc ethnic voting, a practice which invariably allows ethnic groups that are in the numerical majority to not only win elections but also to sweep and grab all public and political offices in a manner akin to *sharing the spoils of war* after raping and plundering the countryside. It is politics of exclusion and marginalisation that is inherently against the grain of constitutionalism and good governance even if it is legal by virtue of being in accordance with the law of the land. This marginalisation, exclusion and neglect of large numbers of ethnic minority groups was rejected in post-Apartheid South Africa in 1994, and in previously over-divided Mauritius. Today, they are relatively better integrated societies than Kenya and Congo, Rwanda, Ghana, Ivory Coast and Sudan.

C. The Case for Proportional Representation (PR)

Over 52 years of independence, we have tried a myriad of strategies with varying degrees of success, to foster nationalism and a Ghanaian identity that transcends and overwhelms the force of ethnic identities and cleavages in the country. Indeed, post-colonial Ghana is still fundamentally an ethnic state in which people are prone to vote for tribal favourites rather than for policies.

While we explore solutions to these problems, promote multiculturalism and combat the negative use of ethnicity, we must consider the need for developing alternatives to the Winner-Takes-All

system of voting which has become a bane rather than a blessing to us. It is important that we reflect carefully on the potential benefits which may accrue to Ghana should we adopt and implement a system of Proportional Representation, say in eight (8) or ten (10) years from now.

The majority of the leading democracies in the world practice one variant of proportional representation or the other. The handful of exceptions to this rule are the UK, Canada, US, India and France. Even in France, Proportional Representation is used in the European Parliament elections, and for the London Mayoral elections. Democracies as diverse as Austria, Belgium, Israel, Mauritius, Switzerland, South Africa and The Netherlands practice Proportional Representation. It is also the system practiced in New Zealand and in the Senate of Western Australia. The worldwide trend is toward this electoral system rather than away from it.

Advantages of Proportional Representation

The advantages of Proportional Representation are clear and well known to any student of political science. In addition to the foregoing, the following are among the many potential blessings which the introduction of Proportional Representation into our electoral scheme will bring:

1. *Promotion of Political Inclusivity*

Proportional representation fosters inclusivity and nation-building better than does the system of Winner-Takes-All, which engenders and accentuates exclusion and marginalisation, especially of minorities. It is important for Ghana to design electoral arrangements that reserve seats at the table of government for all significant political

parties, even “fringe” minority groups. This will undoubtedly be a positive alternative to the current system which denies parliamentary presence and visibility to minority parties with significant following⁵ in our current parliamentary dispensation such as the PNC and CPP. In Israel and some European countries, a system of Proportional Representation guarantees that small parties will have official recognition in the government, thus leading to a multi-party government.

2. *Better Reflection of the Wishes of the Electorate*

Proportional Representation more clearly represents the wishes of the voters as expressed at the ballot box. The current system is not sufficiently representative as it gives all the power to one party, no matter how small its majority might be. Adopting Proportional Representation would afford minority parties and independent candidates a better chance of ending the hegemony of the two dominant political parties – the NDC and the NPP. This will afford other voices a chance to be heard in the body politic.

3. *Positive Impact on Parliament*

Proportional Representation has positive effects on parliamentary practice. There is significant difference in the behaviour of a house of Parliament when neither the governing party nor the official opposition can get its own way. Each is compelled to negotiate and compromise with the other to show more reasonableness, accommodation and decency, with the result that over time, the minor parties learn to change the rules to entrench processes of openness and accountability.

⁵ The jury is still out on the size of the registered membership of Dan Lartey’s Great Consolidated Popular Party (GCPP) and the extent of its unregistered following. What is clear, however, is that the GCPP’s message of “domestication” of the Ghanaian society caught on well with the generality of Ghanaians, especially in the 2004 Parliamentary Elections.

4. Promotion of Greater Citizen Participation in Elections

Unlike the First-Past-The-Post system which encourages vote wastage through superfluity of votes for the winner or irrelevance of votes for the loser, Proportional Representation ensures greater participation in elections by the electorate as every vote truly counts – literally. While under the First-Past-the-Post system, many prospective voters often feel dismayed about the predictable outcomes of elections in the strongholds of their opponents and therefore refrain from exercising their franchise at all, the system of Proportional Representation encourages most people to cast their vote, both as a mark of civic responsibility and as an expression of confidence in the importance of their votes.

5. Contribution Toward More Effective Parliaments

Indeed, the first precondition for an effective Parliament is the production of a transparent and dependable body of rules of representation governing who gets elected as an MP. The focus here is on the mechanisms for the popular election of MPs. A painful lesson of the Westminster tradition is that the Winner-Takes-All system of election is fundamentally a formula for party rather than parliamentary government. The so-called foot-soldiers of the NPP exacted their pound of flesh from the party leadership in the last quarter of 2008 when they complained, with their thumbs, that there had been too much parliamentary rather than party government. The tidal wave of wrangling within the NDC in the last quarter of 2009 over the quality and sources of appointments made by the President and his alleged inertia or slow pace of action, otherwise ignobly referred to as intra-party “pissing in”, acutely reflects the tension and gulf between the demands of the party to govern and the imperative of the Government to governance.

As Dr. John Uhr, a Senior Fellow in the Political Science Programme of the Research School of Social Sciences at the Australian National University observed far back in 1995, *'The original Westminster Parliament in the United Kingdom is facing increasing community pressure for a break with the time-honoured tradition of single-member seats with members elected on the basis of a popularity contest indicated by a bare plurality of votes which can be very tiny, with only a handful of votes separating the successful party from the losers.'*

6. *Proportional Representation leads to fairer representation of minority parties.*

7. *Proportional Representation also offers more and better opportunities for independent candidates to be elected to Parliament than does the Winner-Takes- All system.*

8. *Proportional Representation removes the timeless assurance and complacency of the "safe seat".*

Elections are often contested against the backdrop of "every vote counts", and voters may have more of a choice of candidates who may be better suited to professionally represent their constituents.

9. *Proportional Representation can potentially lead to the stabilisation of fragmented democracies.*

Some democracies with a fragmented political culture have been stabilised in such countries as Austria, Belgium and The Netherlands as a result of political accommodation among the elite who are compelled to so behave by virtue of the fragility of their respective political strengths.⁶

⁶ See "Keeping Government Honest: Preconditions of Parliamentary Effectiveness".

Available @ <http://www.answers.com/topic/consociational-democracy>

10. Proportional Representation enhances the prospects of eliminating the disadvantages of the severely conflicted de facto two-party system, which has always bedevilled this country since its founding in 1957.

11. Proportional Representation also greatly diminishes the possibility of the emergence of a single-party “elective dictatorship”.

D. Prospects

There are many challenges to the effective implementation of a Proportional Representation system of voting in Ghana. Democracy under Winner-Takes-All is expensive, but Proportional Representation is probably triply expensive. Furthermore, Proportional Representation also demands a highly literate society capable of reading, deciphering and ranking multiple campaign messages contained in manifestoes and positions.

A journey of a thousand miles, they say, begins with a step. Our Electoral Commission has the requisite organisational credentials to firmly anchor our confidence. Given our sterling record in organising elections, as well as our collective successes in various social mobilisation efforts, there is no reasonable basis for considering that Ghana cannot successfully implement, in a decade of careful planning and piloting, a project of that magnitude. I would advocate the establishment of a special Election Fund, along the lines of the GETFUND, with seed-money from the much-expected oil revenue.

In short, Ghana has good prospects for implementing a system of Proportional Representation in the long term. As such, a Proportional Representation system commonly requires a sound appreciation by the electorate of the manifestoes, ideologies, policies and strategies of the contestants. Voters bear a greater burden of studying and

ranking candidates in order of preference. Admittedly, such procedures are often too complex for a less educated electorate, some of whom may be discouraged from participating in elections.

It is probable, however, that the Ghanaian electorate can be motivated to appreciate and welcome the opportunity to be better informed, to exercise greater choice, and to turn out to exercise their franchise. This may actually result in increased voting.

A common problem of 'hung' parliaments can be avoided. For instance, Proportional Representation produced an absolute majority government in Spain in October 1982, while the Winner-Takes-All system produced a hung Parliament in Britain in February 1974. Ghana came perilously close to a hung Parliament in the 2008 Parliamentary Elections, and the bloody 2009 by-election battles in Akwatia reflected the dangers and the stakes for the two fearsome combatants – the NPP and the NDC.

E. Conclusion

It is imperative that the *Winner-Takes-All* system be urgently replaced with a *customized variant* of the system of Proportional Representation. Ghana must, as a matter of urgency, develop and implement suitable home-grown versions of a Proportional Representation or consociational electoral formula. It is desirable and compelling that Ghana fashions avenues by which substantial minorities who do not “win” the popularity contest of simple majority voting can also be represented in our Parliament according to the proportion of their voting support in the community.

CHAPTER 2

A CASE FOR THE WINNER-TAKES-ALL SYSTEM

Introduction

Direct democracy (the rule by the people of a state, town or other political community by means of direct participation in the management of public affairs) as found in ancient Greek city-states, some ancient Indian republics, British parish meetings, etc., has given way to what is commonly known as “indirect democracy” or “representative democracy”, where a government is conducted by the representatives of the people. Indeed, in modern times, the term “democracy” is synonymous with “representative democracy”. As the name connotes, in a representative democracy, representatives are elected at regular intervals to conduct government. It is this type of representation that has generated debate, especially since the 16th century.

The principle of representative democracy owes an intellectual debt to theorists like Thomas Hobbes (1588-1679), Alexander Hamilton (1756-1804), John Locke (1632-1704), Edmund Burke (1729-1797) and Jean-Jacques Rousseau (1712-1778). These and many others were the pillars behind the theories of representation that have been experimented with through the ages.

The current debate, with which we are confronted, however, has a different outlook and dimension. We seem to be mixing the problems of **representation** with the **humanist** view of democracy, which is **participation**. These are the issues I shall address myself to initially, in order to contend finally that where representation is concerned, the nearest we are to democratic principles is the use of the First-Past-The-Post system.

Theories of Representation

Direct democracy could obviously operate in an area having a small number of citizens who could meet periodically at one place. This practice is practically impossible in the large states and/or territories of modern times, hence the rise in the application of representative democracy. The question then arises: what kind of representation?

1. Reactionary Theory of Representation

This theory is so called because it largely assumes and banks on the superior knowledge and wisdom of the politicians who are regarded as the best custodians of the public interest.

The theory insists on the need for order and authority, which, it is thought, are best maintained by the Executive and Parliament. Its chief exponents are Thomas Hobbes and Alexander Hamilton. It must be noted that Hobbes particularly eulogised the authority of the monarch.

In such a setting, peoples' representatives have a very limited role in the scheme of things. It is in fact, an elitist theory with no provision for public control. Although the theory accepts the primacy of public interest in policy-making (a basic ingredient in democracy), it is still regarded as undemocratic in practice because it sets aside the democratic procedure.

2. Conservative Theory of Representation

The chief exponents of this theory are Edmund Burke and James Madison. Unlike the reactionary theory, the conservative theory grants a measure of public control. Unfortunately, it does not encourage popular participation in the process of government. In this sense, it is also elitist because it only allows people to choose their representatives from an elite group. The electorate cannot issue

instructions to the elected; the latter uses his/her good sense and is not obliged to be instructed.

3. Liberal Theory of Representation

John Locke and Thomas Jefferson are the chief exponents of this theory. It upholds equality of all people endowed with equal capability to rule. The liberal theory banks on the wisdom of the electorate and treats their representatives only as their agents or messengers. In this sense, the representatives of the people are their true representatives. Unlike the conservative theory, the representatives under the liberal theory cannot use their own judgement. Instead, they must translate the judgement of their constituents into concrete policy proposals.

4. Radical Theory of Representation

This theory holds the wisdom of the people in highest esteem and goes to the extent of deprecating representative government itself. It takes inspiration from its chief exponent, Jean-Jacques Rousseau and became more expressive through the "New Left"⁷. The theory holds that the wisdom of the people is bound to be diluted through the process of representation. It therefore exalts direct democracy as the only truly democratic form of government.

From the discussion so far, it may be observed that the radical theory of representation relegates representation to marginal importance. The possibility of the dictatorship of the masses as well as anarchy is clear. While the theory claims to be most progressive by paying highest importance to the people, it tends to rule out representation itself. Meanwhile, the conservative theory erodes the spirit of democracy by over-emphasising the gap between the elite and the

⁷A general term applied to a variety of political doctrines and social movements which emerged in the late 1950s, particularly after the 1956 uprising in Hungary. It originally arose against Soviet hegemony over the International Communist movement and was far stronger in the 1960s. Was vehemently opposed to US intervention in Vietnam as well as the Soviet occupation of Czechoslovakia. Eventually it came to embrace intellectuals of varied origins and/or persuasions, including dissident communists, anarchists, left-wing socialists and cultural critics.

masses. It is obvious therefore that the liberal theory of representation may be accepted as the most suited to the requirements of representative democracy in modern times.

The Debate

The debate we are about to encounter has several sides. It is not just a simple question of whether **Proportional Representation** (PR) is better than **First-Past-The-Post** (FPTP) or vice versa. The first question is – What does representation seek to do? An allied question is – Does representation give participation?

We may answer the first by referring to Joseph A. Schumpeter. In *Capitalism, Socialism and Democracy*, Schumpeter (1942), pointed out that the forms of government should be distinguished by their institutions, and especially by their methods of appointing and dismissing the supreme makers of law and policy. Accordingly, the “*democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the peoples' votes*”.⁸

The implication is clear. It answers our second question. By Schumpeter's reckoning, in a democracy, (a) political decisions are taken by the 'leadership,' not by the people themselves; and (b) there is free competition among the leaders for winning peoples' votes.

In other words, democracy is not a government of the people, nor is it a means to give effect to the will of the people. Rulers comprise a different set of individuals than the ruled. The role of the ruled is reduced to choosing their rulers from the competing elite.

There is a redeeming feature of democracy: the rulers may at least be changed by the ruled if policies are no longer acceptable to the latter.

⁸ For a fuller analysis of Schumpeter, see Gauba, O.P. (2003). *An Introduction to Political Theory*, 4th Edition, New Delhi, Macmillan. pp421-437.

Schumpeter's view of democracy is shared by others like Giovanni Sartori (1958) who, in his '*Democratic Theory*,' asserts that any notion of a self-governing people is a delusion.

According to him, "... *the people exercise their right to govern only at elections when they select their leaders*".⁹

The concept of democracy implies that ultimate authority of governance should rest with the people themselves. But as Schumpeter and others have suggested, this kind of participatory approach is hard to attain. The closest we may come to this is Robert Dahl's proposition which he labelled '**Polyarchy**'. In his '*A Preface to Democratic Theory*', Dahl (1956) defines polyarchy as a pluralistic democracy of a highly decentralised process of bargaining among relatively autonomous groups. In other words, public policy is not a product of the will of the elite or a chosen few. It is an outcome of the interaction of all groups who make claims upon or express interest in that particular issue. The extent to which different groups will get their way is a function of the strength of the groups and the intensity of their participation. Unfortunately, Dahl is unable to clearly differentiate the forms of governance under polyarchy. If polyarchy is present under a Socialist construction, then may we describe it as democratic?

Jean-Jacques Rousseau (1712-1778), the exponent of popular sovereignty, is regarded as the pioneer of participatory democracy. In his classic work, *The Social Contract* (1762), Rousseau asserted that sovereignty not only originates in the people, it is also retained by the people. Sovereignty cannot be represented, because it cannot be alienated. The people's deputies are not, and could not be, their representatives. They are merely agents of the people. Government is only an instrument to carry out instructions of the general will. The

⁹Quoted in Plamenatz, John. (1978). *Democracy and Illusion*. London, Longman, p.32.

people must constantly deliberate on public policy and issue necessary instructions to the government. They should also ensure that the government does not depart from these instructions.

The present-day champions of participatory democracy argue that **representative democracy** gives little opportunity to its citizens for any significant **participation** in the decision-making process. It is for the above reasons that there has been a quest for optimal representation.

Seeking Answers

The two main forms have been majoritarian rule (or Winner-Takes-All) and/or Proportional Representation.

Proportional Representation:

This is an electoral formula aimed at securing a close match between the percentage of votes that groups of candidates obtain in elections and the percentage of seats they receive. This system is particularly adopted in multi-member constituencies in order to secure a fair representation for minorities as well as the majority. It is a complex system which may be implemented by several methods. Of these, the most used are the List System and the Single Transferable Vote.

Proportional Representation is employed in 78 countries worldwide.

Advantages

1. It is assumed to enable due representation of all types of groups such as ethnic groups, women, different ideological groups, etc.
2. It may offer choice, quota and satisfaction.

Disadvantages

1. Its complex nature may result in:
 - (a) No clear majority.
 - (b) Coalition formation.
 - (c) Frequent change of government.
 - (d) More polarisation of society, especially in the African setting where there are several social, economic, racial, religious, linguistic, cultural and regional groups.
 - (e) The possibility of the formation of ethnic-or religious-based parties is eminent.
 - (f) Heavy financial costs of elections.
 - (g) In a society like ours with only about 52 percent of the population literate, Proportional Representation is an added burden on the electoral system.

2. For the following reasons, proportionality of power sharing would be problematic:
 - (a) Allocation of political offices/appointments.
 - (b) Public funds to be made in proportionality.
 - (c) The problem of undesirables.

First-Pass-the-Post (FPTP) or The Winner-Takes-All System

This is a single winner plurality voting system for majoritarian rule. Under this system, a candidate is required to either obtain a simple majority and/or 50 percent plus one vote. Historically, it has been a contentious electoral system. The main criticisms have been the following:

- (I) **Popularity** – wrong candidate: First-Past-the-Post may usher in a candidate with extremist views.

(ii) **Avoiding “vote wasting”**: A candidate may win not because he deserved it but because voters would prefer not to waste their votes on a candidate they believe would not win. Votes cast for losing candidates do not matter.

(iii) **Disadvantage to minor parties**: This system minimizes the influence of minor parties.

(iv) **Possibility of a two –party system.**

(v) **Tactical voting.** Voters may be pressured to vote for candidates.

(l) **Gerrymandering**: Constituencies may be deliberately designed through gerrymandering to unfairly increase the number of seats won by one party at the expense of the other.

(ii) **Manipulation**: “The Spoiler Syndrome”. Party **A** may sponsor a 'Spoiler' to split the votes of **B**.

(iii) **Corruption**: Vote-buying, including electoral fraud. This may lead to the application of all kinds of undemocratic methods to achieve victory.

(iv) **Polarisation of Society.**

(v) **Possible instability at elections and beyond and/or skewed development** either stifled by opposition or skewed to government-held areas.

(vi) **The possibility of Minority rule.**

These notwithstanding, the **FPTP** system seems to be the preferred choice in most parts of Africa.

The advantages lie in the following:

(i) Stability: The system promotes stability at all times in a two-way (two-party) system. A balance is always maintained and the coalition system is avoided. Besides, the cost of frequent elections as a result of coalition failure (e.g. Italy) is avoided.

(ii) Simultaneously, it prevents separatist tendencies among minorities and motivates them to join the national mainstream. In our part of the world where nation-building goes hand-in-hand with state-building, Proportional Representation may engender separation, tribalism, more polarisation, etc.

(iii) Cost-effective: For a country like Ghana, FPTP is the most cost-effective way of representation.

(iv) Effective Democratic Principle: If representation is what we are talking about (and not participation), then there can be no better way than the FPTP system. The elections held for the British House of Commons, the American House of Representatives, the Indian House of the People, etc. are all based on this system. These are effective democracies that have avoided the vagaries of the Proportional Representation System.

(v) The Unexamined Life: 'The unexamined life is not worth living'. Ghana cannot afford at this point to experiment with the Proportional Representation System.

(vi) The FPTP has its own system of checks and balances. Its strength lies in the belief in institutionalism. While Proportional Representation may undermine institutions of state (through withdrawal and sabotage), FPTP thrives on the strengths of state institutions.

Abuse of FPTP

The problem with FPTP in our setting is neither because of its ineffectiveness nor its non-representative or participatory nature. The real problem lies in the subjection of the system to constant abuse. As soon as a government is elected into office, it brandishes 'the sheriff's gun' and starts purging all sensitive public institutions of known opposition sympathisers, caging as many as could be identified by supporters of the newly elected government. This is illegal and has nothing to do with the FPTP principle.

The Way Forward

It seems that the question of the debate has not been properly focused. Is the debate about Representation or Participation? It seems here that we are confusing the two. From the earlier analysis, it is clear that the concept of democracy does not in any of its forms ensure 'participation' of all segments of society. It was argued that the concept of democracy implies that ultimate authority of governance should rest with the people. But we also learned that when this idea is sought to be implemented through the mechanism of representative democracy, it is possible that the people may become inactive after choosing their representatives till the next general elections.

Citizens' participation as a necessary condition for democracy has not been established anywhere. Indeed, the elitist theory of democracy implies that participation is not a necessary condition of democracy. This has been the position of Schumpeter and Dahl.

The whole question of representation and participation, where the meaning of democracy is concerned, is a contestation between the equilibrium and the humanism of democracy. In the elitist theory, democracy seeks equilibrium among the forces of society. C.B.

Macpherson thinks that participation, which is lost in this equilibrium, drives away the humanist aspiration of democracy.

In fact, the participation that one thinks of in the humanist tradition may only be achievable under the radical theory of direct democracy (the Greek-style). But in modern times, the FPTP goes further.

The conventional mode of participation would include voting, standing for office, campaigning, participating in public debate on policy issues, etc. Interestingly, an act of opposition or public protest also involves political participation. In other words, when citizens are conscious of the world around them, that awareness informs policy and they acquire the means of influencing the processes for policy formulation and implementation. This may be called political participation.

Ghana has tried and tested the FPTP. What is needed is the strengthening of the props that sustain the system. Luckily for us, the 1992 Constitution, no matter its failings and/or flaws, has created a condition where the Winner-Takes-All situation does not exist. The Directive Principles of State Policy says it all. As indicated earlier, it is the abuse of the principle of FPTP that has created a seeming inequity in that dispensation. The way forward lies therefore in strengthening state institutions, which in and of themselves are neutral to "representation".

Let us not confuse "representation" with "participation". Education of the people, strengthening and empowering institutions, and decentralisation are the insulating props for democracy.

Yes, the FPTP has several problems but one need not throw away the baby with the bath water.

CHAPTER 3

A NEW FORMULA FOR DISTRICT ASSEMBLY ELECTIONS

A. Introduction

Proportional Representation (PR) was one of the proposals submitted to the Consultative Assembly that deliberated on the content of the 1992 Constitution. After deliberations, the Consultative Assembly rejected the recommendation to adopt a system of Proportional Representation, asserting that it would be too difficult for Ghanaians to understand. Even so, it suggested that the Electoral Commission (EC) might, at a later date, initiate a reconsideration of the idea of Proportional Representation.

In the existing literature, First-Past-The-Post (FPTP) and Proportional Representation, (PR) and others like them are referred to as electoral systems. This description could be misleading. In reality, they are formulae for determining winners and losers in elections. Ghana has one electoral system but uses three different formulae in public elections. The formulae are: the majority formula for electing the President, the First-Past-The-Post formula for electing parliamentarians and members of District Assemblies, and the block vote formula for electing Unit Committee members. An electoral system is therefore much broader than the formula used to determine winners and losers. To avoid mistaking the part for the whole, it is necessary to use the term election formula to describe the manner in which votes are translated into seats.

A variety of election formulae are used around the world. Some

Disclaimer: The debate was not initiated by the Electoral Commission. Dr. Afari-Gyan participated in the debate proceedings in his individual capacity and not as a representative of the EC, of which he is a member. The views expressed in this paper are therefore personally his and should not be attributed to the EC.

countries inherited formulae from their colonial past while others have consciously chosen formulae to solve particular problems about their elections, or to achieve purposes that they consider to be desirable.

There are two peculiarities regarding election formulas; different formulas applied to the same votes may yield very different outcomes, and every formula has its advantages and disadvantages. Ghana has to decide whether or not it would be desirable to change the formula for electing parliamentarians from the current FPTP to PR.

The goal of this paper is however, to propose a new formula for District Assembly elections in Ghana.

B. Review of some Election Formulae

To provide a backdrop for the specifics of the proposed new formula, a brief review of the FPTP formula, the Closed-List PR formula, and the Mixed Member formula are presented below.

1. First-Past-The-Post (FPTP)

Under the simple plurality or First-Past-The-Post formula, the candidate who gets more votes than any other candidate wins the election. The formula is that simple and straightforward. The voter casts only one vote. The formula requires only careful counting of votes and no calculations whatsoever for purposes of declaring the winner.

2. Closed List PR

A PR formula seeks to translate a party's share of votes into a corresponding share of seats. The formula can be used only in a multi-member constituency, that is, a constituency that elects more than one representative. A multi-member constituency may be a district, a region or the whole country.

When the Proportional Representation formula is used, seats are distributed to the contesting political parties on the basis of their respective percentage shares of the total valid votes cast in an election. So, supposing three political parties contested elections for 100 parliamentary seats under the PR formula and Party A won 40%, Party B 35%, and Party C won 25% of the total valid votes cast, Party A would get 40 seats, Party B 35 seats, and Party C 25 seats.

- Under the Closed List PR formula, prior to an election, each competing party provides a list of its candidates numbering up to as many as or even more than the available seats, and arranged in ranking or preferential order. This is precisely why the formula is referred to as List PR. So if there are 100 seats, the party will provide a list of up to 100 candidates, or even more, numbered in preferential or ranking order from 1 to the last number.

The list is said to be closed for two reasons:

- Once it has been accepted by the EC, the names and the rankings on the list cannot be changed; and
- A person votes for the party's list and cannot select individual candidates on the list.

A Closed List PR formula contrasts with an Open List PR formula where a voter can indicate his/her preference among the candidates on a party's list.

Even though under a PR formula each party's percentage share of the total votes is used to calculate the number of seats it has won, usually, a party must obtain a certain minimum percentage of the total valid votes cast in order to gain a seat at all. That minimum percentage is referred to as the threshold. Once a party satisfies the threshold, the ranking order of the candidates on its list is then used to determine the specific candidates elected. So, if a party obtains three seats, the

persons numbered 1, 2, and 3 on its list of candidates are the ones elected.

3. Mixed Member Proportional (MMP) Formula

A Mixed Member Proportional (MMP) formula seeks to combine two core advantages of the FPTP and the PR formulas in composing a legislative body, namely: a direct link between representatives and their constituencies (FPTP) and a distribution of seats to parties on the basis of their proportional share of the total votes (PR). For this reason, provision is made for some members to be elected on constituency basis using the FPTP formula, and others to be elected on the basis of the List PR formula.

In terms of voting, one of two practices could be used under this formula. They are:

- (i) The voter casts only one ballot, which is deemed to be for both the individual candidate as well as the party; and
- (ii) The voter casts two ballots, one for an individual candidate and one for a political party.

The single vote is simple and straightforward, but it does not give the voter an opportunity to split his/her choice between a candidate and party. That is, it does not allow the voter to do what is known in local parlance as voting “skirt and blouse”.

Under a Mixed Member arrangement, the proportional principle could be applied in one of two ways: only to the non-constituency seats, and across the board to the total number of seats. This yields a distinction as to whether the formula is parallel (i.e. where it is applied only to the non-constituency seats), or proportional (where it is applied across board to the total number of seats).

It is worth noting that applying the proportional principle to only the non-constituency seats tends to increase the dominance of bigger parties and across the board, enhances the chances of smaller parties to secure seats. What the MMP formula seeks to do is to somehow compensate the parties losing under the FPTP formula for the votes they receive, which are otherwise rendered wasted under the FPTP formula. For this reason, the non-constituency seats are often referred to as proportional seats.

As is the case with the FPTP formula, under the MMP formula, a party may win more constituency seats than the number of seats it should have gained strictly on the basis of its percentage share of the total votes when the proportional principle is applied across the board. What to do in a situation like that, known as overhang seats, is an important matter to agree upon when using the MMP formula.

The above brief review illustrates that there are different Proportional Representation formulae. For instance, a List Proportional formula may be closed or open while the formula for a Mixed Member arrangement may be proportional or parallel.

C. Proposed MMP formula for District Assembly elections

Against the backdrop of the foregoing, it is recommended that instead of the FPTP formula, a Mixed Member Proportional (MMP) formula be adopted for electing members of District Assemblies. As anticipated, using this formula would mean that:

- There need not be fresh demarcation of electoral areas;
- Political parties would be allowed to compete in District Assembly elections;
- Individual persons, including chiefs, could stand for election as independent candidates; and
- There would be no government appointed members. The one-

third of the membership of each assembly currently appointed by the government could be used as the proportional seats.

Other elements in the recommendation are as follows:

1. Threshold

The threshold could be a percentage of the total valid district votes as predetermined by Parliament. Or it could be a flexible arrangement such that the threshold for a party to gain a proportional seat would be the quota of votes required to elect one member of the District Assembly.

For those who are mathematically inclined, this means that the threshold would be the total number of valid votes cast in the District Election, divided by the total membership of the respective assembly. So, if the total number of votes cast is 30,000 and the total membership of the assembly is 30, then a party should have obtained at least 1,000 votes to be considered in the allocation of the proportional seats.

Where the quota of votes is used as the threshold, the percentage of votes required to gain a proportional seat would vary according to the district magnitude, that is, the total membership of the District Assembly concerned. As a rule, the higher the district magnitude, the lower the percentage. This could well have the effect of discouraging the creation of small districts.

2. Overhang seats

Obviously, one cannot take away from a political party a seat it has genuinely won under the FPTP formula. A party would therefore be allowed to retain the number of electoral area seats it wins on the FPTP formula irrespective of its percentage share of the total valid

district votes. However, unless the party's percentage share of the total district votes so indicates, it will not get any of the proportional seats. All of them will be distributed among the other parties that are not in a similar situation, relative to their votes. This means that there will be overhang seats, but the total membership of the assembly will be firmly fixed.

3. Distribution of seats

For purposes of allocating proportional seats to the qualifying parties, the votes cast for independent candidates and parties that fail to achieve the threshold would be taken out of the district total vote.

The proportional seats would then be allocated to the qualifying parties on the basis of their percentage shares of the remaining district total vote. This is a simple straightforward task and can easily be done by anybody who knows how to translate percentages into whole numbers provided that clear guidance is given on how to deal with a tie in the decimal points of the percentages of the parties, e.g., 1.4, 3.4 and 6.4.

A tie in the decimal points of the percentages of the parties could be dealt with in the following ways:

- If as many seats remain to be allocated as there are parties in the tie, each party would be given one seat.
- On the other hand, if there are fewer seats left to be allocated than the number of parties in a tie, the tie should be broken by resort to the elective votes of the parties concerned (that is, the number of votes each party in the tie would be using to elect one member if one more seat were to be added to the number of seats it already has from the calculations). Depending on the number of parties involved, the tie would be resolved in favour of the party with the higher or highest elective votes.

Advantages of MMP formula

Six possible advantages could accrue if a Mixed Member Proportional formula is applied to District Assembly elections. They are:

- i. The votes of political parties losing on the FPTP formula would not be wasted.
- ii. Faceless representation as occurs under a pure List PR formula would be eliminated because people can point to a particular person who represents their electoral area.
- iii. Political parties would no longer have to behave like ostriches and hide behind candidates; they could openly sponsor them. That situation would bring a measure of transparency to District Assembly Elections.
- iv. Given that the Winner-Takes-All idea would not apply, more political parties would gain seats in the assemblies. This means that there would be more broad-based participation in the assemblies, and they would be the richer for the diversity of opinions expressed in their deliberations.
- v. A party in government would not automatically exert great influence on, if not dominate, the assemblies through its appointive power.
- vi. There would be no by-election, except in the case of the death or resignation of an independent member of an assembly. In respect of party members, any vacancy that occurs would be filled by the next person on the respective party's list to complete the remaining term.

As much as the proposed formula for a Mixed Member Proportional Representation formula for District Assembly elections is worthy of serious consideration, by its very nature, no public election is cheap.

The proposed formula would entail tremendous savings of public money spent on elections, considering that the District Assembly tenure is four years and the total membership of the assemblies is about 5,000 persons.

The above proposal for a Mixed Member Proportional Representation formula for Ghana's District Assembly elections is therefore worthy of serious consideration.

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