

28 October 2019

The Chairman
Commission for Constitutional Reform
Malta

Dear Mr Chairman

A REVIEW OF CERTAIN ELECTORAL PROCEDURES IN MALTA

I am submitting an opinion and proposals to the Commission for Constitutional Reform with respect to the Electoral Law.

Yours faithfully



Emanuel Aquilina

encl.

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IN MALTA**

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Introduction

Now and again the method by which the Maltese electorate chooses its representatives in Parliament is brought up for discussion. In the following short discussion, an issue is presented and a recommendation is made.

The Issue

One issue which perhaps needs to be evaluated is the transferable vote system by which a voter, apart from assigning the first preference for a given candidate, goes on to show subsequent preferences to other candidates in numerical descending order.

This method sometimes gives rise to a situation whereby from a particular political party, a candidate with a number of first preference votes which is less than that of other candidates in the same political party, goes on to be elected because of the second and other preferences assigned by other voters. Consequently, a candidate with a relatively higher number of first preferences is defeated.

One notes that our constitution states that the political party with the higher number of first preference votes is set to govern the country. Here one enquires whether there exists an inconsistency. On one hand, we give the voters the right to indicate their subsidiary preferences with concrete consequences in having candidates with relatively lesser number of first preference votes elected, while on the other hand, the political party with the higher number of first preference votes is chosen to govern the country.

When a voter assigns a first preference vote, the voter is indicating the trust with which a particular candidate is held in the perception of the voter. When such first preferences are added, we have the collective trust of the electorate and perhaps the thrust indicating the way to a particular candidate from one's political party. Yet such a candidate can be eliminated because of the individual subsequent preferences of the voters.

Therefore, here one asks whether it is correct that one weight is given to the preferences of the individual voter in respect of which a political party is to govern the country and another weight in respect of the choice of the members of parliament.

A Recommendation

We can try to resolve the issue by suggesting the following voting scheme which we shall name as a ranking scheme as compared to the current system.

- 1 The voters shall vote for one candidate only.
- 2 The rule is set so that the voters and the candidates are made aware that when a vote is assigned, it shall be considered to be simultaneously a vote for the candidate A1 and the political party A to which the candidate A1 belongs.

- 3 The candidates A1, A2, etc. of a political party A from a particular division shall transfer their votes between themselves as in the following.
- 4 The votes assigned to the candidates A1, A2 etc., B1, B2 etc. and C1, C2, etc. from the political parties A, B and C from a given division for each political party shall be counted and the candidates will be ranked according to the number of votes gained.
- 5 The quota for a particular division is set according to the procedures currently in use.
- 6 If the candidate A1 from political party A exceeds the quota, that candidate is elected and the excess votes are transferred to candidate A2.
- 7 If candidate A2 does not exceed the quota, the least ranking candidate, say A7, will transfer the votes assigned to that particular candidate A7 to A2. Candidate A7 is eliminated. If again A2 does not exceed the quota, the votes of A6 will be transferred to A2 and A6 will be eliminated. This procedure continues until A2 is elected, if there are still enough votes available to party A in that particular division. If however A2 is elected and exceeds the quota, the excess votes are transferred again to A3 and the same procedure is carried out for A3. This procedure would start from candidate A1 if such a candidate does not initially exceed the quota.
- 8 Similar procedures are carried out for the political parties A, B and C until the five candidates are elected for a particular division.
- 9 If a number of candidates A1, A2, ..., from a political party A get the same number of votes and there is a lesser number of vacant seats in that division for political party A, the Electoral Commission will provisionally elect them and leaves the decision to their political party A to decide who will be the candidate to be elected.
- 10 If a candidate A1, is elected from two divisions and is asked to relinquish a seat from a particular Division I, then the votes of A1 shall be transferred to the next ranking candidates, so that the next ranking not-yet elected candidate from political party A from Division I will be elected. The rule could be set to decide which seat from which division is to be relinquished by requesting the candidate to release the seat from where the lesser number of votes were obtained by that candidate A1, for instance.
- 11 If the distribution of the votes across the political parties A, B and C in a particular Division I results in an electable candidate not reaching the quota, the next ranking candidate getting the higher number of votes will be elected.
- 12 The current rule in force regarding the arrangements as to which political party is to govern the country may still be necessary.

An Application

We apply this suggested ranking scheme to the General Elections of 2017 and compare the candidates that would have been elected under the suggested ranking scheme to those that were actually elected under the current system. We find that under the ranking scheme being suggested, the number of members of parliament that would have been elected differed from that under the current system by 5.

This means that under the current system 5 members of parliament were not elected on the strength of their first preference vote performance but due to the subsequent preferences of the electorate.

One should also note that the number of subsequent preferences which were assigned to a political party which was different from that which got their first preference vote is estimated to be about 5170, that is, about 1.66 per cent of the 310665 total valid votes for the General Elections of 2017. One must note that these are actual preferred transfers across all counts, because a voter can assign subsequent preferences across party lines as much as there are candidates. Therefore, the actual number of voters who crossed party lines could be less.

Conclusion

One can say that, from the above we have two competing arguments. On the one hand, we have the individual voter who can assign the vote across all the candidates of all the political parties in the given division in an order of preferences. On the other hand, there is the collective first preference vote of the electorate that collectively selects a particular candidate who may not be elected because the order of preferences of the voters selects a candidate with a lesser number of first preference votes.

We can see from the foregoing that it could be useful if an evaluation of the electoral process is carried out to identify whether there exists an anomaly between the method by which a political party is chosen to govern the country, and the procedure by which the actual members of parliament are elected.