

OPEN LIST PROPORTIONAL ELECTORAL SYSTEM: POLITICAL SCIENCE CRITICISM OF BRAZIL'S ELECTORAL SYSTEM

OPEN-LIST PROPORTIONAL REPRESENTATION: POLITICAL SCIENCE CRITICISM OF BRAZIL'S ELECTORAL SYSTEM

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SUMMARY

The open-list proportional electoral system is used in democracies such as Brazil to elect their legislative representatives. However, this system has been the target of criticism in political science, both in Brazil and internationally, due to the effects it has on party structure, voter behavior, and the political process in general. This article examines the main theoretical criticisms of the open-list proportional system, discussing issues such as party fragmentation, personalization of campaigns, distortion of popular will, intra-party competition, difficulty in electoral accountability, and the tendency toward personalist voting.

Keywords: Electoral System; Proportional; Open List.

ABSTRACT

The open-list proportional electoral system is used in democracies such as Brazil for the election of its legislative representatives. This system, however, has been subject to criticism in political science, both in Brazil and internationally, due to its effects on party structure, voter behavior, and the political process in general. This article examines the main theoretical criticisms of the open-list proportional system, discussing issues such as party fragmentation, campaign personalization, distortion of the popular will, intraparty competition, difficulty in electoral accountability, and the tendency toward personalist voting.

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1. INTRODUCTION

The political science literature offers a wide range of studies that identify the effects of electoral systems on governability, party systems, the quality of democratic representation, etc. These studies compare existing electoral systems to identify what causes the different results between them. The open-list proportional electoral system adopted in Brazil is the source of many theoretical criticisms about its functioning, and of proposals for reforms to minimize the effects that critics attribute to this system.

According to Nicolau (2006), Brazil has been the country that has used the open-list electoral system for the longest time, coming into force in 1945. The open-list electoral system is combined in Brazil with large electoral districts, and party federations are permitted. The open-list system, adopted in Brazil since the return to democracy in 1988, allows voters to vote directly for candidates instead of on lists previously ordered by parties. Voters can vote for the name of the candidate for a legislative position or vote for the party they are interested in. The seats obtained by parties or federations are occupied in the order of the most votes. Rules for the distribution of seats count the vote for the party only in the distribution between parties or federations (in which the united parties add up the same list of candidates), having no effect in the distribution among the candidates (Nicolau, 2006. p. 692).

This article aims to point out the main flaws that the literature on political institutions in contemporary democracies identifies in the open list proportional electoral system and discuss what proposals for improvement are made by political science authors.

The criticisms addressed in the article are about how the open list system promotes fragmentation

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party system, encourages the personalization of electoral campaigns, promotes intra-party competition, hinders electoral accountability, makes campaigns more expensive, and results in personalistic rather than programmatic voting. Throughout the text, we will use empirical and theoretical studies to support the analysis, with special emphasis on the contributions of Ames (2001), Carey and Shugart (1995) and Mainwaring (1991). Proposals for reforming the electoral system, when smaller, are centered on specific rules or on the size of electoral districts, when larger, they advocate a change to a district system.

2. CRITICISM IN THE LITERATURE OF THE OPEN LIST PROPORTIONAL ELECTORAL SYSTEM

Carey and Shugart (1995), when writing about the effects of electoral systems on candidates' electoral strategy, identified whether electoral systems offer incentives for personalized or partisan reputation of candidates. The authors developed a classification considering the control of parties in the selection of candidates, whether they are elected individually without considering the votes of other candidates in the party, whether the voter's vote is single, intra-party or multiple, and whether the systems elect one or more representatives per district. In this way, they reach conclusions about how different electoral systems influence the personalism of candidacies.

Regarding the voting system in open list proportional representation, Carey and Shugart (1995) include and evaluate alongside the single non-transferable vote (SNTV) systems, simultaneous double voting, alternative voting systems

In all of these systems, intraparty competition occurs simultaneously with interparty competition. Voters cannot distribute their support among members of the same party, nor among several parties. Everyone competes against everyone else at the same time. Under these conditions, personal reputation is rewarded over party reputation (Carey and Shugart, 1995, p. 423).³

By rewarding personal reputation through intra-party competition, they point out that this system creates incentives for candidates from the same party, when competing against each other, to weaken party cohesion and promote internal conflicts. Instead of working together to maximize the party's total vote, candidates seek to maximize their personal votes, which can result in fragmented, personalist and uncoordinated campaigns. In Brazil, this weakens party identity and makes it difficult to establish a common agenda. Carey and Shugart (1995) contrast this with the open list system with multiple votes, where, for example, it is possible for candidates to act as a bloc, strengthening the party, without so much intra-party competition. In practice, this system "means that candidates from a given party can run as a bloc, and thus voters are not forced to identify one candidate as preferred above all others" (Carey and Shugart, 1995, p. 426).⁴

Turning to the party's ability to define whether the list will be open or closed, the authors criticize open lists because there is no way for parties to exercise control over candidates through party leadership. "When leaders do not have the legal authority to deny candidates the use of the party label on the ballot, they cannot coerce politicians to cooperate in order to maintain the party's reputation" (Carey and Shugart, 1995. p. 428, our translation).⁵

Candidates are chosen based on individual characteristics that increase the personalization of campaigns, without necessarily having party identification between the candidate and the party. If this identification is compromised, the identification between the voter and the party may also be compromised. According to the authors, if the ability of candidates to run in blocs is removed, requiring each candidate to compete for votes by competing internally within the party, and without the party's control over the party list, the value of personal reputation and personalism is the highest. According to the authors, Brazil has the worst system

electoral in the world, following this criterion

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⁴ "means that candidates from a given party can run as a bloc, and so voters are not forced to identify a candidate as preferred above all others".

⁵ "When leaders do not have the legal authority to deny candidates the use of the party label on the ballot, they are unable to coerce politicians to cooperate to maintain the party's reputation"

The Brazilian system comes very close to this configuration [...] with this formula, the only factor that contributes to the value of party reputation is the fact that votes are still pooled across party lists or candidates. However, leaders have no formal sanctions to encourage cooperation in maintaining party reputation. The value of party reputation personal communication is therefore high (Carey and Shugart, 1995, p. 428).⁶

One of the criticisms of the open-list proportional system is party fragmentation. Borges (2019) explains that an influential interpretation in the literature is that fragmentation associated with large-scale districts, preferential voting, and the absence of barriers to party creation favors intra-party competition and individualistic campaign strategies. However, despite Duverger's (1987) explanation of the two-round majoritarian system together with proportional representation, multipartyism tends to be used to explain party fragmentation, it varies greatly among countries that adopt a proportional system.

According to Borges (2019, p.30), the “systematic increase in party fragmentation in the recent period is partially endogenous to the coalitional dynamics of Brazilian presidentialism in the electoral and governmental arenas”. For example, Nicolau (2006) apud Mainwaring (1991) highlights that one of the characteristics that makes Brazilian legislators more personal than Finnish ones (with a similar list system) is that in Brazil parties can nominate up to 1.5 times more candidates than there are seats, while in Finland parties can nominate fewer.

Thus, even with a list system of similar magnitude, each Brazilian candidate faces more supporters from whom he must differentiate himself by altering the electoral process. This fragmentation is exacerbated by the open list system, but there are many other rules that encourage fragmentation. According to Mainwaring (1993), there were several characteristics of the electoral system that produced a fragmented party system such as

the proportional representation system with a low threshold per state, absence of a national threshold and large size of electoral districts, while making it easy for many parties to obtain seats, makes it difficult for any one of them to obtain a majority (Mainwaring, 1993. p.35).

One difficulty that is attributed to our electoral system is related to the need to form broad and heterogeneous coalitions to govern, since there is so much party fragmentation

Given the high levels of inter- and intra-party fragmentation promoted by the open-list proportional system, presidents are forced to form broad multi-party coalitions, relying on their ability to distribute positions and resources among allies. As a result, the internal cohesion of the bureaucracy is compromised and incentives for clientelism are increased (Borges 2013, p.118).

As Ames (2001) notes, this can result in legislative paralysis and difficulties in approving important structural reforms. This is because the harmful effects of the open-list proportional electoral system occur on the institutionalization of parties and on governability. The combination of high levels of party fragmentation, undisciplined parties and “statist” federalism would result in the multiplication of veto points in the decision-making process (Borges, 2013, p. 117).

This trend also increases voters' dependence on candidates' personal attributes, such as charisma, notoriety and media visibility, which, according to Ames (2001), compromises political debate and reduces attention to programmatic issues. Furthermore, the emphasis on personalization creates a scenario conducive to campaigns focused on local and specific issues, making it difficult to build long-term public policies. Parties accept these candidacies because they have no effective control over the list, since it is open. This produces parties concerned with the election, but without programs. According to Borges (2013)

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Clientelist parties are decentralized organizations that rely on an army of political intermediaries and campaign workers to collect information about the electorate, distribute resources and monitor voters so that they fulfill their part of the bargain by supporting government candidates (Borges, 2013, p. 125).

⁶ “The Brazilian system comes very close to this configuration [...] With this formula, the only factor contributing to the value of party reputation is the fact that votes are still pooled across all party lists or candidates. However, leaders have no formal sanctions to encourage cooperation in maintaining the party's reputation. The value of personal reputation is therefore high”.

Ames's (2001) interpretation is that "Party leaders will, of course, be very tolerant of ideological deviations between these heavyweights and the official party program" (Ames, 2001. p. 54, our translation).⁷The author attributes to these rules the responsibility for "the growth of blank and null votes, the incentives for inconsistent party alliances, the consequences of party switching by incumbents and the weakness of ties between social groups and parties" (Ames, 2001. p. 56, our translation).⁸

Invalid and blank votes emerge as problems arising from the open list system when this high fragmentation of candidates and parties results in candidates with no real ties to the municipality. Faced with an infinity of unattractive candidates, according to Ames (2001), voters are unable to choose, so they cast blank votes. Regarding inconsistent electoral alliances, he states that "electoral alliances are truly only electoral: they do not imply joint action in the legislative branch" (Ames, 2001. p. 68, our translation).⁹The focus of this criticism is more on electoral coalitions, which have been replaced by party federations. Due to the open list and the flexibility of party switching, the ties between voters and parties are weak, making it difficult to create coherent party programs, resulting in widespread distrust of the electoral system.

The complexity of the open-list proportional electoral system also makes it difficult for voters to monitor and hold voters accountable through their votes, since the electoral system is not understandable to voters. Mainwaring (1991) points out that, in systems with a large number of candidates, it is difficult for voters to follow and evaluate the history and proposals of all candidates. Furthermore, the large number of candidates competing for a seat in a fragmented proportional system makes it difficult to understand the electoral system and even to know who to hold accountable in subsequent elections. This difficulty in monitoring elections can create a scenario in which voters' choices are based more on superficial factors, such as charisma and popularity, than on programmatic issues or on a careful examination of the public policies defended by the candidates.

3. NOTES ON REFORM OF THE ELECTORAL SYSTEM

According to the literature cited, the open-list proportional electoral system faces a series of challenges that compromise governability, party cohesion and the quality of democratic representation. These criticisms often highlight the need for reforms that can mitigate the negative effects of the open-list system, whether through the introduction of closed lists, the strengthening of threshold clauses or the adoption of measures to limit the high costs of campaigns and the influence of private donors.

Some specific reforms, such as the end of proportional coalitions and a progressive barrier clause for access to party funds and television time, were approved through constitutional amendments and are already working to reduce party fragmentation. Other recent changes have reduced the number of candidates per party, making it less difficult for voters to deal with so many candidates.

A proposal that attempts to reconcile the current proportional representation model with a reduction in the size of districts is made by Amorim Neto, Cortez and Pessoa (2011). The authors argue that "to reduce the number of parties, there are two main methods: the imposition of a strict threshold clause and the reduction of the average size of electoral districts" (Amorim Neto, Cortez and Pessoa, 2011. p. 72).

Although they propose a reduction in the size of districts, they advise against the adoption of single-member districts or their variants. The authors argue that the political system is a complex and delicate structure, and the possibility of making it worse with ambitious and untimely changes is much greater than that of improving it. The proposal drafted by the authors maintains the proportional representation system, but changes the size of electoral districts and establishes a proportional rule for the distribution of seats.

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drawing a new electoral map of the country, with smaller districts within 12 states. Despite the simulation present a decrease in the number of parties that would occupy the legislatures, the proposal loses the character of state representation.

There are other reforms that seek to replace the open list proportional system, such as the case of

⁷ "Party leaders, of course, will be very tolerant of ideological deviations between such heavy-weights and the party's official program". ⁸

"the growth of blank and null voting, the incentives for inconsistent cross-party alliances, the consequences of party switching by incumbents, and the weakness of links between social groups and parties".

⁹ "electoral alliances are truly just electoral: they do not imply joint action in the legislature".

vote in the district system, which would replace proportional voting with majority voting. Another similar proposal was the so-called “distritão”, in which the most voted candidates, regardless of party or federation, would win the seats, keeping the districts exactly as they are today, the size of the states. According to Silva (2015), this system would maintain all the characteristics (criticized in the article) and would increase the incentive for localist policies and further weaken political parties.

Silva (2015) explains that the other discussion in congress about changing the proportional system to the district majority system foresaw the creation of 513 regions with approximately the same number of voters in which the dispute would take place and “the party would indicate a candidate in each district to contest the elections and the candidate with the highest number of votes would win the election.

Thus, in the legislative branch, elections would resemble disputes for positions in the Executive Branch” (Silva, 2015, p. 46). The author critically argues that the effects of this system would further accentuate localist policies and weaken parties, since incentives would be created to reduce the formation of state benches in the Chamber “in which representatives do not have an identity among themselves. The only possible identity is party identity, but there is certainly no incentive for regional action. However, party identity is weakened by the way votes are counted” (Silva, 2015, p. 47).

Silva (2015) analyzes these proposals and criticizes that instead of strengthening political parties and their role as intermediaries between voters and public authorities, they end up weakening them. Instead of encouraging a system where political parties have more relevance and organization, the suggested reforms tend towards personalism.

The changes apparently go in the opposite direction to that desired by critics of the current system: instead of being systems that increase the participation and importance of political parties as associations that act as intermediaries between voters and public authorities, the proposals submitted to the Chamber weaken them. As seen, voting by districts, regardless of the format presented, fails to expand the organization of politics around parties, but only around individuals. This striking characteristic of the projects presented worsens an aspect of the Brazilian political system that has already been heavily criticized (Silva, 2015, p. 52).

FINAL CONSIDERATIONS

In short, reforms to the open list system in Brazil demonstrate a dilemma between the need to strengthen parties and the persistence of incentives for personalism and party fragmentation. Proposals such as the adoption of smaller districts and the strengthening of threshold clauses aim to mitigate the pulverization of candidacies and improve governability. Although some specific reforms, such as the end of proportional coalitions and the threshold clause, already represent progress in seeking to reduce fragmentation, the strengthening of political parties is not contemplated in these reforms.

At the same time, proposals such as the district system or the “distritão” system are viewed with caution in political science, as they may increase the focus on candidates to the detriment of parties, which, in the view of authors such as Silva (2015), would deepen localist policies and weaken the institutional role of political parties. The complexity and potential consequences of changes to the Brazilian electoral system require, according to Silva (2015), a careful and incremental approach. Abrupt changes could further compromise the party structure and hinder the strengthening of representative democratic bases, highlighting the need for a reform that respects the diversity of regional interests and strengthens party identity and the role of political parties.

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