

## INTRODUCTION

Elections lie at the heart of the democratic process as it is through the act of voting that government by consent is secured. Yet, no country has been able to solve the riddle put forward by Oliver Cromwell who stated that, “*as much for government by consent as any man, but if you ask me how it is to be done, I confess I do not know.*”<sup>152</sup> Modern democracies employ a wide variety of electoral systems, but there is no general consensus on which is best. Each system has its own characteristic virtues and defects.<sup>153</sup>

Political scientists have long been concerned about the role of electoral systems in the political process. The emphasis has mainly been on the mechanical effects of these systems on features such as the number and strength of parties in a given political system. Many debates have been fought over the merits and demerits of major electoral systems.<sup>154</sup>

One such electoral system is the First Past the Post system, which simply provides that the candidate with the largest number of votes wins the seat. It has been attacked by many of its victims over the years due to its failure in terms of providing fairness and representativeness. In this paper the researcher will attempt to analyze the first past the post system, focusing mainly on its limitations. This will be done by *first* studying the foundations of electoral democracy. *Secondly*, the paper will study the limitations of the system by discussing the case for and against the first past the post system. *Thirdly*, it will provide alternatives to the first past the post system. *Finally*, the various criticisms directed at this system and the case for and against reforming the first past the post system will be assessed.

### I. THE FOUNDATIONS OF ELECTORAL DEMOCRACY

#### i. DEMOCRACY AND THE IMPORTANCE OF PUBLIC OPINION

The great Greek theorists believed that the masses could not manage the responsibilities of governance as they were too impulsive and too easily manipulated. For the Greek, democracy was a treacherous path to tread. We

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<sup>152</sup> DEMOCRACY AND ELECTIONS: ELECTORAL SYSTEMS AND THEIR POLITICAL CONSEQUENCES, 1 (Vernon Bogdanor, David Butler ed(s).), (1983).

<sup>153</sup> *Id.*

<sup>154</sup> John Loosemore, Victor J. Hanby, *The Theoretical Limits of Maximum Distortion: Some Analytic Expressions for Electoral Systems*, 1 (4) BRITISH JOURNAL OF POLITICAL SCIENCE 467, 468 (1971).

see a history of property appropriation, warfare, demagoguery, and dictatorship, when looking at the Greek experience with democratic rule through the eyes of Thucydides and Aristotle. However this deeply felt caution was tempered by a strong belief that citizens should have some say in how government is run.<sup>155</sup>

A voter at a ballot box is a representation of the large scale collective decision making process that is characteristic of western democracies.<sup>156</sup> One of the most important institutional designs for any democratic State is the choice of electoral system.<sup>157</sup> Electoral systems exert long run effects upon the style and character of a country's political life. There is a reciprocal interaction between social and electoral change.<sup>158</sup> The role played by electoral considerations in shaping actual political decision making is entirely beyond dispute. The connection between electoral constraints and electoral outcomes, and citizens' preferences over those outcomes are crucial features of genuinely democratic institutions and basic ingredients in establishing the ideal model for democratic rule. Even though other parts of the democratic apparatus are important, without periodic elections where parties/candidates compete for office a proper democratic order would not exist.<sup>159</sup>

Over time the selection of leaders in many countries has become more democratic. Yet many analysts criticize the shallow public opinion roots of democracy, and argue that electoral democracy has been problematic due to the relatively unsophisticated mindset of most citizens. In mid – twentieth century America social scientists started to discover the flimsy structure of public opinion on which democratic politics was based. It was found that most voters had a very vague sense of public affairs, and little understanding of public policy, with haphazardly disconnected political views and judgments about politicians and policies.<sup>160</sup>

Despite these criticisms the key institution for democratic government is public opinion. It is far more important than legal voting requirements, campaign finance laws, the party nomination process, or any other formal arrangement. Public opinion underlies all these democratic institutions and therefore they must be engineered as much as possible to reflect public opinion.<sup>161</sup> Therefore within democracies the choice of electoral system is of utmost importance as influences the legitimacy of democratic institutions.<sup>162</sup>

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<sup>155</sup> ELECTORAL DEMOCRACY, 1 (Michael MacKuen, George Rabinowitz ed(s).), (2003).

<sup>156</sup> Geoffrey Brennan, Loren E. Lomasky, DEMOCRACY AND DECISION: THE PURE THEORY OF ELECTORAL PREFERENCE, 1 (1993).

<sup>157</sup> Andrew Reynolds, *Electoral System Design: The New International IDEA Handbook*, INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE (2005), available at [www.idea.int/publications/esd/upload/Idea\\_ESD\\_full.pdf](http://www.idea.int/publications/esd/upload/Idea_ESD_full.pdf) (Last visited on August 7, 2012).

<sup>158</sup> *Supra* note 1, at 2.

<sup>159</sup> *Supra* note 5.

<sup>160</sup> *Supra* note 4, at 2.

<sup>161</sup> *Supra* note 4, at 3.

<sup>162</sup> *Supra* note 6.

## ii. ELECTORAL SYSTEMS AND THEIR KEY ELEMENTS

The electoral process determines who will hold political office in a democratic state. The electorate confers the power to govern and calls government to account. In order to enjoy true equality in constitutional participation, it is of fundamental importance that the electoral system ensures the principles of a full franchise subject to limited restrictions, the value of each vote cast must be equal to that of every other vote, the conduct of election campaigns must be regulated to ensure legality and fairness, and the voting system should be able to produce both a legislative body representative of the electorate and a government with sufficient democratic support to be able to govern effectively. Electoral systems must be evaluated against these four principle objectives. And it must be recognized that these elements are largely inseparable from each other as each aspect of the electoral process combines to form one system.<sup>163</sup>

From a very basic point of view, the votes cast in a general election are translated into seats in the legislature by electoral systems. The key elements of an electoral system include the electoral formula (plurality/majority, proportional, mixed), the ballot structure (whether the vote goes to one candidate or a party i.e. single choice, or expresses a series of preferences) and the district magnitude (the number of representatives that are selected to the legislature from a particular district).<sup>164</sup> An analysis of the link between the main electoral variables (electoral formula, district magnitude and ballot structure) and electoral outcomes (the degrees of disproportionality and multipartism) in western democracies representing distinct electoral systems shows that the effects of both formula and magnitude on proportionality are very strong.<sup>165</sup> Notions such as consent and representation are translated into reality through electoral systems. It is above all a method of converting votes cast by electors into seats in a legislature.

Electoral systems are significant for a number of reasons. There is a perception that they have an impact on the effectiveness of government as they affect the degree of coherence or fragmentation of the party system. They help in easing conflict, shaping public policy outcomes, and shaping incentive structures of political actors. Whether politicians are elected by voters or by their parties, it is done on the basis of a formula which is the electoral system. This determines whom they feel most accountable to, and therefore how they utilize public resources, their relationship with the constituencies, and also the incentives for various corrupt practices.<sup>166</sup>

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<sup>163</sup> Hilaire Barnett, *CONSTITUTIONAL AND ADMINISTRATIVE LAW*, 361 (8<sup>th</sup> edn., 2011)

<sup>164</sup> *Supra* note 6, at 7.

<sup>165</sup> Arend Lijphart, *The Political Consequences of Electoral Laws, 1945-85*, 84 (2) *THE AMERICAN POLITICAL SCIENCE REVIEW* 481, 490 (1990).

<sup>166</sup> *Supra* note 6, at 7.

However it is important to note that electoral systems do not exist within vacuums, and therefore it is crucial that electoral systems and their effects are understood in relation to the context in which they operate.<sup>167</sup>

### iii. TYPES OF ELECTORAL SYSTEMS

The central factor distinguishing one electoral system from another is the method by which it allocates seats. Seats can be allocated to a candidate or candidates obtaining a *plurality* of the vote, to a candidate or candidates obtaining a *majority* of the vote, or *proportionately*. Hence, voting systems can be broadly classified under three headings: plurality systems; majority systems; and proportional systems.<sup>168</sup>

When examining the main characteristics of these varying electoral systems, in plurality/majority systems there is only one seat per electoral district, and from any given district only one candidate can be elected. Under plurality systems if a candidate wins the most number of votes without necessarily winning over 50% of the vote, that candidate wins the seat. However in majoritarian systems the winning candidate must secure an absolute majority (i.e. over 50%).<sup>169</sup>

The rationale behind all proportional representation systems is to reduce the difference between a party's share of the national vote and the number of seats it receives in parliament.<sup>170</sup> Proportional representation is a generic term denoting a number of different systems having the common goal of proportionality between the number of seats and the votes.<sup>171</sup> These differing PR systems should not be seen as being either more proportional or less proportional than each other, but as embodying different methods that would maximize proportionality and minimize disproportionality.<sup>172</sup> Despite this common goal, the different proportional systems diverge significantly. And therefore their political consequences are different.<sup>173</sup> Generally proportionality is achieved through party lists, which are either, open (where voter ranks candidate according to preference) or closed (where the party decides the rank prior to the elections).<sup>174</sup>

In addition to these three traditional electoral systems some States employ mixed systems that include elements of both proportional and plurality systems.<sup>175</sup>

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<sup>167</sup> *Supra* note 6, at 7.

<sup>168</sup> *Supra* note 1.

<sup>169</sup> *Supra* note 6, at 7.

<sup>170</sup> *Supra* note 6, at 7.

<sup>171</sup> *Supra* note 1.

<sup>172</sup> Michael Gallagher, *Proportionality, disproportionality and electoral systems*, 10 (1) ELECTORAL STUDIES 33, 40 (1991).

<sup>173</sup> *Supra* note 1.

<sup>174</sup> *Supra* note 6.

<sup>175</sup> *Supra* note 6.



When studying the electoral systems employed by various countries, it can be seen that those countries influenced by English common law are those which retain the majority system. However on the continent of Europe a majority of States employ a list system. France by contrast employs a system which comprises of two ballots. When no candidate wins an absolute majority of the votes in the first ballot, a second ballot is held to decide which of those candidates who have gained 12.5% of the registered electorate in the first ballot are to be elected. Two electoral systems are employed in Australia, for election to the House of Representatives a system of compulsory preferential voting is used, and for the Senate, a proportional representation system is used.<sup>176</sup>

## **II. LIMITATIONS OF THE FIRST PAST THE POST SYSTEM**

### **i. AN OVERVIEW OF THE FIRST PAST THE POST SYSTEM**

The winner takes all or, as it is often called, the ‘first past the post’ (FPTP) system<sup>177</sup> is the simplest form of plurality/majority system. It employs candidate – centred voting and single member districts. The names of the candidates nominated are presented to the voter and votes are cast to a single candidate.<sup>178</sup> It simply provides that the candidate with the largest number of votes wins the seat, and therefore has come under strong attack from its victims.<sup>179</sup>

The functioning of the FPTP system can be understood from its usage in the UK. For elections to the UK Parliament the system of election remains the simple majority/ the FPTP system. A principle merit of the system lies in its simplicity. Irrespective of the proportion of votes cast to a certain candidate or his opponents, the candidate with the largest number of votes in the election wins the seat.<sup>180</sup> However if it is accepted by all that a democratic parliament ought to represent so far as possible the preferences of the voters, this system is probably the worst that could be devised.<sup>181</sup> When viewed from the perspective of proportionality of votes cast to seats won, there is a great lack of representativeness.

### **ii. THE CASE FOR AND AGAINST REFORMING THE FIRST PAST THE POST SYSTEM**

#### **• ADVANTAGES OF THE FPTP SYSTEM**

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<sup>176</sup> *Supra* note 12.

<sup>177</sup> Joe Rogaly, *PARLIAMENT FOR THE PEOPLE: A HANDBOOK OF ELECTORAL REFORM*, 22 (1976).

<sup>178</sup> *Supra* note 6.

<sup>179</sup> Iain McLean, *ELECTIONS*, 9 (2<sup>nd</sup> edn., 1980).

<sup>180</sup> *Supra* note 12, at 362.

<sup>181</sup> H.W.R. Wade, *CONSTITUTIONAL FUNDAMENTALS*, 9 (1989).

Arguments in favour of the FPTP system are primarily based on its simplicity and its tendency to create winners who are representatives bound to defined geographical areas.<sup>182</sup> It is simple to understand and use, therefore any regular voter would be able to cast his vote with ease. It results in a close link between the MP selected and the constituency.<sup>183</sup> The members elected represent defined cities, towns or regions rather than mere party labels. Some argue that this geographic accountability is particularly important in agrarian societies and in the developing world.<sup>184</sup>

The FPTP system provides voters with a clear – cut choice between two main parties. Therefore in many instances this system gives rise to single – party governments, providing cabinets that are not fettered by the restraints of having to compromise with a minority coalition partner.<sup>185</sup> The result is generally very clear. In the UK for example a majority of seats in the Commons would go to one political party, hence resulting in a strong and stable government. It will bring about a clear mandate that has to be carried out, without being watered down by compromise derived from coalition.<sup>186</sup> Furthermore it results in the creation of a coherent opposition in the legislature. It basically results in a strong single party government.<sup>187</sup>

When there are two main parties and a number of societal groups, FPTP encourages political parties to be broadly based. These parties can nominate a diverse array of candidates for election. In Malaysia, the Barisan National government is made up of a broadly based umbrella movement which features Malay, Chinese and Indian candidates in areas of various ethnic complexions.<sup>188</sup>

The FPTP system is particularly praised for being straight forward, easy to understand and to operate.<sup>189</sup> A mark beside the name or symbol of a candidate creates a valid vote. Even if there are a number of candidates on the ballot paper, it is still easy for electoral officials to count the votes.<sup>190</sup> Therefore it provides quick results both local and national.<sup>191</sup> Another important factor to note is that an extremist party is unlikely to win under FPTP, unless that minority party's electoral support is geographically concentrated.<sup>192</sup>

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<sup>182</sup> *Supra* note 6.

<sup>183</sup> *Supra* note 12, at 367.

<sup>184</sup> *Supra* note 6, at 36.

<sup>185</sup> *Supra* note 6, at 36.

<sup>186</sup> *Supra* note 12, at 367.

<sup>187</sup> *Supra* note 6, at 36.

<sup>188</sup> *Supra* note 6, at 36.

<sup>189</sup> *Supra* note 28.

<sup>190</sup> *Supra* note 6, at 37.

<sup>191</sup> *Supra* note 12, at 367.

<sup>192</sup> *Supra* note 6, at 37.

## • LIMITATIONS OF THE FPTP SYSTEM

The FPTP system has come under much attack for being unfair, divisive and for contributing towards instability. When studying the operation of this system, what the government it produces puts into law is not necessarily what the people want. The power and strength of political parties are exaggerated and the significance of the individual MP is largely reduced.<sup>193</sup> The first notable limitation is that this manner of voting and counting votes produces results that are not fair. This statement alone is a good enough reason for trying to improve the FPTP system.<sup>194</sup> The second is that the system is divisive. Divisiveness is said to be caused by class conflict and its perpetuation.<sup>195</sup> The third criticism is that it is a cause of instability. For example many argue that the instability of the British Government is a consequence of the ping pong nature of the two party system in its present broken down form.<sup>196</sup>

Expanding on these three major limitations, first critiques argue that smaller parties are excluded and marginalized under the FPTP system. For example if 10% of the vote goes to a particular party, they should approximately win 10% of the seats. However this proportionality is not present under this system. In the 1993 federal election in Canada the Progressive Conservatives won 16% of the votes, and only 0.7% of the seats. In the 1998 Lesotho general election, the Basotho National Party won 24% of the votes yet obtained only 1% of the seats. When examining a number of electoral democracies, this issue has been a recurring problem.<sup>197</sup>

The second criticism is that the FPTP system excludes minorities from fair representation. As a rule political parties under FPTP put forward the most broadly acceptable candidate in a particular district to avoid alienating the majority of electors. Therefore many argue that ethnic and racial minorities across the world are less likely to be represented in legislatures elected by FPTP. For example, it is rare that a black candidate would be given a major party's nomination in a majority white district in the UK or the USA. This exclusion of ethnic minority groups can destabilize the entire political system.<sup>198</sup>

The third major critique made is in relation to the exclusion of women from the legislature. The 'most broadly acceptable candidate syndrome' affects the ability of women to be elected to office because they are less likely to be selected as a candidate in a male dominated party structure. The Inter – Parliamentary Union's study of Women in Parliament stated that, as at June 2004, an average of 15.6% of representatives in lower houses of

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<sup>193</sup> *Supra* note 38.

<sup>194</sup> *Supra* note 26.

<sup>195</sup> *Supra* note 6, at 7.

<sup>196</sup> *Supra* note 6, at 37.

<sup>197</sup> *Supra* note 6, at 37.

<sup>198</sup> *Supra* note 6, at 37.

legislatures were women, and in 2004, in established democracies an average of 14.4% in the legislature were women when using the FPTP system. But this figure was almost doubled to 27.6% in countries that used a form of proportional representation. Therefore evidence across the world showcases that women are less likely to be elected to the legislature under the FPTP system. This pattern has been particularly evident in new democracies such as those in Africa.<sup>199</sup>

- **CASE STUDY OF THE 2010 GENERAL ELECTION IN THE UK**

The case made for and against the FPTP system can be analyzed further by studying the May 2010 general election in the UK. This election has been largely controversial due to the formation of a coalition government. The main criticism made by many analysts is that there is no direct proportionality between the votes cast and the seats won in Parliament when the FPTP system is employed. The Second criticism is that many votes would be wasted as only the winner relative to the second placed candidate is being selected. Moreover it will result in two party dominance, with little or no representation of smaller parties (eg in the UK the ‘third party’, the Liberal Democrats). The national result may effectively be determined by just a few marginal seats. And finally a mandate would be implemented, but it may not necessarily be representative of the majority.<sup>200</sup>

Party	Number of seats	Percentage of vote	Percentage of seats
Conservative	306	36.0%	47.0%
Labour	258	29.0%	40.0%
Liberal Democrats	57	23.0%	9.0%
Other	28	12.0%	4.0%
Vacant seat	1	-	-
<b>Total</b>	<b>650</b>	<b>100.0%</b>	<b>100.0%</b>

The table above illustrates the results of the May 2010 general election.<sup>201</sup> The percentage of eligible voters voting was 65.1%. In order to form a government a political party needed to secure a clear majority of 326 parliamentary

<sup>199</sup> *Supra* note 6, at 37.

<sup>200</sup> *Supra* note 12, at 362.

<sup>201</sup> *Supra* note 12, at 362.



seats. However the figures above show that no political party was able to secure a clear majority of seats, and therefore for the first time since 1974 it resulted in a ‘hung parliament’ and no political party leader could claim the right to be appointed Prime Minister and form a government.<sup>202</sup>

In the May 2010 general election the Conservative party won the highest number of seats (306), but it was not sufficient to fulfill the necessary majority (326 seats). After negotiations the Leaders of the Conservative Party and Liberal Democrat Party agreed on a full coalition government, which had not been prevalent in the UK since the 1930s.<sup>203</sup>

This clearly showcases that in addition to the disadvantages of FPTP this electoral system has failed to deliver in terms of its advantages as well. One of the main arguments in favour of the FPTP system is that it creates a relatively stable government where one party will be in power, and therefore will be able to implement its electoral mandate successfully. However in this scenario it resulted in a hung parliament and thereafter a coalition government. The main reason for the employment of FPTP in the UK is based on the fact that any prospective government should be able to command the confidence of the House of Commons and ensure stable government. This requires that a majority of the Members of Parliament support the government so that it would not face the risk of defeat on crucial issues in the Commons which could result in the government having to resign and prompt another general election. In the May 2010 General election the FPTP system failed to deliver in all these areas, clearly showcasing all the limitations of this electoral system.<sup>204</sup>

### **iii. ALTERNATIVE VOTING MODELS**

Selecting a better system of voting is not an easy task.<sup>205</sup> However, Cases such as the May 2010 general election in the UK clearly showcase the demand for reform of the FPTP system. There are several alternatives, some which offer proportional representation, and others which do not, but represent an overall improvement of the representativeness of Parliament, when compared to the FPTP system. Some of the alternatives that could be considered would be the alternative vote and the supplementary vote, which are both majoritarian systems, and the additional member system and the single transferable vote along with the party list system which are proportional representation systems.<sup>206</sup>

#### **i. MAJORITARIAN SYSTEMS**

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<sup>202</sup> *Supra* note 12, at 363.

<sup>203</sup> *Supra* note 12, at 363.

<sup>204</sup> *Supra* note 12, at 363.

<sup>205</sup> *Supra* note 26, at 54.

<sup>206</sup> *Supra* note 12, at 364.

- **THE ALTERNATIVE VOTE**

This system introduces the notion of multiple votes in order of preference. The voters mark their ballot papers with preference expressed in numerical order. The candidate with 50% of the first preference vote is elected. If no candidate obtains 50%, the votes of the candidate who achieves the lowest number of first preference votes are redistributed in accordance with the candidate's supporters' second preferences. This process continues until one candidate achieves an overall majority of votes.<sup>207</sup>

The overall result bears little or no resemblance to proportionality and therefore this system fails from the point of view of proportional representation. It also carries the risk of returning to Parliament candidates who have achieved no clear support or mandate from the electorate. However this system ensures that the candidate with the most support overall within a constituency is returned to Parliament. Its main advantages are that the traditional one member, one constituency principle is maintained and the elected candidate has a majority of votes.<sup>208</sup>

- **THE SUPPLEMENTARY VOTE**

The system allows voters to express a preference through voting for two candidates. If 50% of the vote is not secured by any candidate, the second preferences cast for all candidates other than the top two are redistributed between the two leading candidates until a clear winner emerges. This system works smoothly where there are only three candidates. However it becomes complex if a greater number of candidates are standing for election, as it is not clear as to who the leading two candidates will be. And the electorate would vote tactically in order to ensure that a candidate who they did not want elected would not be in either of the two top positions.<sup>209</sup>

## **ii. PROPORTIONAL REPRESENTATION SYSTEMS**

- **THE ADDITIONAL MEMBER SYSTEM (AMS)**

Under AMS three quarters of the Members of Parliament would be elected in single member constituencies through the FPTP system. The remaining quarter are additional members, elected through party lists on a regional party basis, using a formula based on the largest average votes cast between the parties. The additional members top up the total for each party in order to give overall proportionality. Therefore each voter gets two votes, one for the candidate of his choice in the constituency, and the other for the party of his choice on a regional basis. It

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<sup>207</sup> *Supra* note 28, at 14.

<sup>208</sup> *Supra* note 12, at 364.

<sup>209</sup> *Supra* note 12, at 365.

is very close to the FPTP system and departs from it sufficiently in order to ensure proportionality.<sup>210</sup> It is adopted for elections to the Scottish Parliament and the Welsh Assembly. However the AMS confers a large amount of power to political parties who control who is to be included on the regional list.<sup>211</sup>

A variant of this system is employed in Germany for local elections, which avoids the issue of party control. Here all candidates stand as constituency candidates directly, but only three quarter are elected in single member constituencies. The remaining one quarter who were runners up in the election contest sit as additional members.<sup>212</sup>

- **SINGLE TRANSFERABLE VOTE (STV)**

The STV offers proportionality and a great range of choice for electors. This system is used in the Republic of Ireland and in Northern Ireland for the European Parliament elections and elections to the Northern Ireland Assembly. It requires that's the total number of votes be divided by one more than the number of vacant seats, plus one. This is the most complex of alternative systems and therefore is not favoured by many.<sup>213</sup> The voter expresses his or her preference for candidates in numerical order. A quota is predetermined. The candidates who are successful are those who reach the quota, and those who on a redistribution of second, third and more remote preferences reach the quota.<sup>214</sup> If it is to be used in the UK it would require a rearrangement of the current single member constituencies into far larger regional units, each returning several Members of Parliament. The method of calculation varies, but is based on a quota of the votes cast that is achieved either by first preference voting producing the required quota or the redistribution of votes cast for losing candidates.<sup>215</sup>

- **THE PARTY LIST SYSTEM**

Under the party list system a list of candidates are nominated by each political party. The votes for each party's list are calculated on a nationwide basis without any constituencies. The parties obtain the number of seats in the legislature in direct proportion to the votes in the country. The main critique against the party list system is that too much patronage is placed in the hands of party leaders.<sup>216</sup>

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<sup>210</sup> *Supra* note 28, at 16.

<sup>211</sup> *Supra* note 12, at 365.

<sup>212</sup> *Supra* note 12, at 365.

<sup>213</sup> *Supra* note 12, at 365.

<sup>214</sup> *Supra* note 28, at 17.

<sup>215</sup> *Supra* note 12, at 365.

<sup>216</sup> *Supra* note 12, at 366.

Overall the Proportional representation systems and the majority systems discussed above would result in more votes being counted, leading to greater and wider representation of views, especially where more than one candidate is elected. There will be a better representation of minority interests and smaller parties. Coalition produces wider representation in government and encourages consensus and compromise to bring about policies that take into account different views. More votes count when this system is employed, therefore it encourages voter participation. Finally, it enables voters to express more than one preference.<sup>217</sup>

The main criticism against these systems is that the government so created could be less stable. Small parties that have a marginal or extreme stance may hold disproportionate or even the balance of power. The mandate of the majority would not be implemented. The voter does not decide or know to whom his vote ultimately goes.<sup>218</sup>

#### **IV. CRITIQUE: SHOULD THE FIRST PAST THE POST SYSTEM BE RETAINED OR REPLACED?**

Most of the arguments in favour of reforming the FPTP system revolve around its alleged defects. Reformers argue that its main defect is that it creates a government that is not representative of a majority of the voters' wishes. Therefore the principle of democracy and equality in voting power are at the core of the case for reforming the FPTP system. The government of the day, and the composition of the legislature as a whole, must reflect the wishes of the electors, for democracy to have real meaning. Under a system that satisfies the above, it can be argued that the government would have enhanced authority to pursue its electoral mandate.<sup>219</sup>

Overall the FPTP system produces a government with a strong parliamentary majority, which would be able to implement its electoral mandate. When casting a vote the voter knows what he or she is going to get in terms of policies and proposals for legislation.<sup>220</sup> However there is a great inequity in the distribution of votes between parties under this system as it leaves little room for the adequate representation of smaller parties, and invariably favours a two party system.<sup>221</sup> Therefore from the point of view of democracy the FPTP system fails as it does not ensure equality in voting power.

One of the fundamental benefits of proportional representation over FPTP is its potential to increase citizen efficacy and engagement in politics. The fairness of this system is said to bring about this increase in efficacy and

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<sup>217</sup> *Supra* note 12, at 368.

<sup>218</sup> *Supra* note 12, at 368.

<sup>219</sup> *Supra* note 12, at 368.

<sup>220</sup> *Supra* note 12, at 370.

<sup>221</sup> *Supra* note 12, at 369.

engagement. Proportional representation is said to be fairer than FPTP as it reduces the proportion of voters who cast 'wasted' votes. This increases the value and impact of individual votes and thereby increases an individual's attachment and trust towards the political system. As votes are no longer wasted it encourages people to vote, thereby increasing citizen participation in the electoral process. Systems such as FPTP distort the translation of votes into seats in Parliament, and therefore discourage smaller party supporters as they are not fairly represented. This depresses voter turnout. Therefore from the eyes of democracy proportional representation is a better alternative. Increased voter turnout, will increase the legitimacy of the democratic institution formed.<sup>222</sup>

## CONCLUSION

In a democratic polity, the voting decision is one of the most important political decisions taken by the electorate. It is through this choice given to voters that the voter is able to exert the most direct influence on the government and the politics of the State.<sup>223</sup> *"The underlying principle of democracy is that periodic elections provide the institutional procedures to make sure that the rulers shall derive their powers from the consent of the people."*<sup>224</sup> Therefore it is the voting decision that ultimately decides the nature of the government formed in a democracy and it is perhaps one of the political activities which attracts the most participation in most democracies.<sup>225</sup>

Taking into account the importance of electoral systems in democracies, the goal of this paper has been to assess the limitations of the FPTP system. The discussions in this paper clearly indicate that despite having the advantages of being well structured, easy to operate and creating a strong government with the ability to implement its mandate, the FPTP system fails in terms of 'consent' of the people because the candidate with the largest number of votes wins in the election and therefore results in the wastage of votes. The main criterion to be satisfied by an electoral system is the creation of a 'fair and representative' government.<sup>226</sup> The FPTP system clearly does not satisfy this criterion as voter participation and the value of individual votes are much less under this system.

When examining the alternatives to the FPTP system, some argue that proportional representation may result in a weak government. The governments may have to substantially compromise their electoral promises in order to govern. Voters are far less certain that their policies would be implemented after the election.<sup>227</sup> However the

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<sup>222</sup> Hans Dieter Klingemann, *THE COMPARATIVE STUDY OF ELECTORAL SYSTEMS*, 112 (2009).

<sup>223</sup> D.S. Chaudhary, G.K. Kar, *ELECTIONS AND ELECTORAL BEHAVIOUR IN INDIA*, 81 (1992).

<sup>224</sup> *Supra* note 72.

<sup>225</sup> Richard Rose, Harve Mossawir, *Voting and Elections a Functional Analysis*, 15 (2) *POLITICAL STUDIES* 1, 159 (1967).

<sup>226</sup> *Supra* note 26, at 54.

<sup>227</sup> *Supra* note 12, at 369.



proponents of this system argue that it increases efficacy and engagement in politics and therefore leads to greater citizen participation in the electoral process.

The arguments presented in this paper makes one point clear, the issue of electoral reform is by no means clear cut. Electoral reform could even lead to the encountering of potential constitutional problems. *“At the end of the day, the quest for an alternative system is rooted in the paramountcy of the principle of real democracy and equality of representation of the people in Parliament.”*<sup>228</sup> It is against this ideal that the FPTP system should be reformed.<sup>229</sup>



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<sup>228</sup> *Supra* note 12, at 370.

<sup>229</sup> *Supra* note 12, at 370.