Seanad Electoral (University Members) (Amendment) Bill 2014

On receiving the request for submissions on the general Scheme for the above, UCC brought the paper to Academic Council, supported by a discussion paper from Dr Liam Weeks of the Dept of Government in UCC (to whom the Academic Council is indebted for sharing his expertise). The following outlines the key issues raised by Dr Weeks and discussed by Academic Council and the general responses from Academic Council at UCC.

Key issues

1. Rationale of university representation

Some countries, in particular those that replicated the British Westminster form of governance, share a similar tradition of university representation (although few retain it). In Ireland currently (and as proposed in the General Scheme) those standing for election need not work in the university, nor indeed, require any form of affiliation with it. So, university senators represent university graduates, not the universities. In a wide-ranging report in 1997 Professors Coakley and Laver (1997: 93-4) argue the following:

Existing provisions for university representation are both cumbersome and of questionable appropriateness. Most of those voting no longer have any connection, other than possibly one of sentiment, with the universities whose representatives they are choosing. If university representation is to continue, therefore, methods should be devised to ensure that university senators represent their universities, rather than giving a special additional franchise to a large and disparate body of graduates most of whom have long departed from their colleges, and perhaps even from the country.

Consequently, currently, the main distinguishing feature of university seats is that university graduates have a vote. If, as the government claims, the size of this electorate could be 800,000, this will be a virtual mini-national election. What will be the point of it? Who will the elected Senators actually represent? The more inclusive the electorate, the less the rationale for this form of representation (as it simply begins to replicate the general election for the Dail).

UCC would support retention of University seats in the Seanad but would recommend eligibility for candidature should be restricted to individuals associated with the universities.
2. The independence of the university senators

One of the historically valued traits of university senators is their independence (Gallagher and Weeks, 2003). A successful upper house of parliament is one that does not replicate the lower house, hence the independence of university senators is vital. Were university senators to represent political parties this would most likely undermine their unique position.

However, expanding the franchise up to a possible 800,000, as the government claims, would raise the electoral quota considerably. Even if only 50% of graduates register and one-third vote, the quota would be approximately 20,000 votes, quite a large vote for any independent to attract. The consequence might be that candidates would look to parties to mobilise support or it might encourage celebrities to run. Either outcome would run against the tradition of genuine independent university representation.

Historically, independents are more likely to be elected in single-seat constituencies because it is easier for them to campaign than under larger multi-seat constituencies (Weeks, 2009; 2011). So if we are interested in maintaining independent representation, a six-seat constituency might not be a favourable institutional design (see below).

UCC believe strongly that it is important to maintain the independent voice in order to raise issues of representation/minority viewpoints and to be able to challenge political viewpoints.

3. Electoral rules

Although the electoral system of PR-STV (proportional representation by the single transferable vote) is specified in the constitution, legislators still have some leeway when designing the rules for the new constituency. There area number of relevant issues regarding proposed electoral rules:

I. The size of the constituency:

If all university senators will continue to be independents, as most of them have been, what is the point of a multi-seat constituency? The government claims it will help achieve proportionate outcomes, but if it is primarily independents winning seats, it is impossible to have proportional representation. For example, if one candidate won one-third of the vote, (s)he would still only get one seat, i.e. one-sixth of representation.
In the general Scheme, it is argued that a single constituency would ensure that electors with more than one university degree would not have two votes but as discussed above, if we are interested in maintaining independent representation, a six-seat constituency might not be a favourable institutional design. In addition, a multi-seat constituency could mean that some third-level institutions will never be represented.

The second report of the All-Party Oireachtas Committee on the Constitution recommended the following six single-seat constituencies (1997):

- University College Dublin third-level constituency;
- Trinity College Dublin third-level constituency;
- Leinster third-level constituency centred on Dublin City University and encompassing NUIMaynooth;
- Connaught-Ulster third-level constituency centred on University College Galway;
- Mid-West third-level constituency centred on the University of;
- South-Munster third-level constituency centred on University College Cork.

Although the constitution prescribes PR-STV (which in theory cannot be achieved in a single seat), this system is used for presidential elections, so there is no reason why six single-seat constituencies could not be created for Seanad elections. This could ensure that each of the main universities would be represented.

UCC is in favour of multiple constituency approach.

II. The electoral formula:

There are different means of distributing surplus votes under PR-STV, which has been shown to affect the outcome (Weeks, 2011). Will the same Gregory rules as used at Seanad elections be in place or will the arbitrary Dáil transfer method be favoured? Neither system is ideal. A far more equitable system is the Weighted Inclusive Gregory method, as used for STV elections in Scotland and Australia.
III. The register of electors:

It has been reported that both NUI and TCD found it difficult to maintain their respective registers as the number of graduates grow and contact is lost. Logic would dictate that it will be a lot more difficult to maintain with one, all-encompassing register and the consequent need to liaise with the various institutions of education. Elections will also be considerably more expensive to run as they must be by postal ballot.

There is some sense that if the University Senators are to represent the universities, then the electorate as well as candidates should be drawn from staff of the universities. The question this poses is whether or not such a change would require significant change to the Constitution?

IV. Electoral deposit:

The proposed electoral deposit of €900 seems rather excessive, particularly for an election that is primarily contested by independents. This might discourage young people from running, those from a disadvantaged background, or again, it might force candidates to look to parties for support, an issue discussed in a previous point.

It was on these grounds that an independent candidate won a court case against the government to remove the compulsory deposit from Dáil elections.

V. Gender quotas:

The under-representation of women in Irish political life has been well-documented. To have more women stand for political office the government has linked quotas to state funding of political parties. Since most university seats have in the past been won by independents, and there is a clear need from the university perspective to retain this, the government needs to consider this issue when designing the electoral provisions related to this bill.
VI. The filling of casual vacancies:
The filling of casual vacancies under a PR electoral system by the means of bye-
elections is an unusual method used in few countries outside of Ireland.
Having a bye-election by postal ballot would be expensive, and frankly, outdated.
The only other countries using STV extensively are Malta and Australia, where the
system of countback is the primary means of filling vacancies. Under this method,
the ballot papers from the original election are re-examined and votes that were
given to the elected candidate are transferred to the unelected candidates.
Other options include co-option, as used for local elections, where the party (or
university?) of the departed candidate nominates a replacement; a reserve list, as
used in European Parliament elections; and appointment, where the sitting house
elects a replacement member.

4. Institutions of higher education
UCC has mixed views on whether the franchise should be expanded to include all public higher
education institutions. The question as to whether the decision be left to the government or the
respective institutions requires further consideration and the University would welcome further
discussions on this. Expanding the franchise out to all graduates of all third level institutions would
be impracticable both from a logistic point of view (cost and scale of electorate) and in relation to
many of the issues raised above.

References
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PSG 7-4-2012