

**COLOMBIA'S ELECTORAL AND PARTY SYSTEM: PROPOSALS FOR  
REFORMS.\***

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## **1. Introduction and summary.**

Colombia's political system, despite the constitutional reform of 1991, is failing to deliver an adequate level of public goods in the crucial dimension of law and order. Urban and rural violence, civil war and the expansion of cocaine production have developed to a point that security and violence have become a priority concern for Colombian citizens.

Elected presidents have in the post-national front period attempted to introduce reforms and attempted to tackle Colombia's major problems head-on. However, the major obstacle to reforms in Colombia has been the fragmentation in Congress. Representatives in Congress have little interest and incentives to work to tackle the nation's central problems. On the contrary, they will tend to prefer to block reform proposals that enhance national public good provision whenever it conflicts with their narrow interests of patronage and local clientelistic networks. This strong clientelistic bias is related to the weakness of the party system and to the electoral system. Parties do not have control over their party labels and do not have the means to discipline their members. Therefore, separate lists can appear under the same party label and intense intraparty competition can take place where each list caters to targeted local interests. Such electoral fragmentation is encouraged by the electoral system based on the absence of vote pooling across lists and the principal of largest remainders. The majority of seats in Colombian Congress are won by largest remainders and not by quota.

These problems have started to be tackled by the 1991 constitutional change decided by the Constitutional Assembly. Many of those reforms went in the right direction

but did not go far enough. The most important element of the 1991 reform was the election of the Senate on a nation-wide district with 100 seats. This in principle should give candidates the opportunity to try to come up with platforms that appeal to a broader electorate by campaigning more on national issues. However, instituting a single-wide national district is not enough to move decisively in that direction. It does not discourage the traditional factionalization. Indeed, it is still possible for a local faction leader to cater to local interests and get elected. Fragmentation of lists is not discouraged either since the largest remainder system remains in place and no minimum thresholds were put in place. Note that low voter turnout and clientelism reinforce each other since client-patron relationships are more effective and less costly the narrower the group of voters that need to be targeted to ensure election.

No durable democratic solution to the factionalization of Congress will be found unless rules are introduced that pursue the three following objectives:

- 1) Give incentives for Party cohesion, cohesion in legislative decision-making and incentives for national public good provision.
- 2) Enhance popular political participation.
- 3) Ensure sufficient political support for the reforms to make them political feasible.

Our proposal for reform the electoral system, that in our view best combines these various objectives is to maintain the Hare quota system at the level of the Lower House but to allocate seats only to local candidates who have exceeded the quota. All remainders should be allocated to a national district and be pooled

together on national party lists where the order of the list is controlled by the national parties. Allocation of seats at the national district level should be proportional, using to the D'Hondt formula, with a minimum threshold rule, as a percent of the total remainders. A threshold rule of 2% for the remainders should in principle be enough to get rid of most of the fragmentation.

In order to foster legislative cohesion, electoral reform should be combined with reform of Congress itself: more legislative power to Congress relative to the President; organization of Congress in "groups" with "whips" having power over attribution of commission seats to members of their groups; and possibly even a Congressional vote of confidence on the chairmanships of commissions.

Other reforms recommended are:

- revision of the law on party formation to make entry easier and to give parties rights over their labels;
- reform of campaign financing with caps on spending and public campaign financing;
- abolition of the secret vote in Congress;
- reduction in some prerequisites of Congressmen;
- extension of the term limits to mayors and governors to more than one mandate;
- automatic registration of voters;
- a clearer definition of the specific roles of the Lower House and the Senate.

## **2. Colombia's electoral and party system.**

### Presidential elections.

The president in Colombia is chosen by popular and direct election. Prior to 1991, the president was elected by plurality rule and since 1991, he must gain more than 50 % of the votes, which means in practice that the election takes place in two rounds. The latter feature has ensured greater popular participation and enhanced the legitimacy of the presidency. The president cannot be reelected after his four-year mandate.

### Congressional elections:

Colombia has a two chamber system (the Senate and the House of Representatives). Since the 1991 reform, senators are elected in a nation-wide senatorial district and the representatives to the House are in 162 territorial districts with an average district magnitude of about 5 as compared to 8 in the pre-1991 system. In the last 40 years the same formula has been used in order to establish the composition of the senate. It is the LR (largest-remainders)-Hare system.

The LR-Hare system works as follows. In each district, seat quota's are calculated by dividing the number of votes by the number of seats. Seats are first allocated to parties according to integer multiples of quota's. The remaining seats are then allocated in order of the largest remainders.

The following table, drawn from Cox and Shugart (1995) illustrates the functioning of the LR-Hare system.

**TABLE 1. Illustration of the LR-Hare System.**

Lists	Total votes	Seats allocated by quota	Seats allocated by remainders
Liberal Cuenca	34,840		No 2
Liberal Triana	33,996		No 3
Liberal Mosquera	22,942		No 5
Conservative Cabrera	38,512	No 1	
Conservative Caicedo	26,745		No 4
MNC	20,239		

District magnitude 5. Total votes: 182,507. Quota: 36,501.

Source: Cox and Shugart (1995).

Regional elections:

Since 1991, governors of the 32 departments and mayors of municipalities have been directly elected. Governors and mayors only have the right to a single three year mandate.

Party system: Colombia has mainly had two parties in most of its history, the Liberal and the Conservative party. The latter has always been more representative of rural districts and their big landlords while the liberal party's natural constituencies are urban. As urbanization increased, the Liberals increased their share of seats in Congress. The two parties maintained a balance between the 1960s and the 1970s, with a slight Liberal majority. The Liberal party consolidated its lead in the 1980s, achieving an average representation of 55% in Congress, while the Conservatives averaged about 25%, and the remaining 20% went to other political forces (see table 2).

**Table 2**  
**Seats obtained by political party. Lower Chamber**

	1991	1994	1998
Liberal	87	88	87
%	54.04	54.66	54.04
Conservative	42	49	38
%	26.09	30.43	23.60
Others	32	24	36
%	19.88	14.91	22.36

Source: Gutiérrez, Francisco. "Rescate por un elefante. Congreso, sistema y reforma política", in: Bejarano, A. y Dávila, A. "Elecciones y democracia en Colombia 1997 - 1998". Uniandes, Fundación Social, Veeduría a la elección presidencial, 1997, p. 232 - 334

The current president Pastrana is Conservative, however, and benefits from the support of several Liberal factions. In the 1991 Constituent Assembly, AD M-19, the political movement of the former guerilla movement M-19 played an important role. They received 26,8% of the votes and had 19 seats (against 25 to the Liberals, 9 to the Conservatives and 17 to other lists). They got 13 seats in the House and 9 in the Senate in the 1991 elections but lost most of the votes and seats in subsequent elections. Party labels in elections are not controlled by the national parties and there is a proliferation of party lists. Even after the 1991 institution of the single nation-wide district for the Senate, this proliferation has not stopped. This list fragmentation and the associated lack of party cohesion and discipline constitutes one of the main problems of the current Colombian system.

The legislative system: According to Zambrano et.al. (2000), legislative initiatives originate mainly in Congress, followed in importance by the Executive's initiatives, and practically no law has come about by popular initiative. However, the projects presented by the Executive tend to have a greater success probability and are the ones

that generate more debate. As shown in Table 6, in 1998 45% of the Senate's projects were unsuccessful in the first stages of the legislative process. Also, it is worth noting that the projects coming out of the Senate and the Lower Chamber have a greater regional focus rather than a national one, which is in line with the interests of the constituencies that elected them to their posts. Finally, there is no major difference between the work performed by the two chambers.

Congress works in full-sessions (plenarias) and commissions (7), that debate budget issues as well as other issues of national interest. The election of the presidents of these commissions is quite complex because the parties and movements within Congress participate and the Executive increasingly meddles in the process. The system is designed in such a way that the commissions elect the presidents among themselves, but in practice the executive negotiates Congressional support in order to favor certain political forces who are in the presidential coalition. Of course this conduct has high budget costs associated with it since support must be bought by promises of legislation favoring local political clienteles of Congressmen.

### **3. The problems with Colombia's electoral and party system.**

The main problem we identify in Colombia's political system is a lack of effectiveness of Congress in legislating on the provision of necessary national public goods. Law and order and the problem of violence is one of the main concerns of Colombian citizens. Various important reforms are needed in important domains such as land reform, pension



reform and other reforms that are considered important items of the national political agenda. There is a wide consensus inside public opinion about the necessity of land reform. However, there is strong resistance to any land reform within Congress. Attempts to broaden the coverage of social security and to target it less to privileged groups have failed. For the peace process itself, Congress has shown an incredible amount of inertia despite the urgency of the situation.

This observed inertia of Congress is directly related to the institutional features of the Colombian political system. The president who is elected nationally is the main advocate for the provision of such national public goods and it is fair to say that all elected presidents in the last decades have tried hard to push reforms that would enhance the provision of national public goods. However, such reforms have generally been blocked by Congress and presidents have had to use extraordinary or emergency powers to make progress in reforms:

- 1) President Lopez Michelsen (1974-78) wanted to reform public administration and attack the important problem of income inequality. Most of his program was defeated in Congress. He attempted to turn around the legislature by getting government reforms passed via a constitutional assembly but his effort was nullified by the Supreme Court. He was however able to pass by decree a more progressive income tax.
- 2) President Turbay Ayala (1978-82) tried again to push reforms, including a more ambitious program of reforming the judiciary, the banking system and economic management. Congress voted against his reforms and an attempt to circumvent the Congress was declared unconstitutional.

- 3) President Betancur (1982-86) tried an even broader reform program and attempted to reach a peace plan with the guerilla. His reforms were rejected by Congress and an attempt to introduce a major tax reform by emergency decree was declared unconstitutional.
- 4) President Barco Vargas (1986-90) tried to build in Congress a broad coalition for the failed reforms of his predecessors but the coalition collapsed and the reform package could not be passed. Eventually, he proposed the creation of an unconstitutional constituent assembly. Public opinion created such large pressures for reform that the Supreme Court approved the constitutional assembly, despite its illegality. This led to the 1991 constitutional reform. As we will see below, that reform did not deal satisfactorily with the main problems of the Colombian political system.
- 5) Even after the 1991 reform, presidents Gaviria, Samper and Pastrana have taken the lead in legislative initiatives and Congress has generally had a passive attitude in generating proposals for issues related to national public good provision or have had a tendency to block legislative proposals coming from the presidency. However, it must be mentioned that during the Gaviria administration a considerable legislative activity took place. In contrast, during the last two administrations, the two political reform initiatives have been blocked by Congress, thus maintaining the status quo and the party and electoral systems. The recent proposal by president Pastrana to hold a popular referendum on constitutional reforms is in line with the pattern of behavior of former presidents.

Why do we observe this regular pattern of presidents pushing for reforms leading to more and better provision of public goods and Congress blocking? This is related to the different incentives of the president and of the legislators. The president is elected by a nation-wide electorate whereas legislators are accountable only to a small and narrow group of local voters on which their reelection depends. The policy interest of Congressmen in the last decades has been dominated by clientelistic interests catering to their narrow group of voters.

The prevalence of clientelistic interests of Congressmen cannot only be explained by the fact that they are elected in local districts. In many electoral systems, legislators are elected in local districts and they have a national policy focus. The best example of this is the UK where all members of Parliament are elected in local districts and nevertheless vote in a disciplined way on national policy issues. Electoral campaigns also turn around national policy issues. The dominance of clientelistic interests in the Colombian Congress relates to other factors. First of all, parties do not have control over their party label. Therefore, it is possible to have electoral lists in the same district with the same party label but a different faction. Party leaders thus do not have means to discipline the Congressmen of their party by exercising control over the electoral lists. The existence of different lists with the same party label, a phenomenon quite unique to Colombia (and also to neighboring Ecuador), creates *intraparty* competition instead of *interparty* competition. It is this intraparty competition that leads to clientelism since heads of different lists try to differentiate themselves by targeting narrow local interest groups instead of trying to rally voters on party platforms.

The incentives for the proliferation of lists under the same label, known as the “Avispa operacion” are directly related to the LR-Hare electoral rule. Table 1 above shows this very well. Fragmentation of lists allows to gain seats on the basis of the largest remainders instead of the quota. In table 1, only one seat is attributed by the electoral quota. The other 4 are attributed by the largest remainders. Fragmentation of lists thus allows seats to be gained on the basis of the largest remainders instead of the quota thereby reducing the “price” of one seat in terms of the number of voters. The more lists there are the “cheaper” the “price” of a seat. Congressmen are thus elected by a relatively narrow group of local voters and they cater to the clientelistic interests of the latter. In the current system, they have no incentive to deviate from this clientelistic behavior.

The 1991 constitutional reform tried to tackle the problem of the Colombian Congress by instituting a single national electoral district for the Senate. The purpose was correctly to encourage candidates to broaden their electoral platform and to rally voters nation-wide on the basis of national issues. However that reform has failed. Table 3 shows that while the 1991 election in the Senate, the first to be held on the basis of the nation-wide district, showed a decrease in the number of lists. This decrease was only slight. However, the number of lists has steadily increased in 1994 and 1998.

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Table 3

Number of Parties and Lists to the Senate

	Number				% Growth		
	1990	1991	1994	1998	90 - 91	91 - 94	94 - 98
<b>Registered Parties or Movements</b>	8	21	54	80	163	157	48
<b>Registered Lists</b>	213	141	245	319	-34	74	27

Source: Senate Data Base - Juan Carlos Rodríguez Raga. Calculations by Miguel García

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The reform has failed because senators learned quickly that the old clientelistic equilibrium could be replicated in the national district. Indeed, no representation thresholds were put in place to discourage small lists and the LR-Hare system remained in place encouraging fragmentation and election by largest remainders. As shown in table 4, the number of seats allocated by quota has steadily decreased and in 1998, only 5 out of 100 senators were elected by quota, all the others by remainder. The marginal price of a seat, calculated as the minimum remainder for which a seat was allocated represents roughly only 40% of the number of votes specified by the quota and was lower in 1998 compared to 1991 and 1994. Instead of trying to gather votes across districts as initially intended by the reform, seats are gained mostly by getting regionally concentrated votes. As shown by the regional concentration index, more than two thirds of votes are on average regionally concentrated. Note also that the turnover of senators has decreased between 1994 and 1998. Whereas in 1994, 59% of the seats were renewed, in 1998 only 39% were. Moreover, the turnover takes mostly place among the independent senators. Moreover, many of the new Senators have often been elected in the past.

**Table 4**  
**Elections to the Colombian Senate 1991 - 1998.**

Year	# of Lists	Votes for Senate	Positions by Quota	Minimum Quota	Minimum Remainder	Minimum remainder as a % of votes	Regional Concentration Index
1991	143	5,241,938	19	52,419	21,064	0.41%	62.4%
1994	251	5,170,300	13	51,703	21,961	0.42%	70.3%
1998	319	9,461,328	5	94,613	37,294	0.39%	67.4%

Source: Botero (1999), Ministry of the Interior.

The increased fragmentation of lists has led to an important loss of legitimacy. Table 5 shows that participation rates in Senate elections have been low. They declined between 1990 and 1994. They increased in the 1998 election but remained at only 44%. This low participation rate in the Senate is a general phenomenon and can be observed across regions.

**Table 5**  
**Voting participation to the Senate election: 1990 - 1998**

	<b>1990</b>	<b>1991</b>	<b>1994</b>	<b>1998</b>
Electorate	13,779,188	15,037,526	17,028,961	20,767,388
Votes	7,653,710	5,512,897	5,467,535	9,073,254
Participation	56%	37%	32%	44%

Source: Senate Data Base - Juan Carlos Rodríguez Raga.

The latter evolution is worrying. Shugart and Carey’s (1992) analysis of presidential systems, mostly situated in Latin America shows two clusters of presidential regimes depending on measures of party strength and presidential strength. One cluster has strong parties with weaker presidents and the other has strong presidents with weak parties. Countries with the latter regime have had less stable democracies and higher tendencies to evolve towards dictatorships. The recent evolution of other Andean countries like Peru or Venezuela seems to confirm such a view. Colombia has had a very long experience with democracy, compared to many other Latin American countries. It is however important to note that the relationships between the executive and the legislature of the last decades, with Congress blocking presidential initiatives and the latter trying systematically to bypass Congress, is not normal for a healthy democracy. A stable democracy requires an improvement of the relationship between the executive and the legislature via an urgent

reform of Congress. The status quo cannot be maintained indefinitely, especially with the continuation of the guerilla movement and the big problem of violence and the influence of the narco-traffic in Colombian society.

**Table 6**  
**Status of the Projects Presented by the Lower Chamber in 1998**  
**by Origin of the Legislative Initiative**

	Lower Chamber	Senate	Rest of the Government
Publication	52	13	1
Approved in 1 <sup>st</sup> debate	22	17	1
Approved in 2 <sup>nd</sup> debate	19	28	2
Approved in 3 <sup>rd</sup> debate		2	
Commission suspended its study	2	0	
Filed	27	65	
Returned	3	4	
Withdrawn	13	4	
Pending ratification	4	6	1
Law	0	0	
Constitutional Revision	1	0	
Without information	6	21	68
Total	149	160	73
Source: Zambrano, Laura; Botero, Felipe; Quiroz, Francisco. <i>¿Qué hace funcional al Congreso?</i>			

#### 4. Proposals for reform.

The main objectives for electoral and political reform in Colombia should be the following:

- 1) create incentives for legislative cohesion to create a stable majority discipline in Congress to better promote the provision of national public goods. A prerequisite for stable majority discipline is party discipline in Congress that is currently nearly non-existent;
- 2) at the same time, given the specificity of the Colombian situation, it is very important to enhance and increase popular participation by encouraging and

allowing the entry of new parties reflecting social and political movements who have felt excluded from the political process. This is a very important objective given the history of violence and civil war. Despite the integration of M-19 in the country's political life with its participation in the Constituent Assembly of 1991, guerrilla activity has not been reduced but has increased. Without improving political participation, the objective of civil peace may not be reached and the country may be dragged into further war and even split apart. Enhancing popular participation means fully recognizing aspirations that have been expressed recently with the emergence of regional movements and other new political movements. We should emphasize strongly that this proposition is specific to the current Colombian situation. We do not want to argue in general that there is an optimal number of parties that is bigger than 2. Two party systems under majoritarian electoral rule have worked quite well for a very long time in the U.S., U.K. and elsewhere. Our insistence on encouraging entry of new parties is related to the civil war and to the very low level of political participation in Colombia. We have in mind a non-fragmented party system where not more than 4 or 5 parties would be represented in the legislature and would shape the dynamics of majority coalition and opposition.

- 3) political feasibility of the reform must be assessed carefully. This may require compromises and a subtle approach toward Congress members. We try to put together a reform package that can gain sufficient support from key players: the president, Congressmen, local politicians (governors and mayors) and other political movements. Political feasibility will in the end be a matter of judgement by the actors of the reform process and many solutions should in principle be possible. Therefore, we think it is our task to provide a menu of possible reform packages,



indicating each time the complementary reforms that are needed to achieve the efficiency objectives while at the same time aiming to achieve political feasibility.

We first discuss various alternatives weighing their costs and benefits and point out the scenario's for electoral reform that seem to be the most promising in view of the above objectives. We then outline several complementary reforms that are necessary and desirable.

*Give parties full control rights over party labels?*

Such a measure seems, at first sight, to be the obvious policy response to the problem of list fragmentation. We think such a measure, whatever its exact legal form, would not be effective in itself and would in all likelihood not be enforced or circumvented without a change of the electoral law itself. Party labels represent little more than vehicles for the presidential election. Presidential candidates need the support from the various factions in their party in the presidential campaign. Local faction chiefs do not really depend on the party leadership while party leaders need the support of faction chiefs when running as presidential candidates. Congressional elections are basically races between various dispersed lists in order to maximize the number of seats given the electoral system. In the current system, the party leadership would lose more than gain from refusing the party label to given lists. We thus have doubts that party leaders would be able to enforce a law giving them monopoly rights over party labels. Even if it would try to enforce such a measure, or if unicity of party labels like "liberal" or "conservative"

were determined and enforced by law without leaving enforcement to the party leadership, one would surely face the emergence of other parties. Indeed, the cost for lists of coming up with a new label would probably be outweighed by the electoral advantage of fragmentation. All in all, a candidate may prefer to come up with his own list and win a seat with a small number of votes rather than being on a party list without the freedom to cater to his own narrow constituency. The fragmentation of parties would thus still be a problem. Moreover, the fragmentation of parties may make it more difficult to build coalitions for the presidential campaign. We thus have doubts that such a measure can be enforced in the current context without important other complementary reforms, involving a change of the electoral system for Congress.

*Introducing Single-Member districts with plurality rule?*

The plurality rule in single-member districts means that one seat is attributed per district and is allocated to the candidate with the most votes. This system is in place in 23 countries including the U.S., the U.K., Canada, India, New Zealand and in many former British colonies.

Undoubtedly, such a reform would bring a quick end to fragmentation since it would give various lists an incentive to regroup in order to maximize the number of votes. Elections in single-member districts generally lead to the formation of two major lists per districts between which the real political competition takes place. This is known as *Duverger's law* on which there is a vast literature, both theoretical and empirical, in

political science. Other lists either withdraw or abstain from entering because of the low likelihood of winning the seat. Moreover, voters strategically abstain from voting for small lists, even when they are the closest to their preference because they do not want to waste their vote on losing lists.

However, it must be noted that such a reform does not automatically lead either to some version of Duverger's law at the national level (on this, see Cox, 1997) nor does it lead *per se* to strong legislative cohesion in Congress, a necessary condition to provide more national public goods. To see this, one can contrast easily the situation of the U.K. and the U.S. which both use plurality rule for the election of legislators. The British Parliament is one of the most disciplined in the world whereas the U.S. Congress is not very cohesive and actually shares some of the features of the Colombian Congress, even though in a much less pronounced form. Congressmen, unlike British Members of Parliament, are very focused on the interests of their local constituencies and have less interest and cohesion on nation-wide issues. Much of the pork-barrel politics in Congress relates to coalition-building for bills where given Congressmen agree to support a given bill in exchange for support on other bills that favor their local constituency. The US Congress is thus more focused than the British Parliament on local issues and less focused on national issues. It is very difficult for the president who typically has a national agenda to build stable coalitions for his legislative initiatives. Even when the majority in Congress belongs to the same party as the president, the latter cannot count on disciplined support from the Congressmen of his party. Coalitions are built issue by issue through individual negotiations with pivotal Congressmen to catch their vote. Similarly, US lobbyists target individual Congressmen to influence their vote, a move that makes less sense in the British

context where the party leadership determines how to vote. British lobbyists target party leaders and influence activities towards individual Congressmen aims at influencing the party leadership.

The reason for the higher discipline in the British Parliament and the bigger focus on national issues compared to local issues relates directly to the difference between a parliamentary and a presidential democracy (Diermeier and Feddersen, 1998; Persson, Roland and Tabellini, 2000). Parliamentary democracies tend to favor more legislative cohesion because the executive arises from a majority coalition in Parliament and because the executive can at any moment in time be voted down by a vote of confidence in Parliament. Since the majority coalition forming the cabinet enjoys important powers, including agenda-setting powers, from being in the executive and would be hurt by a government crisis following a vote of confidence, the possibility to associate a vote on a bill with a vote of confidence for the cabinet generates legislative cohesion: representatives from the majority coalition vote in a disciplined way on proposals from the cabinet. In contrast, in presidential democracies, the executive is independently elected by a popular vote and cannot be voted down by Congress. There are thus less incentives for cohesion.

This discussion shows that it is important to understand that legislative cohesion depends not only on the electoral rule but also on the institutions of legislative bargaining. While the difference between the U.S. and the U.K. highlights the difference between a parliamentary and a presidential democracy, one must also acknowledge that not all presidential democracies exhibit the same degree of legislative cohesion. Following Shugart and Carey (1992), one can say that presidential systems with less powers to the

president and more power to the legislature also exhibit stronger voting discipline in Congress.

We do not think it would be politically feasible to transform Colombia into a parliamentary democracy. We do not think it would be necessary either. For example, the French political regime, while having an elected president has a strong legislative cohesion because of the institution of the vote of confidence on the government. It is not necessary either to go all the way to the French system but it is important to emphasize that some mechanisms strengthening the powers of the legislature are necessary in order to achieve the objective of stronger party and legislative cohesion.

These remarks on the importance of reform of Congress, in association with electoral reform, are valid for some other electoral reforms we will discuss. We will come back later to possible ways of strengthening voting discipline in Congress.

Coming back to the issue of replacing the current electoral system by the single member district system, note that the latter is not well suited for the objective of enhancing political participation since it creates important barriers to entry for new non-established parties. We think this objection is important enough in the Colombian context. This requires us to stick to some form of proportional representation.

*Replace the LR-Hare system with the D'Hondt electoral formula?*

The D'Hondt rule for seat allocation is the most frequently used in systems with proportional representation. It is used in most European countries and in Argentina, Brazil, Chile and Uruguay. Its introduction was proposed in the proposal for constitutional change

(*proyecto de acto legislativo No 018 de 1998 Senado No 088 de 1998 Cámara*) that was recently rejected in the Senate. It is well known that the D'Hondt formula can favor less fragmentation as seats are allocated according to a divisor method and remainders play no role. It is also known to be the least favorable to smaller parties.

With the D'Hondt rule, votes for each list are divided by 1, 2, 3, ... The first seat is allocated to the largest number among the numbers calculated with the first divisor (here the number of votes). The next seat is allocated to the next highest number across all divisors and so forth. Table 7 illustrates this with a simple example assuming that there are 5 seats, 100,000 votes and three parties who get respectively 74%, 14% and 12% of the votes. One sees that party 1 gains all the seats since the fifth divisor 14,800 is higher than the number of votes for party 2. For party 2 to win at least one seat, it would have to have more than a fifth of the votes of party 1. If parties 2 and 3 formed a joint list, they would get one seat together. The D'Hondt system is proportional but since seats are integer numbers, it tends to favor the bigger lists.

**Table 7. Hypothetical illustration of the D'Hondt Rule.**

	Total votes	Divisor (=2)	Divisor (=3)	Divisor (=4)	Divisor (=5)
Party 1	74,000 No1	37,00 No 2	24,667 No 3	18,500 No 4	14,800 No 5
Party 2	14,000	7,000			
Party 3	12,000				

To illustrate how the D'Hondt system works and to compare it with the LR-Hare system, we take the votes from Table 1 and allocate seats according to the former method.

**Table 8.  
Allocation of seats with the D'Hondt formula.**

Lists	Total votes	(divisor = 2)	(divisor = 3)
Liberal Cuenca	34,840 No 2	17,420	
Liberal Triana	33,996 No 3	16,998	
Liberal Mosquera	22,942 No 5	11,471	
Conservative Cabrera	38,512 No1	19,256	
Conservative Caicedo	26,745 No 4	13,373	
MNC	20,239	10,120	
Liberal	91,778 No 1	45,889 No 3	30,593 No 5
Conservative	65,257 No 2	32,628 No 4	21,752
MNC	20,239		

District magnitude 5.

As we see, nothing would be changed in the allocation of seats under separate lists but nothing changes either with regrouping of lists. The liberals still get three seats and the conservatives 2. This is of course only an example. We however have doubts that the introduction of the D'Hondt rule by itself would reduce fragmentation. It favours bigger lists when they exist. However, in the absence of big parties and in the presence of a large number of fragmented list, the D'Hondt rule tends to maintain the status quo and thus only gives weak incentives to regroup existing lists.

Introducing the D'Hondt formula would have an advantage over single-member districts in that the system would be more proportional and would favor more easily entry by new parties.

However, just as is the case for single-member districts, it would not by itself be conducive to more party cohesion in Congress nor lead by itself to more focus on national public good provision.

### *Closed list PR systems ?*

Orthogonal to the issue of the electoral formula (LR-Hare or D'Hondt, district magnitude) is the issue of party control on the list order of candidates. This is a fundamental tool to obtain party discipline since reelection of a Congressman is made dependent on the party leadership. Some form of closed list PR is used in most European parliamentary systems, usually combined with the D'Hondt rule. In Central and Latin America, it is used in Argentina, Bolivia, Costa Rica, Ecuador, El Salvador, Honduras, Nicaragua, Uruguay and in pre-Chavez Venezuela. In Bolivia, Costa Rica and Honduras, closed list systems are associated with LR-Hare. Brazil has the D'Hondt rule but candidates are elected by preference votes and its Congress is quite fragmented. Moreover, according to a law called *candidato nato*, elected candidates have the right to continue to have a place on party lists in the future independently of the will of the party leadership.

Introducing closed list PR would quickly create a party system and party discipline as party candidates could be punished for deviating from party objectives by removing them from eligible places on the party lists.

At the same time, proportional representation would allow for relatively easy entry for disciplined parties.

However, while closed list PR systems do promote party discipline, which can contribute to cohesion, there are important costs associated to its introduction. The most important is that accountability of individual candidates to voters is lost. Elected representatives are characterized by party loyalty but not necessarily by large charisma or popularity with their constituency. There is thus a real danger that a too big distance is



created between the population and the political élites. This seems to have been the main reason behind the loss of legitimacy of the Venezuelan Congress.

Moreover, such a reform may lead to the other excess of promoting only national issues and neglecting local concerns and interests. While local issues are best managed at the local level, it is useful for voters to be in touch with “their” representative in Congress and to make those representatives accountable. More importantly, given the past history of the Colombian system, we do not think it would enjoy high political feasibility.

#### *Single transferable vote ?*

The system of single transferrable vote, in operation in Ireland and Malta, gives a lot of power to voters to rank their preferred candidates. It works in the following way. Voters rank candidates on the ballot. If there are 5 seats, they choose thus 5 candidates and rank them in order of preferences. The first seat is allocated to the candidate who has the highest number of No 1 votes exceeding the electoral quota. Seats are first allocated in that order. Remainders of ballots of candidates elected on quota's are then allocated to the other candidates in proportion to the next preferences expressed, weighted by the preference rank. If then no quota is reached, the weakest candidate is eliminated and his votes are transferred according to the winner of the next lower preferences expressed on the ballot of the eliminated candidate and so on.

It is a rather complex counting system but it allows voters to give more information on their preferences. It allows also to vote for candidates across party lines. However, precisely because of the latter feature, it does not contribute to reinforce party cohesion.

Moreover, for it to be operational, one needs to have districts with a small enough number of seats. When the number of seats increases, it becomes a complex system for voters.

*German-style PR with combination of single member districts and list voting?*

Interesting changes could be obtained in Colombia via the introduction of an electoral system close to the German system which combines single-member district and preference vote with closed list voting. Citizens receive two votes: one for a local candidate based on a preference vote and one for a party list. This allows voters to cast a vote for a local candidate who does not necessarily belong to the party for whom their list vote is cast. Local candidates compete in single-member districts determining half of the seats in the Lower Chamber (Bundestag) while the party list vote determines the other half so as to achieve proportionality of seats between parties. There is however a threshold for representation: 5% of the party lists or 3 single-member district seats.

Such a system combines several advantages of the other systems. Like in the single-member district system, it rewards politicians who represent well the interests of local constituencies and creates accountability of individual candidates. Giving incentives to stick close to the interests of local constituencies and to compete for their votes ensures the election of representatives that are popular and close to constituencies. Like in the STV system, it allows voters to express their preferences in a more refined way than if they had to cast their vote on a single candidate or list. Also, like in proportional systems, the presence of party-controlled national lists creates party cohesion and not too high barriers to entry for new parties while maintaining high enough barriers to prevent proliferation of small lists. The easier entry is a plus in the Colombian situation. More generally, one may

think that easier entry allows faster accommodation to new issues and cleavages. In several European countries with proportional representation, ecological parties which represent a new cleavage after the “nineteenth century” cleavage (rural conservative religious - urban progressive tolerant) and the “twentieth century” (left-right) cleavage are now part of various government coalitions (Germany, France and Belgium). One can claim that this participation in government coalitions gives ecologists more bargaining power than in countries with majoritarian systems where ecologists must penetrate or lobby the existing two major parties to influence policy.

*A two-tier district PR system?*

Our favorite proposal shares many of the features of the German system but has the advantage that it can be obtained by a small departure from the existing system and thus may be politically more feasible. This apparently minor change would, in our view, lead to important changes in political practices and lead both to halt the fragmentation of lists and to enhance party cohesion.

The idea is to keep the current electoral formula (LR-Hare) for the election of the Lower Chamber (House) but to transfer the above-quota residual votes of local district lists to a national district. Those residual votes would be pooled together and allocated to the national party with which the list is associated. National parties would have control over the order of candidates in the upper-tier district. A threshold rule (as a percentage of the residuals) would determine what those national parties are. Without such a threshold rule, the same failure as the 1991 Senate reform may occur and one would have as many upper-district lists as in the lower districts. Seats not attributed by local quota's would

thus be allocated proportionally to the national district lists according to the D'Hondt formula which leaves no remainders. Some other allocation rule for the national district can also be envisaged.

This reform would give incentives for local candidates to join their lists so as to pool their votes within the district in order to maximize the number of district-allocated votes so as not to “give” away remainders to the national party lists. This should reduce fragmentation at the local level and give life to parties at the local level. We predict that such a change would be very rapid and produce visible outcomes in terms of reduced fragmentation. At the same time, national parties will have increased power via the allocation of largest remainder seats at the national level.

Combined with stronger powers to Congress, this reform would meet the above objectives while not requiring too many changes compared to the current situation. There would be stronger party cohesion. Competition between a smaller number of lists would lead to more voter participation and the maintain of PR combined with allocation of seats via the upper tier district would encourage entry of new parties with sufficient national support.

To illustrate our proposal, let us use again the same district votes as in the other examples. This is done in table 9.

**TABLE 9.**  
**Two-tier district with transfer of above quota residuals to a national district.**

Lists	Total votes	Seats allocated by quota	
Liberal Cuenca	34,840		
Liberal Triana	33,996		
Liberal Mosquera	22,942		
Total liberal	91,778	If united list, 2 seats and 18,776 remainders	91,778 remainders
Conservative Cabrera	38,512	No 1	
Conservative Caicedo	26,745		
		If united list, 1 seat and 28,756 remainders	28,756 remainders
MNC	20,239		
District magnitude 5. Total votes: 182,507. Quota: 36,501.			

As shown in table 9, taking the number of lists and the votes cast on those lists as unchanged, only one seat would be allocated by quota to the first conservative candidate. All other votes would be pooled nationally. The national liberal list would receive 91,778 votes from that district whereas the conservative party would receive the above quota votes of the elected conservative candidate plus those of the other candidate, totalling thus 28,756 remainders. If the liberal and conservative lists unite in order to maximize the number of quota seats they can get, then the liberals can get two seats and would transfer 18,776 remainders to the national liberal party.

In order to get a more precise idea of the impact of the reform, we will take all districts in the elections of 1998 and examine various scenarios (see appendix 1).

Table 10 shows the main results of the elections for the Lower Chamber in 1998. There is a proliferation of lists with 666 lists in total for 162 seats. Only 5 of the 162 seats were assigned by quota, and the remaining 157 by residual. Also, it must be mentioned that the number of parties and independent movements increased notably, which finally

resulted in the following Lower Chamber composition: 87 liberals, 38 conservatives, and 36 independents.

**Table 10**

**Summary of Election Results for the Lower Chamber 1998**

Total Votes	8,916,731
Total number of lists	666
Number of Seats	162 (Quota: 5. Residual: 157.)
Lists without seats	157 (3'433.000 votes not represented).

Simulations were made with the objective of measuring the impact of our proposal. We used two basic scenario's. The first scenario shown in Table 11 assumes that parties do not regroup at the local level and that all residual votes (after allocating quota seats) are regrouped by national parties with different thresholds for the residuals. The choice of regrouping lists in national parties was not easy. We put all liberal lists together, all conservative lists and well identified parties. Coalitions were regrouped together assuming they would regroup at the national level which is only a working assumption.

TABLE 11. SIMULATION OF 1993 ELECTION WITH ASSUMPTION OF NO REGROUPING.

Parties	Departmental Quota seats	Total seats			
		with no threshold	with 1% threshold	with 1.5% (or 2%) threshold	With 5% threshold
Liberal	4	76	92	95	102
Conservador		43	53	55	59
ADM19		7	6	6	
Cristianos		3	5	5	
Laicos por Colombia		2	2		
Coaliciones		2			
UP		2			
Unitario metapol.		2			
Others together		24	3		
<i>Total</i>	4	161	161	161	161

A first thing to notice is that a threshold of only 1.5% of the residuals reduces the number of “national” parties to 4 with the liberals getting an absolute majority with 96 seats. Our initial count of parties is of 58. Without thresholds for the residual votes, 42 seats go to other parties than the Liberals and the Conservatives and 24 seats would be dispersed to very small parties.

We then assumed that, because of the incentives to regroup locally, local lists of the same label would regroup to gain quota seats. The important expected effect of our proposal is indeed that politicians should have incentives to unite in the local constituencies in order to avoid transferring their votes to the national lists of parties and movements. The results are shown in table 12.

TABLE 12. SIMULATION OF 1993 ELECTION WITH ASSUMPTION OF LOCAL REGROUPING.

Parties	Departmental Quota seats	Total seats			
		with no threshold	with 1.5% threshold	with 2% threshold	With 5% threshold
Liberal	61	84	87	89	91
Conservador	21	48	53	55	56
ADM19		7	7	8	8
Cristianos		6	6	6	6
Laicos por Colombia		3	3	3	
Coaliciones		2	2		
UP		2	2		
Unitario metapol.		1	1		
Others together		8			
<i>Total</i>		161	161	161	161

Note that now 82 instead of 4 seats are allocated by quota and thus only half of the seats get allocated residually. Note also that now a 5% threshold is needed in order to get only 4 parties represented. Nevertheless, with a 2% threshold, we still only get 5. The scenario with local regrouping is probably the most realistic scenario. We hope these simulations illustrate how important it is to have even a minor threshold like a 2% one, which seems politically feasible, in order to reduce the fragmentation of parties.

While our proposal of electoral reform can be seen as an original response to Colombia's problem of list fragmentation, it is useful to note that the use of two-tier district systems for the purpose of vote-pooling is widely used in many countries. Austria, Belgium, Denmark, Iceland, Sweden... Most Central European countries have introduced a form of two-tier district system when adopting democracy after the fall of communism: the Czech republic, Poland, Slovakia Slovenia, ... These two-tier districts differ in many details. The second tier can be national or subnational. Rules for aggregating lists differ.



Aggregation can be for example within parties or across parties. In our proposal, the number of seats allocated at the national level is endogenous. In some countries, this is also the case. In other countries, the number of seats is exogenously given. Contrary to the German system, in two-tier district systems, voters have only one vote but it can be used either in the primary or in the secondary district or in both.

It is especially interesting to note that most emerging democracies in Eastern Europe have adopted either a version of the German electoral system or a version of a two-tier district system.

Overall, we think the last two systems (the German system and our proposed two-tier system) would achieve the best balance between the various objectives of party cohesion and political participation. We do not think they would achieve very different outcomes and so do not have strong preference for either. The latter may be easier to introduce politically while experience with the former is generally well known.

### *Complementary reforms*

To enhance party cohesion, the introduction of a reformed electoral system like the one we propose would however need to be coupled with complementary reforms.

The most important complement is reform that encourages party cohesion and gives more legislative power to Congress relative to the President, as discussed above. There are several ways of doing this. One is for example to organize Congressmen in “groups” which can be parties or regroupment of smaller parties. Groups would then choose a Party “whip” who would have certain powers such as the attribution of commission appointment

to group members, commission chairmanship and the like. In case of parties, the whip would be chosen by the party, in case of groups with coalitions of small lists, the choice would be negotiated. Party whips could be given the right to exclude group members from commissions for example so as to enhance discipline. Responsibility for negotiations with the president to create coalitions could be given to the whip, etc.. Congress would have enhanced power if a majority coalitions of groups could decide on the commission appointments and on a legislative program. Commissions should be given much more resources (staff, library, etc..) to prepare legislative proposals. Most discipline could be obtained if Congress were given the right to a vote of confidence on the composition of the commissions as a whole, with agenda-setting rights being given to the group leaders, in possible collaboration with the president. Such a reform would go in the direction of creating legislative cohesion while maintaining the presidential system and the powers of the president.

We also propose other reforms:

- The presidential election should take place some months before and not after or jointly with the election of Congress, as is currently the case. The current system makes the president dependent on support by local barons. By holding Congressional elections after presidential elections, the electoral campaign inevitably will turn around support or opposition to the newly elected president. This will push national issues more to the forefront. After the elections, parties will have to deliver on their promises with respect to the national issues raised in the campaign and thus have an incentive to discipline representatives of their party. Voters can also use the Congressional elections either to strengthen the

mandate of the president or to check it by introducing a form of divided government.

- The law for party formation should be revised to allow for an easier entry of parties. This would further reduce existing incentives to create factional lists within existing party labels while reducing confusion on the real choices between parties. Given the need to enhance political participation, it is quite likely that proposals for election thresholds will meet with strong resistance. Such thresholds are necessary in order to reduce the number of elected parties and to maintain governability. However, by making party formation and entry easier, one can contribute to reduce such resistance. New parties will have to compete to gain strength and may expect, at an early stage, to exceed the thresholds for eligibility. A 5% (or 3 district seat) rule is for example much lower than the effective threshold of single-member district elections.
- There must be a reform of campaign financing with public financing of parties giving a certain amount to newly entering parties and allocating funds to existing parties in function of past performance. Party financing is an issue in all democracies and there are no perfect solutions. A case for public financing can be made on several grounds. First of all, it is a good idea to put a legal cap on campaign financing. In many cases, campaign financing is only useful to the extent that one can have a “more impressive” campaign than its competitors. This leads to campaign escalation and inflation of expenditures. Setting a cap would limit such an escalation. Second, public financing reduces the dependence on lobbies and non transparent gifts from interest groups. European

countries are moving in the direction of public financing even though scandals still appear under public financing (like in Germany), especially if there is no legal cap on campaign finance.

- Reforms within Congress must take place to make Congressmen more accountable and to give them less rents:
  - The most important is the abolition of the secret vote and registration of individual votes of Congressmen and other measures toward more transparency. No democracy can function correctly if votes of legislators are secret. Such secret votes were disastrous in the postwar Italian system. Registration of votes enhances accountability both to the party group and to voters;
  - Reduction or suppression of unpopular privileges of Congressmen such as big facilities to the right to a pension; revision of the rules for the substitutes of the elected representatives;
  - The reform of the election of Congress must be accompanied by reforms going further in the direction of enhancing the powers and responsibilities of mayors and governors who are popularly elected and enjoy an electoral base that is stronger than that of Congressional representatives, with also much higher voter turnout rates than in elections for Congress.
  - The restriction of one term mandate for mayors and governors should be lifted and extend to at least two mandates or more. Longer mandates can

create better accountability with the reelection motive and also give more incentives to invest in longer term projects.

- To ensure more popular participation, one should introduce automatic registration of voters. Note that having more voter participation increases the costs of clientelism as it requires to target a broader group of voters with patronage.
  
- While it is very important to maintain bicameralism to have checks between both Houses, it would be useful to have different forms of representation in the lower and upper House. In many countries, the upper House is more representative of regional interests (US Senate, German Bundesrat). We do not think this is crucial at this point. However, if it is felt that there should be a better representation of regional interests in Congress, then such a change should be envisaged. For example, the Lower House could be reformed in line with our proposal while the Senate could be reformed in order to have mostly seats for representatives of departments, more seats for minorities like is the case (a very popular measure that can be extended) , etc... Such a reform would both be a nice complement to our suggested electoral reform for the Chamber while giving better representation to broad regional interests and other interests that need to be represented. Finally, it is important to define better the functions of each House so that they should not only differ in terms of focus of representation but also in terms of their legislative functions. Currently, there is too much the impression that they are duplicates and that bicameralism is therefore not necessary. We are

however against proposals for a unicameral system. It is important to note here that the observation of differentiation of focus between the two chambers does not imply that a bicameral system is necessary only in federal countries. The main justification for bicameralism is separation of powers between both houses. A differentiation of focus in terms of representation helps to ensure checks and balances between both houses so that a greater variety of interests can be taken into account. One should not move toward unicameralism but better define the focus of each house while maintaining a system of checks and balances.

#### *The referendum proposal*

It is useful, on the basis of the above discussion to comment on the referendum proposal that came up in the spring of 2000, even though subsequent events have substantially reduced the likelihood of a referendum taking place before the next general elections.

First of all, it proposes a single list per party. As discussed above, without reform of the electoral system, this reform will at best encourage a relabelling of existing lists and not be effective against the proliferation of parties.

Second, even though it is not explicitly stated, we understand the idea of the *cifra repartidora* as a proposal to introduce the D'Hondt system of vote counting. As seen in the example above, the impact of this method tends to be low in case of already existing fragmentation of lists. If not accompanied by other reforms that drastically modify incentives, its impact relative to party cohesion is relatively low.

Third, there is the proposal to reduce the number of seats in the Senate by about 30%. From the point of view of electoral and party reform, this does not necessarily make a big difference but it may make one from the point of view of the organization of legislative activities (see the accompanying paper by Kugler and Rosenthal).

It is not clear at the time of completion of this paper how likely it is that the proposed referendum will take place. The initial referendum proposal was withdrawn by the government when the Minister of the Interior was replaced. Several other proposals have come up but need to gather a sufficient number of valid signatures. All in all, the political situation in Colombia is very volatile. Nevertheless, we hope that the considerations put forward in this paper may be heard and play a role in the political debates around the much needed constitutional changes in Colombia.

## **CONCLUSION.**

In concluding, we would like to note the following. Our proposal for reform is certainly not the only possible one and many possible packages can be put together that foster more legislative cohesion, more public good provision and more political participation. Given the uncertainties of the political debate, one must be ready to accommodate proposed packages to the political circumstances. However, one must keep in mind the complementarity between proposed reforms. Change of some details of a proposed package can kill its effectiveness. The 1991 reform of the Senate could have given positive results if it had been associated with an electoral threshold. The same remains true for our proposal. Similarly, even though electoral reform is necessary, it is not enough if one wants to obtain stronger legislative cohesion in Congress itself. Reform of the latter is equally crucial.



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