

## An Institutional Design for Proportional Representation with a Limited Majority Bonus

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## Article

# An Institutional Design for Proportional Representation with a Limited Majority Bonus

OKAZAKI Seiki

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## Abstract

The purpose of this article is to provide an institutional design for proportional representation with a limited majority bonus (PR-LMB), which I have proposed and defended in two of my earlier articles (Okazaki 2019a; Okazaki 2021). Japanese proponents of PR have generally argued for open-list PR with prefectural or regional constituencies or mixed-member proportional (MMP) systems, which are alleged to enable voters to choose a candidate on a list or in a constituency. Applied to the PR-LMB, these electoral systems make it difficult for voters to substantially choose a candidate. In addition, they make it difficult for parties to organize a well-balanced and well-communicated team. To avoid these serious problems, I propose a *complex* closed-list system with a nationwide constituency, in which lists are divided along policy lines. Furthermore, I propose an inversely proportional distribution of party subsidies for making the complex closed-list system work: 45 percent of the subsidies are distributed to the governing coalition or party, and 55 percent are distributed to opposition parties.

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## Introduction

The purpose of this article is to provide an institutional design for proportional representation with a limited majority bonus (PR-LMB) in the Japanese context. While PR-LMB is a type of proportional representation, it always gives 55 percent of the seats to the winning coalition or the winning independent party and 45 percent of the seats to the other parties. Within a coalition, seats are distributed in proportion to the number of votes each party polls. By promoting bi-coalitional competition, the PR-LMB enables voters to choose not only parties in parliament but also the government; that is, the prime minister, the governing coalition or party, and its policies (Okazaki 2019a; Okazaki 2021).

There are several possible institutional designs for PR-LMB. The most important point is the design of the ballot structure and district magnitude, which are crucial to the choice of representatives. Japanese proponents of PR have generally argued for an open-list system with prefectural or regional constituencies (e.g. Nishihira 1981: 172-185; Nishihira 2003: 155-182; Kobayashi 1994: 145-146; Kobayashi 2012a: 151-153; Kobayashi 2012b: 187-188; Senkyo-Shimin-Shingikai 2018: 15-18<sup>(1)</sup>). However, some scholars have supported the mixed-member proportional (MMP) system adopted in Germany (e.g. Kang 2011: 65; Sugita 2011: 8). I also previously defended an open-list system with regional constituencies in the light of self-determination (Okazaki 2009), and the MMP system in the light of deliberation (Okazaki 2012).

However, I have changed my judgment for two reasons. First, I have accepted the argument that it is difficult for many voters to choose a candidate because of voters' information costs (Kato 2003: 74-79; Kato 2005: 141-144). Due to these costs, the open-list system is not suitable for substantially choosing representatives or for creating a party as a strong team. Second, I propose a House of Citizens, whose members are selected by sortition (Okazaki 2019b). If the House of Citizens has the authority to dismiss a representative, elections for the House of Representatives do not have to serve the function of choosing a representative.

In this article, I will argue for a closed-list system with a nationwide constituency in which the form of the list is divided along policy lines. I believe that this *complex* closed-list system with a nationwide constituency encourages parties to organize a well-balanced team because it is divided along policy lines, and to organize a well-communicated team because it gives the power to choose candidates to party leaders (and nominated candidates).

Given that a mixed-member majoritarian (MMM) system has been adopted for the elections of the House of Representatives, an MMP system may be a more realistic option than other systems. However, such realistic thinking is prone to deprive us of political imagination. Thus, I will design a theoretical PR-LMB without considering the historical constraints of the Japanese electoral system.

## 1. In Defense of the Closed-List System

### (1) A Role of General Elections: Creating Strong Teams

General elections in parliamentary democracies have the important functions of choosing not only parties and the government but also those who sit in the House of Representatives. What type of ballot structure and district magnitude are suitable for this function? This depends on the answer to the question: what abilities are required for being a member of the House of Representatives?

First, representatives are required to debate the bills in the House of Representatives. To facilitate this, parties must recruit promising candidates and afford them ample opportunities to acquire in-depth knowledge of policy fields. Representatives are also required to persuade members of the House of Citizens and the wider public of their policies, which is one of the indispensable abilities of members of the House of Representatives.<sup>(2)</sup> Moreover, representatives of a governing coalition or party are expected to take an office, such as that of the Minister of State, Senior Vice-Ministers, and Parliamentary Secretaries. This means that they are also required to develop the ability to control bureaucracies

effectively.

What should be emphasized is that it is not enough just to collect representatives with these abilities: the representatives of a party should be well-balanced and well-communicated because mere congeries of specialists do not necessarily function as a strong team. A strong team presupposes that the lineup of candidates is well-balanced in terms of policy field, gender, age, and so on. The team will examine most policies in detail without gender and age biases and maintain its vitality even decades later. Moreover, a strong team presupposes healthy vertical and horizontal relationships: leaders define their goals and uphold the morale of representatives, and followers support leaders without disturbing them. In addition, representatives discuss everything without hesitation.

From this point of view, I cannot deny that there are some serious problems with the existing members of the House of Representatives.

- ‘Hereditary’ representatives and ambitious/wealthy citizens are likely to be candidates.
- Representatives are backed by large interest groups.
- Parties are not necessarily well-balanced and well-communicated teams.
- Representatives are too busy in their constituency activities to study policies.

I believe that these problems result mainly from the previous single non-transferable vote (SNTV) system and the current MMM system. In both systems, to be a member of the House of Representatives means to be a fixed-term unstable worker. It is natural that representative positions tend to be occupied by ‘unordinary’ citizens, such as ‘hereditary’ representatives, as well as ambitious/wealthy citizens. In addition, personalized elections under SNTV and MMM presuppose and reinforce a type of personality. In fact, Mizushima Hiroko, who is a psychiatrist and former member of the House of Representatives from 2000

to 2005, makes a diagnosis that it is only a politician with a ‘narcissistic personality’ who can succeed in personalized elections in a constituency, and that the electoral process reinforces this personality (Mizushima 2003: 58-59, 81).

Likewise, as I will argue, preferential-list systems and the MMP system are not suitable for creating strong teams in the House of Representatives: both governing and opposition parties tend to be merely a collection of individual representatives backed by different interest groups or are exhausted by constituency activities. Thus, I argue for a closed-list system for the House of Representatives elections.

Certainly, in Europe, there is a clear trend toward a preferential-list system where voters can choose a candidate or candidates (cf. Renwick and Pilet 2016; Rahat and Kenig 2018). The same trend has been observed in Japan. The closed-list PR of the House of Councilors was replaced by an open-list PR in 2001. While the closed-list PR of the House of Representatives has been maintained, parties use the ‘best loser calculation’ (*sekihairitsu*) to avoid the difficult task of ranking while encouraging candidates to do their best in their constituency. However, I will argue against preferential-list systems and the MMP system on the grounds that they are not suitable for creating well-balanced and well-communicated teams consisting of non-exhausted representatives. Indeed, contrary to the assumption of most proponents of PR, voters cannot choose a candidate in a substantial sense under preferential-list and MMP systems. Let us examine each system.

## (2) Preferential-List Systems

I will briefly describe three types of preferential-list systems: free-list, open-list, and flexible-list systems.

The free-list system is an electoral system that has been adopted for the elections of the National Council of Switzerland and the elections of the Chamber of Deputies of Luxembourg. For example, 200 members of 26 constituencies are elected in Switzerland. Except for six constituencies in which only one candidate is elected, the parties present a list of candidates without rankings in each constituency (the

same candidate can be named twice). Voters can freely modify one of the preprinted ballot papers (or they can write a list designation and/or the name of a candidate or candidates on a blank ballot paper). Voters can cross out (*streichen, biffer*) one or more, but not all, candidates on the preprinted list. Voters can also accumulate (*kumulieren, cumuler*) the name of a candidate or candidates twice: they can write the name of another candidate on a crossed-out line. Indeed, voters can split (*panaschieren, panacher*) their votes: they can write the name of a candidate on another list on a crossed-out line (Again, the same candidate can only be named twice). This line is counted as a party vote for the other party. After the seats are distributed to parties in proportion to the number of party votes, the candidates with the most personal votes are elected until all seats are filled (Regarding the electoral system of the National Council of Switzerland, see ch. ch 2019).

The open-list system is less free than the free-list system. It is true that, as is the case with the free-list system, lists have no rankings, and candidates with the most votes are elected. However, voters cannot choose any candidate from other lists. For example, the open-list system has long been adopted for elections in the Parliament of Finland. Parties present a list of candidates with no rankings in 13 constituencies. Voters cast a vote not for a party but for a candidate.<sup>(6)</sup> Based on the d'Hondt method, seats are distributed to each party in proportion to the total number of votes that the party's or alliance's candidates poll. Within a party or an alliance, the candidates with the most personal votes are elected until all seats are filled (Regarding the electoral system of the Parliament of Finland, see the website of the Ministry of Justice [<https://vaalit.fi/en/parliamentary-elections>] and Raunio 2005: 476-482).<sup>(7)</sup>

The open-list system has also been adopted to elect 96 (100 from July 2022) members of the House of Councilors in Japan since 2001.<sup>(8)</sup> Parties present a list with no rankings in the nationwide constituency. In contrast to Finland, voters can cast a vote for a party or a candidate. Based on the d'Hondt method, seats are distributed to each party in proportion to the number of votes that each party and their

candidates poll. Within a party, candidates with the most personal votes are elected until all seats are filled. The open-list system was slightly revised in 2019, so that parties could rank candidates. The maximum ranking number was the number of candidates minus one. This means that parties can use an open-list system as a closed-list system.

The flexible-list system is a semi-open-list system in which parties present a list of candidates with rankings and voters can cast a personal vote (or votes) as well as a party vote. A flexible-list system has been adopted in Belgium, for example. The 150 members of the Chamber of Representatives are elected in 11 constituencies. The parties present a list of candidates with rankings for each constituency. Voters can not only cast a vote for a party but also choose as many preferred candidates as they wish.<sup>(9)</sup> Seats are distributed to parties that exceed 5 percent of the threshold in each constituency. Regardless of their ranking, candidates who reach the electoral quota win seats in the order of personal votes. If seats are not filled, half of the party votes are distributed to the not-yet-elected candidate with the highest ranking. A candidate who reaches the electoral quota wins the seat. The remaining party votes are distributed to the not-yet-elected candidate with the highest ranking at this stage. The process continues until all the seats are filled or half of the party votes are exhausted (Regarding the electoral system of the Chamber of Representatives in Belgium, see De Winter 2009: 420-423; Deschouwer 2012: 114-125).

Despite some differences, these preferential-list systems allow voters to choose between candidates. However, it is difficult for voters to substantially choose a candidate or candidates because they are overloaded with information (Kato 2003: 74-79; Kato 2005: 141-144). It is generally recognized that voters' recognition of candidates is lower in PR-list systems. According to Sören Holmberg, only 47 percent of voters could recall one candidate's name correctly under PR-list systems, 59 percent could under plurality/majority systems, and 60 percent under mixed PR/FPTP systems (Holmberg 2009: 163).<sup>(10)</sup> On the other hand, candidates are forced to compete within a party under preferential-list systems because the turnover of



representatives increases as the ballot structure becomes more open (Passarelli 2020: 254)<sup>(11)</sup>.

The strategies for intraparty competition vary from country to country. In preferential-list systems, however, project- and organization-oriented actions increase as district magnitude increases (André and Depauw 2013: 999). In the Japanese context, candidates approach larger interest groups with many organized votes. Some voters who belong to one of these interest groups will cast a personal vote, whereas others who have little information about candidates will cast a party vote. In fact, most members of the House of Councilors elected through an open-list PR are backed by larger interest groups: most candidates of the Liberal Democratic Party (LDP) are backed by major business interest groups, and most candidates of the Constitutional Democratic Party of Japan (CDP) are backed by major labor unions<sup>(12)</sup>. The percentage of personal votes cast for the largest LDP candidates and for the second-largest CDP candidates were only 28.23 and 15.41 percent respectively, in the House of Councilors election in 2019 (Ministry of Internal Affairs and Communications 2019).

These facts clearly show that preferential-list systems give voters a formal right to choose between candidates, yet deprive the majority of voters of a substantial right to choose between candidates<sup>(13)</sup>. Naturally, some voters cast a personal vote for a candidate or candidates after weighing their pros and cons. However, I would like to emphasize that it is not easy to see their real personalities and abilities. A candidate who seems to be outstanding may be unpopular among his or her colleagues and may not be able to effectively control bureaucracies as a minister. In contrast, a candidate who seems to be commonplace may be indispensable for the party as an ‘*unsung hero*.’ The real personality and abilities of candidates will be revealed to their close colleagues but will not necessarily be revealed to distant voters.

Proponents of preferential-list PR with prefectural or regional constituencies might argue that voters can cast a personal vote if the nationwide constituency is

divided into smaller constituencies. It is true that the information costs of voters will decrease if the constituency is divided. However, candidates continue to approach larger interest groups to win organized votes, even though the groups are not national but prefectural or regional interest groups. What is worse, the power of larger interest groups will increase because the district magnitude is low, and thus, the seats tend to be occupied by a smaller number of interest groups. Of course, the number of 'rational' voters who cast a personal vote independently will increase because the number of candidates decreases, and the information costs decrease accordingly. Even in this case, as I have pointed out, it will still be difficult to see the candidates' real personalities and abilities.

Preferential-list systems also cause serious problems for candidates. They must compete with their colleagues and spend much time and energy on constituency activities, especially when the constituency is not very large (cf. De Winter and Baudewyns 2015: 303-304). As a result, they cannot afford to engage in policy-making. Moreover, competition within a party undermines not only individual abilities but also the party's ability to work as a team. Communication within a party will be distorted by intraparty competition. And the 'backseats,' who are indispensable to the party, yet not famous to voters, may not be elected.

### (3) **Mixed-Member Proportional System**

The MMP system is a type of PR adopted in Germany and New Zealand. For example, in Germany, the constant number of seats in the *Bundestag* is 598. Parties can field a candidate in 299 constituencies (280 from 2024) and present a list in 16 states. Voters have two votes: the first is cast for a constituency candidate, and the second is cast for a party. In proportion to the number of second votes, seats are distributed to parties that exceed a threshold of 5 percent or three seats at the federal level.

In the first stage, constant seats are provisionally distributed to each state according to the size of the populations. The seats are then provisionally distributed

to parties at the state level in proportion to the number of second votes at the state level. If the number of elected candidates of a party in a constituency exceeds the number of seats distributed to the party, 'overhang seats' (*Überhangmandate*) occur in the calculation. The minimum number of seats (*Mindestsitzzahl*)<sup>(14)</sup> distributed to parties at the federal level is determined by adding together the number of seats distributed to parties at the state level.

In the second stage, all seats are distributed to each party in proportion to the second vote at the federal level. At this time, adjustment seats (*Ausgleichsmandate*) are added so that the seats distributed to parties are proportional to the number of second votes at the federal level, and so that parties are guaranteed the minimum number of seats. The disproportionality caused by the 'overhang seats' is offset by adjustment seats. Thus, the total number of seats can exceed the constant number of seats (598). In fact, the total number of seats amounted to 736 after the federal elections in 2021.<sup>(15)</sup>

In the final stage, the seats of parties at the federal level are distributed to parties at the state level in proportion to the second votes that the parties poll at the state level. The seats are first filled by candidates who are elected in a constituency. If the number of elected candidates in a constituency falls short of the number of seats distributed to the party at the state level, candidates with the highest ranking on the list are elected until all seats of the party are filled. Since double candidacy is permitted, unelected candidates in a constituency can be elected at this stage (Regarding the electoral system of *Bundestag*, see Der Bundeswahlleiter 2021. cf. Kawashima and Watanabe 2013; Behnke 2014, Kawasaki 2015).

Compared with preferential-list systems, it is clear that there are some advantages to the MMP system. First, voters can easily contact constituency candidates because the district magnitudes are low; that is, both the number of voters and constituency candidates and the areas of the constituencies are relatively small. Second, voters can easily choose a candidate in their constituency because the number of constituency candidates is limited. Finally, candidates do not

need to engage in constant constituency activities because there is no intraparty competition after they are nominated.

However, this does not mean that the MMP system is free from any disadvantages. Based on the experiences of the MMM system in Japan, it is not difficult to predict the consequences of the MMP type of PR-LMB.<sup>(16)</sup> First, the alleged ease of contact with constituency candidates is questionable. It is true that voters and constituency candidates are closer in a physical sense. However, except for some influential citizens, ordinary citizens have few opportunities to sit down and talk with candidates. This is even more true in Japan, where candidates are prohibited from door-to-door campaigning by law. According to the results of the JES-VI survey in 2017, the percentage of respondents who ‘needed to meet a politician or bureaucrat’ ‘over the past 5 years’ was only 4.7 percent. The percentage of respondents who selected ‘I visited the assembly or government office to sign or deliver a petition’ was 2.0 percent, ‘I attended an electoral or political rally’ was 5.5 percent, ‘I helped an election campaign (supporting a candidate, etc.)’ was 3.9 percent (Japanese Electoral Study 2017: Q51).

Second, voters cannot necessarily choose a candidate if one takes double candidacy into account. Under the MMP type of PR-LMB, the number of candidates in a constituency approaches two. It is quite likely that most candidates stand both in constituency and PR. In this case, most candidates are elected from either of the two. The ‘best loser calculation’ (*sekihairitsu*) is mostly pointless if the constant number is twice as many as the number of constituencies, like in Germany.

Finally, elected representatives must return to their constituency every weekend to engage in constituency activities. According to Hamamoto and Nemoto, LDP members of the Diet return to their constituency for about one-third of a month, and other party members return for half a month under the MMM system (Hamamoto and Nemoto 2011: 81). Given that 32 percent of voters value an individual candidate when casting a vote in a constituency (The Association for Promoting Fair Elections 2018: 6, 49), candidates will not be free from constituency activities under the MMP

type of PR-LMB. Although some representatives estimate the political life of ‘going to their constituency on Friday and coming to the Diet on Tuesday’ (*kinki-karai*) as an opportunity for ‘input’ from their constituencies (Hayashi and Tsumura 2011: 122-123), there is little doubt that such hard work deprives representatives of the time and energy to engage in policy-making. Even if candidates with high abilities are elected, they will eventually wear out.

## 2. In Defense of the Complex Closed-List System

I cannot support the preferential-list systems and the MMP system for the reasons mentioned above: voters cannot choose a candidate substantially because of information costs in the case of preferential-list systems or because of double candidacy in the case of the MMP system. In addition, both the preferential-list and MMP systems make it difficult for parties to organize a well-balanced and well-communicated team.

In contrast, I believe that the closed-list system enables party leaders to create a well-balanced lineup of candidates, as is the case with the head coach of football teams. Party leaders can nominate candidates in different policy fields and choose candidates with whom they have good relationships. Of course, party leaders may guess the intentions of larger interest groups and nominate candidates backed by them. Even in this case, however, elected representatives are relatively free from interest groups because they are elected not by personal votes, but by party votes. Therefore, the closed-list system contributes to creating well-balanced and well-communicated teams. However, the proponents of PR will have some reasons to object to my argument. I will examine these objections individually, through which I will revise the details of the closed-list system.

### (1) ‘Parties Face Difficulties in Ranking a List.’

There may be an objection that it is difficult for larger parties to rank a list of

candidates under a closed-list system. Given that the constant number of members of the House of Representatives is 400 (465 for now), larger parties present a list of 220 candidates at large under the PR-LMB. There is no doubt that larger parties face difficulties in ranking lists and deep discontent from candidates. As mentioned above, this is one of the reasons that larger parties in Japan use the system of ‘best loser calculation’ (*sekihairitsu*) to avoid ranking a list of candidates for the elections of the House of Representatives.

However, I would like to emphasize that this difficulty can be overcome by making the form of a complex list: to divide the form of the list into several divisions along policy lines, for example, along the standing committees of the House of Representatives (**Figure 1**). While the divided lists are shown to the public, voters cast a vote not for a policy division but for a party list. The seats are allocated to candidates in the order of division and candidate ranks: the first-rank candidate of the first-rank division is elected first, and then the first-rank candidate of the second-rank division is elected, and so on. I call the closed-list system divided along policy lines a *complex* closed-list system.

**Figure 1 List Divided Along Policy Lines**

<b>Ranks</b>	<b>Divisions</b>	<b>1<sup>st</sup> Candidate</b>	<b>2<sup>nd</sup> Candidate</b>
	Cabinet		
	General Affairs		
	Judicial Affairs		
	Foreign Affairs		
	Rules, Administration and Discipline		

Currently, there are 16 standing committees in the House of Representatives, if the Committee on Rules and Administration (25 members) and the Committee on Discipline (20 members) are integrated and counted as one. If a party assigns 220

candidates to 16 divisions equally, the maximum number of candidates is approximately 14 (13.75). If the list is divided into male and female lists, as I will propose later, the number is approximately 7 (6.88). Dividing the form of a list along policy lines will decrease the difficulty of ranking a list of candidates. It also encourages candidates to have an in-depth knowledge of some policy fields. Moreover, a complex closed-list system encourages parties to maintain a balance between candidates in different policy fields.

In addition, parties are required to establish their own procedures for ranking a list of candidates. For example, party leaders rank the divisions according to the party's priorities and then choose first-rank candidates.<sup>(17)</sup> Without consultation, first-rank candidates independently choose a candidate for the second rank of their division.<sup>(18)</sup> If several first-rank candidates choose the same second-rank candidate, the chosen candidate selects one division. Likewise, second-rank candidates (and first-rank candidates) independently choose a candidate for the third rank of their division, and so on. This procedure contributes to organizing a well-communicated team because party leaders and nominated candidates can choose a partner who has had a good relationship with them. The procedure also avoids giving excessive power to the party leaders.

One may be concerned that this procedure does not necessarily select highly estimated or indispensable candidates. To avoid this, it is better to choose candidates in one or more divisions in a different manner. For example, one division is assigned to choose candidates by a committee whose members are selected by sortition from party members, and another division is assigned to choose all candidates by party leaders directly. These methods contribute to saving candidates who are not yet chosen but are highly esteemed by party members and/or party leaders. Of course, the procedure I propose is not ideal. However, it is reasonable to suppose that arbitrary lists excluding some well-regarded representatives will be avoided in PR-LMB. If a party arbitrarily excludes highly esteemed representatives, they can exit the party and establish a new rival party.

The emergence of a new party will be a threat to the existing party because some supporters will transfer to the new party. Because of this exit option, party leaders will refrain from abusing power in compiling candidate lists.

Another concern is that a closed-list system divided along policy lines results in representatives who develop tunnel vision and work for special interests. I acknowledge that this is a valid point. However, I do not entirely share this concern. One reason is that representatives chosen by the closed-list system do not need to be backed by interest groups for election purposes. Naturally, representatives will strengthen their political ties to a ministry and related interest groups, as long as they continue to be listed in only one division and serve on only one standing committee. To avoid such political ties, parties are required to list representatives from several divisions.

**(2) ‘Voters Cannot Choose any Candidate.’**

Some proponents of PR would argue against the complex closed-list system on the grounds that voters still cannot choose any candidate (cf. Kobayashi 1994: 139-145; Kobayashi 2012a: 150-151; Kobayashi 2012b: 186). I acknowledge that voters cannot choose any candidate in a complex closed-list system. However, voters can choose candidates indirectly if the sorted House of Citizens has the power to dismiss representatives. Indeed, they can directly choose a group of candidates if parties have a legal obligation to present more than one list of candidates.<sup>(19)</sup>

First, voters can choose candidates indirectly if the sorted House of Citizens has the authority to dismiss representatives with a supermajority (e.g. two-thirds) of the votes. I admit that it will be difficult for the wider public to decide whether a representative is worthy of membership in the House of Representatives, because they have little information upon which to dismiss. This holds true for the People’s Examination of Supreme Court judges in Japan. Despite the fact that the Law of the People’s Examination of the Supreme Court Judges stipulates that voters can dismiss Supreme Court judges by a majority of votes, this function has not been



utilized at all because of the lack of information for wider voters. It would also be difficult for the wider public to dismiss a representative with a simple majority, let alone a supermajority.

However, sorted voters of the House of Citizens can decide whether a representative is worthy of membership in the House of Representatives. As is well known, some representatives refuse to resign even if they have been arrested for bribery. Party leaders have defended them by insisting that a 'statesman' ought to decide whether they resign. This statement is simply wrong: voters as the sovereign ought to decide whether a representative should resign. In this regard, the sorted House of Citizens plays an important role in eliminating unworthy representatives. If a representative loses the confidence of the public, the House of Citizens can deliberate on the qualifications of the representative and decide to get rid of them with a supermajority and elect the runner-up from the list. Of course, the system does not give all voters the right to dismiss. Assuming that members of the House of Citizens are selected by sortition, it is reasonable to suppose that it gives voters an indirect, yet substantial, right to dismiss a representative.

Second, voters can select a group of candidates if the parties have a legal obligation to present two lists. Suppose, for example, that all parties have a legal obligation to present lists of males and females.<sup>(20)</sup> Supporters of Party X can cast a vote for X, XM (male list), or XF (female list). If a voter casts a vote for X, the vote is shared by XM and XF equally (0.5 of the vote). If a supporter of party X complains about XM, they can cast a vote for XF, and vice versa. After the votes cast for X, XM, and XF are summed up, the seats are tentatively distributed to X and then to XM and XF in proportion to the votes they polled.

Because the two lists must compete for votes, candidates who have already been assigned on the list have an incentive and pressure not to choose candidates with a bad reputation. Thus, the closed-list divided along gender lines will contribute not only to establishing a gender-balanced House of Representatives but also to selecting better candidates.

Of course, one may be concerned that the inter-list competition distorts communication between male and female representatives. However, I am less concerned with this issue. It should be emphasized that male candidates will never attack the lineup of the female list of their own party in electoral campaigns, and vice versa. In this respect, inter-list competition differs significantly from inter-party competition.

(3) **'Representatives are Distant from Voters.'**

When a complex closed-list system is adopted, it is not necessary to divide the nationwide constituency into prefectural or regional constituencies, because the difficulty in ranking is alleviated. Indeed, a nationwide constituency has three advantages. First, it contributes to creating a well-balanced and well-communicated lineup of candidates because parties must field candidates in all fields equally, and party leaders (and nominated candidates) can choose candidates with whom they have a good relationship. Second, the nationwide constituency contributes to making the electoral system understandable for voters because there is no mechanism to distribute the seats of parties at the national level to parties at the constituency level. Finally, the nationwide constituency is immune to the malapportionment of seats because there is only one constituency.<sup>(21)</sup>

One may still be concerned that the voices of voters, especially those living in the countryside, will not be heard by representatives. It is true that most representatives live in the capital city, and the physical distance between voters and representatives increases.

However, I would like to emphasize that there can be routes other than electoral constituencies that connect voters and representatives. The most important is a citizen assembly, whose participants are selected by sortition. Representatives have the opportunity to listen to voters if they attend the citizen assemblies held in prefectures. Indeed, it is desirable for representatives to contact voters in citizen assemblies. Based on surveys in Sweden and Switzerland, Miguel M. Pereira argues

that representatives' misperceptions of public opinion result from unequal exposure to privileged voters as well as the projection of their preferences on voters and that the misperceptions can be reduced by a more balanced exposure to voters (Pereira 2021: 1308, 1320). If so, the citizen assembly will contribute to reducing representatives' misperceptions of public opinion. Representatives can listen to voters more *closely* because the number of participants is limited; they can gather the voices of voters more *fairly* because the participants constitute a mini-public of the voters living in the prefecture.

There are other routes for gathering voters' voices: local politicians and branches of political parties can transmit the voices of grassroots voters to the members of the House of Representatives. It is a typical stereotype of electoral system scholars to address all the issues through electoral engineering.

### 3. Party Subsidies

To create strong teams, it is also necessary to guarantee reasonable social and economic conditions for unelected candidates. By doing so, parties can recruit promising candidates and alleviate their dissatisfaction with their ranks on the list. Public subsidies can be used for this purpose.

It is well known that most candidates lose income when they are not elected. Indeed, they are often burdened with numerous debts. It is natural for ordinary citizens to avoid such a risky job. As a result, candidate positions tend to be occupied by 'unordinary' citizens: 'hereditary' representatives and ambitious/wealthy citizens. However, a wide range of ordinary citizens would be willing to be candidates if parties employ all candidates as regular staff and guarantee them the same treatment as public servants. Under such a system, if elected, they are sent on loan to the House of Representatives. If not, they work as party staff members. It may be better for some of them to study at graduate school. In each case, favorable social and economic conditions are guaranteed. Of course, some candidates may

complain about the treatment. However, it is arguable that such candidates are not the worthy candidates that democracy requires.

One concern is that a huge amount of money is required to employ unelected candidates. I do not share this concern for two reasons. First, the expenditure will not be high because the number of unelected candidates is limited owing to a limited majority bonus. Second, the considerable amounts spent on constituency activities becomes unnecessary, and the saved money can be used for employing unelected candidates.

In most democracies, party subsidies are distributed to entitled parties in proportion to the number of votes and/or seats (Nassmacher 2009: 315).<sup>(22)</sup> In Japan, party subsidies are distributed to entitled parties in proportion to the number of votes and seats, half of which are distributed in proportion to the number of votes and the other half of which are distributed in proportion to the number of seats.<sup>(23)</sup> Combined with the MMM system, party subsidies have been distributed in favor of larger parties, especially the LDP. The proportional distribution of subsidies has consolidated financial disparities between parties (Asai 2019: 358).

I believe that party subsidies should be distributed in favor of opposition parties to promote fair competition between the governing and opposition parties. In contrast to the distribution of seats, I propose, 45 percent of subsidies are distributed to the governing coalition or party, and 55 percent of subsidies are distributed to opposition parties. Within a coalition, subsidies are distributed in proportion to the number of votes that they polled in the latest election. This disproportionality can be estimated as an offset from the disproportionality of a majority bonus, as is the case with a minority bonus.

This inversely proportional distribution of party subsidies makes it easy for opposition parties to compete with a governing coalition or party on a relatively equal basis because opposition parties can spend the subsidies on their media strategies and employ unelected candidates for the next elections. It is true that inversely proportional distribution does not equalize the competitive conditions

between existing and new parties.<sup>(24)</sup> However, it does contribute to equalizing the competitive conditions between the governing and opposition parties.

Of course, there are arguments against a counter-proportional distribution on the grounds that it violates the principle of distributive justice. However, I believe that inversely proportional distribution is acceptable if it promotes democratic values, such as fair competition, as is the case with the distribution of seats with a limited majority bonus.

### **Concluding Remarks**

In this article, I argued for a complex closed-list system with a nationwide constituency. As I have pointed out, Japanese proponents of PR have generally argued for an open-list system with prefectural or regional constituencies or an MMP system. However, as examined above, voters cannot choose a candidate substantially because of information costs in the case of preferential-list systems or because of double candidacy in the case of the MMP system. In addition, both the preferential-list and MMP systems make it difficult for parties to organize well-balanced and well-communicated teams. To avoid these serious problems, it is desirable to adopt a complex closed-list system with a nationwide constituency, in which lists are divided along policy lines. The problems entailed in the complex closed-list system can be alleviated by additional devices: parties establishing their own procedure for ranking a list of candidates; the sorted House of Citizens having the authority to dismiss representatives with a supermajority vote; parties being required to present two lists in order for voters to choose one of the lists; party subsidies being distributed inversely proportionally. Of course, arguments for a complex closed-list system are open to objections, as is the case with a limited majority bonus. I welcome constructive objections.

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## Notes

- (1) Nishihira and Kobayashi propose that seats are distributed to parties in proportion to the votes that parties poll at the national level.
- (2) There should be an exception: Representatives for people with handicaps are not necessarily eloquent.
- (3) The ‘best loser’ system is as follows. Suppose that candidates X, Y, Z stand both in a constituency and PR; they share the same rank in PR and they all lose in their constituency. Then, the best loser in a constituency has the priority right to be elected in PR. The ‘best loser’ is calculated by dividing the number of votes cast for the unelected candidate in a constituency by the number of votes cast for the elected candidate in the constituency. The higher the quotient is, the better the loser.
- (4) Single transferable Vote (STV) with a kind of majority bonus has been adopted for the elections of the Parliament of Malta since 1987 to assure that the largest party which polls a majority of the first-preference votes acquires a majority of the seats (Zanella 1990: 207-208). After the revision of the Constitution in 2007, the majority bonus has been revised as follows. When the largest party which polls a majority (or a plurality in a certain case) of the first-preference votes does not gain the seats proportional to the first-preference votes, then additional seats are added to the party (Constitution, Article 52). By referencing this system, one can design an STV with a limited majority bonus. However, as an STV with a limited majority bonus will be too complex, I will exclude the examination of STV in this article.
- (5) Although the free-list system has been regarded as an open-list system, I will distinguish between the two, following the classification dominant in electoral studies in Japan (Kato 2003: 72-73).
- (6) Matthew Søberg Shugart classifies the electoral system of Finland as a ‘quasi-list’ system, which is the subtype of the open-list system, on the grounds that voters cannot

cast a party (list) vote (Shugart 2005: 42-43).

- (7) The explanation of d'Hondt method on the website is different from mine formally, but identical substantially.
- (8) In addition, 148 members of the House of Councilors are elected in a single-member or multi-member constituency. While the term of office is six years, half of the members of the House of Councilors (124) are elected every three years.
- (9) Matthew Søberg Shugart argues that 'in the flexible list the voter who opts not to cast a preference vote is *delegating* to the *party* the task of deciding the order in which candidates will be elected, while in the open list, the voter is *delegating this decision to other voters* (those who cast preference votes)' (Shugart 2005: 43). I believe that this dichotomy is not exact because the voters are delegating to other voters, as well as to the party, in the flexible-list system.
- (10) It should be noted that there is a considerable difference between preferential-list and closed-list systems. According to Pippa Norris, 55 percent of voters could correctly identify at least one candidate in the preferential-list systems ('preference-ballots'), but only 33 percent in the closed-list systems ('party-ballots') (Norris 2004: 238-239).
- (11) The incentive to seek personal votes may be affected by the following: the district magnitude itself and the ratio of copartisan candidates to district magnitude (Carey and Shugart 1995: 431), the ratio of copartisan candidates to party magnitude (Crisp et al. 2007), or the 'closeness to winning or losing a seat' (Selb and Lutz 2015: 335).
- (12) Some scholars believe that the importance of organized votes has decreased (cf. Nemoto and Shugart 2013: 7). Yet, there is no doubt that interest groups and their organized votes still play an important role in the elections of the House of Councilors.
- (13) Some democrats will insist that what is needed is not to decrease interest representatives, but to increase them to avoid the dominance of larger interest groups. While the argument has a point, I cannot agree with it. First, all interests cannot be represented because the number of seats is limited. Second, the policies of a party must be distorted by the persistence of interest representatives.
- (14) Joachim Behnke points out that the phrase 'pseudo-overhang mandates of the first distribution stage' is accurate (Behnke 2014: 273).
- (15) The adjustment seats system was slightly revised by the amendment of the federal electoral law in 2020. Three seats can be eliminated from the 'overhang seats' on the calculation to curb the rise in the total number of seats (Der Bundeswahlleiter 2021: 5-6).
- (16) It has been pointed out that the number of candidates in a constituency tends to increase owing to the 'contamination' effects of PR in Mixed Electoral Systems (Ferrara et al. 2005). However, the MMP type of PR-LMB will be free from the 'contamination' effects owing to a limited majority bonus.

- (17) In *Democracy Within Parties*, Reuven Y. Hazan and Gideon Rahat proposed a 'three-stage candidate selection method.' First, the screening committee deliberates and appoints candidates: the number of candidates is to be at least twice as many as the realistic number of candidates. Then, party delegates amend the list of candidates under restrictions and decide the approval or denial of each incumbent. Finally, party members, who are inclusive and legitimate, cast a vote in a non-majoritarian way in an electoral district or the equivalent, to finally rank a list of candidates (Hazan and Rahat 2010: 174-175). While the three-stage method is well elaborated, I believe that it is not suitable for creating a strong team.
- (18) It will not be necessary to consult with coalition partners in compiling the list of candidates. However, it is desirable for a coalition to express not only the candidate of the prime minister but also the candidates of ministers based on their lists.
- (19) The elections in Switzerland gave me a hint in this regard. According to Georg Lutz, larger parties generally 'present more than one list in the same constituency.' The aim is to 'attract additional votes' and 'increase the level of the campaign,' while the aim of the youth list is to 'allow the parties' youth their own political space' (Lutz 2011: 161). Note that to present more than one list is not based on a legal obligation, but on party strategies.
- (20) It is true that the gender-divided list forces some candidates who do not want to express their gender identity to choose the male or female list. To avoid this, it is better to ease the gender requirement: male and female lists consist *mainly* (for example, two thirds) of male and female candidates respectively.
- (21) Malapportionment can be avoided also by adopting a 'self-adjusting-magnitude' system. According to the system, the seats of a party are distributed to the party in each constituency in proportion to the votes of the party polled in each constituency (Kobayashi 1994: 145-146; Kobayashi 2012a: 151-153; Kobayashi 2012b: 187-188).
- (22) There are some exceptions: short money and Cranborne money have been granted only to opposition parties in the UK (Kelly 2021).
- (23) The entitlement is given to parties which have more than five members of the Diet or polled more than two percent of the votes in constituencies in total or in PR of the nearest election for the House of Representatives or of the nearest or the second nearest elections for the House of Councilors (Article 2 of the Public Offices Election Act). While the Japanese Communist Party (JCP) has been entitled to receive party subsidies, the JCP has not demanded it on the grounds that the institution of party subsidies violates the freedom of thought and is thus unconstitutional (<https://www.jcp.or.jp/seisaku/seitou-joyoseikin/jyoseikin-no.html>). As for a more comprehensive argument against the institution of party subsidies in Japan, see Kamiwaki (1999). I believe that their concerns can be greatly eased if the total amount of party subsidies



decreases in accordance with voter turnout. If the voter turnout is 60 percent, the total amount of party subsidies leads to 40 percent off. In this case, party subsidies do not violate the freedom of thought of the abstainers.

- (24) As for the cartel party thesis, Daniela R. Piccio and Ingrid van Biezen point out that lower thresholds for public funding and ceilings on expenditures ease the emergence of new parties (Piccio and Biezen 2018: 74-81).

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