

Seanad Reform Submission from Mark Khan

The people grow more disillusioned and angry with the political system as this 21st century reaches half way through its second decade. Broken promises are not the only cause of this anger, gross inequality in distribution of wealth and justice are bringing matters to a boil, but it is the disenfranchisement of democratic power that is the concern I wish to address partially in this submission.

If voting no longer matters, then other forms of governance may be considered. This is no fantastical warning of cry wolf. In my lifetime precisely 14 of the 28 EU countries were run by some form of totalitarian governance, in my still living uncle's lifetime all but 4 EU countries were either totalitarian or colonies. It is of absolute urgency that this Government addresses the democratic deficits in this country, instead of the window dressing and penny pinching reforms it has engaged in thus far. Business as usual will not do, or I fear we shall hear cry havoc not wolf.

Some common concerns regularly voiced are of; an elitist mindset – be that caused by wealth, class, dynasty or nepotism. The lack of meritocracy based on substance or intellectual ability or integrity or independence of mind to articulate the solutions to nations dilemmas or have both efficiency and efficacy in carrying out their duties. In short the people want to believe if they wanted to they could reach high office and if they do not then the person who will get there is capable of dealing with problems or at least intelligent enough to understand them and who can fix them. They also want people to say what they mean and mean what they say. Not politicians employing doublespeak and silenced by the whip to all speak in monotone.

It seems to me then that it is essential that the composition and election are essential matters to discuss in relation to the Seanad.

If we look at De Valera's initial thinking of creating vocational panels and the Taoiseach's nominees, it was to have expert bodies nominate professionals and experts outside of the political parties to be able to advise and amend legislation to improve it. Similarly the Taoiseach's nominee's were to be used for important intellectual, artistic and non-republic figures who would not normally be elected or even seek election to also advise. None of these were considered creches or nursing homes for failed career politicians, hence why the Seanad's powers in delaying bills is so weak and so short. Independence of mind for better legislation but not a serious ability to hold up legislation. However due to the legislation surrounding election we have seen the complete capture of the seanad by the political parties, rendering the outside bodies nomination process almost meaningless, bar a few aberrations of the odd failed politicians getting elected ahead of some other rejected Dail candidate despite having less votes than them. As to the Taoiseach's nominees, few are nominated with the original intention and frequently we have to suffer the ignomy of the taoiseach nominating not only someone who was rejected in the dail election that just happened but then also the seanad election that occurred even more recently. Having been rejected twice by both people and politicians, we must then still suffer some well connected example of nepotism strut upon the national stage for a full term.

The cure to this is reviewing the composition of the Seanad and the method of election to it and by whom, I shall try to do this within in the remit of not changing the Constitution.

General Principles

1. Where practicable every citizen should have a postal vote in at least one Seanad panel.
2. No Whip should be allowed to be used in Seanad matters.
3. While members of parties should be allowed to run for the Seanad, no official party candidates should be allowed, nor should any party be allowed to run a Seanad campaign.
4. While one cannot ban recent failed Dail candidates from running for the Seanad the practice should be frowned upon and actively discouraged. Nomination deadline processes could be examined to be run concurrently with the Dail elections, though I would not advocate running both elections on the same day.
5. No individual should have to spend much money in running for the Seanad, 1 free solo mail shot and also separately 1 free catalogue of all candidates & positions should accompany the postal ballot to each voter registered in that panel.
6. New Configurations of Panels should be examined.
7. New rules for both election process and bye election processes are needed
8. Guidelines preferably legislated for should be put in place for the Taoiseach's nominees.
9. As a new independence of thought and greater expertise will be the new mode for the Seanad, it should be more heavily involved in the committees, perhaps chairing them, also look to investigatory committees.
10. A New set of less restrictive Dail Standing Orders and Standing Orders for the Seanad will need to be enacted, that allows for more private members time and allows for greater and more meaningful input into legislation, policy, committees and accountability.

The Finer Details

Taoiseach's Nominees

At legislative guideline should be enacted whereby the Taoiseach must tick certain boxes in his nominations, for example 2 of protestant community, 2 ethnic minorities resident, 2 from northern ireland, 2 from diaspora, a poet laureate, a noble prize winner or whatever... Also they should have a consultation body that nominates candidates for selection. Such as the Council of State, the President, the First Minister and Deputy First Minister of Northern Ireland, or indeed a gathering of all these and more such as the University Presidents etc.

Graduates

In finally recognising the amendment for extending the votes for graduates of institutions other than NUI and UD, there is a problem as to which panel to put them in, as it is NUI has almost double the electorate of UD, which would be exasperated by adding the rest to it. I believe that Article 18.4.2.ii provides for the ability to merge both these panels into one panel of six seats and thus all graduates of the country. This may undermine the original intent in that TCD was once a guarantee of some senators of anglo-irish or protestant ethos and outlook, but with adequate guidelines in place the Taoiseach's nominees should be able to ensure this constituency is represented.

Other Panels

While the constitution sets in stone that at least 5 other panels must be constituted and their names, Article 18.7.2 allows for the numbers in each to be amended. While Article 19 Allows for new or more panels to be created amongst the 43 elected.

Legislation allows for the nominating bodies to change from one panel to another, where that might fit and also for who are the electors as well as the nomination process.

It is my contention every citizen should be able to vote in at least one panel of their choice. As the senate cannot initiate or seriously affect money bills, I think it would be acceptable if a method was found for including both the diaspora and the Northern Irish subjects of the UK in Seanad voting.

I also believe that these panels should more resemble policy panels instead of vocational panels, which will result in greater engagement by the public. Though they would keep the name as it is and constitutionally it would remain the same. For instance consider The Cultural and Educational panel – could remain as such but with added elements looking at Arts, Culture, Education, Research and perhaps Tourism. Meanwhile medical organisations such as Dental Council and RCSI that are currently nominating bodies for this panel could switch to the Administration Panel.

The Administration Panel – is for public administration, social services and voluntary - again vocationally speaking, however policy speaking – we could make this the Health, Welfare, Community and Voluntary (perhaps youth as well) policy panel.

Agricultural & Allied, - could become a policy panel for the natural environment – so issues of planning, pollution, as well as farming, food, fish, natural resources, forestry- would tie experts from that area together.

Labour – could become enterprise and employment – with ictu and ibec in it.

Industry & Commerce – with all the banking and building groups, this could look to the built environment – with building, housing, industry, transport and infrastructure and energy etc

While I believe in automatic registration for most elections, in the senate each citizen would have to physically register themselves for the Seanad election. They would also have to choose the panel they wish to register for. Obviously to be on the new university panel you must be a graduate. Considering if you currently graduate both NUI and UD and get elected you would have 3 votes for the Seanad, I don't think Graduates should be disallowed picking a policy panel to vote on as well. For the University panel is more a representative constituency of all rounders rather than choosing a policy team, and any citizen who is voting and in the meantime graduates can also avail of the same benefit. However, if the panels are kept as vocational panels strictly without the policy 'packaging' I discuss around them, then there would be less an argument for giving graduates an additional vote and they should choose do they wish to keep the university vote or move to the vocational panel. Also this only stands if the franchise for graduates is extended and the two panels are merged.

As there are 43 to be elected from the other panels – we have a choice then to elect the number of seats for each panel depending on how many have registered for them, or have a set amount roughly equal. In this case we could have two more panels. Thus giving 7 panels of 6 = 42 seats, with a bonus seat for the panel with the most registered voters or the extra seat being used similarly to the Ceann Comharile.

Those two extra panels could be:

one for Northern Irish voters and one for the diaspora, or one for both, while another panel is for Councillors, but only local authority Councillors (and not TDs and Senators) can vote in it.

Thus representing local democracy and the regions.

OR it could be 2 more policy panels

such as european, foreign affairs and defence

and justice and equality plus law and constitutional reform

or whichever combination of things that make coherent sense.

In general however a policy panel should not be for just one department, but for a series of portfolios that combine in a range of human endeavours.

NOMINATION PROCESS:

Currently one has to get 4 Oireachtas members, or a nominating body, or in a bye election 9 oireachtas members. For the University panels it needs to be 2 elector nominators and 8 elector assentors.

I would strip the right of Dail members to nominate to the Seanad, they elect the Taoiseach who nominates 11, its enough for them.

If we use the 43rd seat as a type of Ceann Comharile mechanism, then simply put either the outgoing Cathoirleach retains his seat as of right, or else the outgoing senate elects one of its members by secret ballot to be the incoming Cathoirleach.

If the local authority councillors are to be given their own panel, 10 councillors are needed to nominate a candidate, they should be from at least 4 different local authorities. And of course any nominator may only nominate 1 candidate.

For university panel, the same method should be used, however all 10 should be listed as nominators rather than some as assentors. Again nominators can only nominate 1 candidate.

For the vocational panels under a more generally elected method.

I would retain the concept of two types of nominating process for the first 2 elections while greater thought is put into the reform and functioning of these elections. However, it would differ as such.

Once the Dail is dissolved and a General Election called, The Seanad Returning Officer shall open and invite nominations from the public and the nominating bodies. From the appearance of this notice the deadline shall be 10 business days to receive those nominations.

Instead of Oireactas members, it will be panel electors who the candidate has to get to nominate them and they will need to get ten voters from that panel to do so, again they cannot nominate anyone else.

The nominating bodies shall nominate only female members

With the nominations thus closed, a primary contest shall now begin, it shall last until the say the election day to the dail, or after the counts have finished, or indeed the first sitting of the Dail.

The object of the primary is to collect more nominators than other candidates in your panel. Again a nominator may only nominate one person per election cycle. At the stated deadline of the primary season, all the candidates are eliminated until only those with the highest number of valid nominations are left that equal twice the number of seats in that panel. So if a panel has 6 seats, then 12 candidates with the highest number of nominations will remain for the actual election by postal ballot and avail of the free mail shots/catalogue. However, a minimum of outside (nominating) bodies nominees will have to get through, therefore as close to 33%, of them meaning that even if some have less nominations than others they will get through.

Once the deadline is closed and elimination has occurred. Each candidate gets their free mail shot to their panel voters, and a catalogue is compiled with a cv and positions of each candidate which is then mailed to each voter along with a postal ballot.

Elections are conducted as usual, with all ballots and eliminations going through full gregory counts. The special policy for outside bodies having been employed twice, in the sense of females only getting the nomination from them, and then also in the primary availing of the minimum 33% getting through (as will be case with party nominations for the Dail) may now be used again or not depending on the strength of arguments. On one side, yes employ it again to ensure at least 33% females to redress the worse imbalance we have historically had. On other side, no, already they have had 2 legs up and often the biggest problem is that women can't make it through the nomination process, with that issue now dealt with – and considering the equality now with dail candidates (in fact in an even better position as no stipulation for independents running for dail to have quotas, whereas we have engineered it for the senate due to the nominating bodies having a 'party' like effect) that they should be able to get elected now and have a valid mandate off their own back.

While candidates can be members of political parties, there will be no party materials allowed during the campaign and no party whip allowed during their tenure in the senate.

Conclusion

Creating a relatively level playing field for any candidate, regardless of being in a party or being wealthy or poor undermining the elite be it by wealth or nepotism.

Creating an independent Seanad, both from its dominance by the Dail in nomination and election procedures and also by eliminating party dominance and party whips. Should help accountability but also avoid groupthink and allow for better legislation and creative solutions to national dilemmas.

National constituencies will create a national interest people often say is lacking.

Self selecting constituencies on basis of policy will make for citizens who are engaged and continually learning and holding to account people in that area, similarly only people with genuine achievements, expertise or support in these areas will be able to get elected. Thus improving the citizen and the ruled in their knowledge and civic duties.

Greater diversity and balance in gender and ethnic representation should result.

Finally making the vocational and intellectual vision of the Seanad at its founding become real.