Scottish election fiasco casts doubt over new parliament

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The actual number of votes rejected in the May 3 elections to the Scottish Parliament is far higher than the already staggering figure of 100,000 previously admitted to. Earlier this week, Newsnight Scotland revealed that some 142,000 votes had been ruled out—3.5 percent of all votes cast.

Of these, 85,644 votes were rejected for the first-past-the post constituency elections, which account for 57 of the 129 seats in Holyrood. A further 56,247 votes were rejected from the regional lists, an Additional Member form of proportional representation that makes up the rest of the parliamentary seats.

In addition to this total, many more votes were discounted for elections to local councils held on the same day. A number of seats in the new parliament were won by majorities less than the number of spoiled ballots.

Failures in the system of postal voting also contributed to the disenfranchising of voters, with hundreds of people receiving their postal ballot too late.

Given that the Scottish count involves the largest number of rejected ballots in British electoral history, the efforts of nearly all concerned parties to simply move on to next business is telling. Had such a massive level of voter disenfranchisement occurred in Russia, Zimbabwe or Venezuela, the British government would be joining the European Union and Washington in condemning the election as a fraud and calling for a revote.

Yet in this instance there has been very little serious treatment of the election fiasco, beyond the concern that it has proven to be a "national embarrassment."

Facing questions at Westminster, Labour's secretary of state for Scotland, Douglas Alexander, said, "There is a statutory review, which has begun, by the Electoral Commission. I've made clear that where that inquiry touches on matters directly within the responsibility of the Electoral Commission there will be independent assessment."

This leaves the body largely responsible for the problems in the election charged with investigating itself. Faced with criticisms that such a review would do nothing to placate public outrage, on May 10 the commission finally agreed to appoint an "independent international expert" to look into the disaster surrounding the count.

In many instances, the election fiasco has been blamed on the voters. Reports cite enormous confusion amongst people over the various ballot papers and the different ways of completing them. There is no question that the ballot was confusing, but this begs the question as to why it was organised in such a manner in the first place.

Responsibility rests with all the main parties in Holyrood, and, in particular, with the Labour Party.

In previous elections to the Scottish Parliament, two separate ballot papers had been issued for the constituency and regional lists. In preparation for the 2007 ballot, however, this was changed to place both elections on the same ballot paper. In addition, it was decided to hold local council elections on the same day as the parliamentary vote, using another ballot paper with another completely different form of voting—the Single Transferable Vote system.

It has emerged that Alexander was warned by civil servants at the Scotland Office that changing the ballot forms would lead to confusion and a higher than average number of rejected votes. Tests were carried out on behalf of the Electoral Commission by Cragg Ross Dawson, a market research company, on a sample of 100 people. They found that the single ballot paper option was the method that produced the most

confusion and the greatest number of invalidated ballots.

Despite these warnings, the Electoral Commission and the Scotland Office continued with the new procedure, publishing partial results of the survey and neglecting to mention the negative findings about their proposal.

Robert Richie, executive director of US-based Fair Vote, which observed the election, compared the result to the vote suppression in Florida during the 2000 US presidential election. “The most fundamental flaw was the ballot design of the party and constituency votes in two columns on the same page, rather than on separate pages,” he said.

Fair Vote’s analysis of the rejected ballots has indicated that smaller parties, especially the Greens, were especially disadvantaged by the high level of rejected votes on the regional lists.

Alex Salmond, leader of the Scottish National Party (SNP), has called for an independent judicial inquiry and criticised Labour’s management of the election. However, the SNP and the Liberal Democrats supported the new single parliamentary ballot paper when it was put to them in consultation.

The massive scale of voter disenfranchisement, predicted by the Scotland Office’s own research calls into question the whole election. But Labour, the SNP and the Liberals are not prepared to acknowledge this because it would jeopardise their positions in the new parliament.

The Scottish National Party (SNP) has a great deal to lose if the election result is challenged. It won 47 seats in the parliament, just one more than Labour. The SNP are currently in coalition discussions with the Liberal Democrats and the Greens to form a government. In addition, their nationalist rhetoric is not best served by exposures of incompetence in Holyrood.

The Liberal Democrats, who oppose the SNP’s policy of holding a referendum on Scottish separatism, may opt for a less formal coalition with the SNP that does not tie them to voting for the referendum. Labour may also try to form a coalition with the Liberals.

However, it is still possible that the result may be brought into question—and by the very party that bears the greatest responsibility for what happened. In the constituency of Cunningham North, the SNP beat the incumbent Labour member Allan Wilson by just 48 votes. Wilson is consulting with Labour Party lawyers on whether to launch a legal challenge to have a manual recount of the ballots.

A great deal is at stake, given that a shift of one seat away from the SNP would make Labour the majority party and potential head of a coalition government with the Liberal Democrats. If this happened, the SNP could possibly respond with its own challenge in one or more constituencies where Labour won only a narrow victory.

Glasgow lawyer Mike Dailly of the Govan Law Centre is also challenging the results on the grounds that the parliamentary ballot paper was so complicated that it infringed the right to vote.