Reading the Issues of Justice & Equality

(Electoral Interactions for Behira Governorate as a Case Study)

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The main dilemma when considering the drafting of the provisions of regulatory legislation for the Parliament is on how to achieve the principles of justice, equality and fairness when dividing districts or determining the seats allocated to them in the presence of constitutional controls, this began with article (113) of the 2012 Constitution, which stipulated The law sets out the conditions for membership, the electoral system and the division of electoral districts, taking into account the fair representation of the population and the governorates, which is the same text that has been re-detailed in article (102) of the 2014 Constitution, which stipulated The law sets out the conditions for other candidacies, the electoral system and the division of electoral districts, taking into account the fair representation of the population and governorates and the equal representation of voters in addition to the provisions of article (4) of the House of Representatives Act (46) of 2014 that a special law defines the scope and components of each constituency and the number of seats allocated to it and each governorates and elects for each district the number of members that commensurate with the population and voters in order to take into account the fair representation of the population and governorates and what is included in the text of the Senate Act within article (3) that each district is elected by the number of members that is proportional to the number of population and voters in order to take into account the fair representation of the population and the governorates.

However, the application of these texts has been controversial regarding the formulation of the digital equation, which is being adopted as a means of dividing districts and determining the seats allocated to each of them, which led to the Supreme Constitutional Court's response to the legislation within the framework of its previous control over legislation (Constitution

2012) before it issued its ruling in Lawsuit No. (26447) for the year (69) judicial unconstitutionality of the Law on the Division of Districts No. (202) of 2014 in individual districts for not taking into account the rules of fair representation of the population equal to voters, which necessitated re-amending the law in accordance with constitutional provisions before amending the constitutional text of article (102) by removing the words "equal representation of voters" in the 2019 constitutional amendments, which included placing the same constitutional provision in its text and words within the text of article (251) with regard to the formation of the Senate.

In fact, the issue of "fair representation of the population and governorates" provided for by the constitutional articles (251,102) with regard to the formation of the two houses (upper and lower houses) and the issue of equal representation of voters which has been removed from the constitutional text of article (102) and if its impact remains in place, raises a number of challenges related to the fairness and technicality of the administrative division of electoral districts as follows:

First: How to represent the border governorates and implement the mathematical rule of fair and equal representation, especially in light of the inability to apply them due to the number of their population and voters.

Second: The practical and objective impossibility of achieving equality between the numbers of representatives represented by the deputy in each district is absolutely equal to the same number of voters as the rest of the deputies in other districts.

This prompted the Court to make clear its concept of electoral justice and equality, which is aimed at constitutional texts by saying that "fair representation of the population means that

an MP should be represented in any constituency with the number of voters represented by the rest of the deputies in other constituencies, which means that equal representation of voters in parliaments must be taken into account. This principle does not mean that the equality of the numbers represented by the deputy in each district is absolutely mathematically equal because this cannot be achieved. In practice, it is sufficient to achieve this principle that the differences between these numbers and the overall average numbers of those represented by the deputy at the state level should be within reasonable limits, and the division of districts must be adjusted to suit the population in each of the districts to which the country is divided by regard to geographical position, and the districts should not be drawn in an arbitrary manner and without regard to the public interest, and the fairness of the representation of the provinces requires that all state provinces be represented in the House of Representatives regardless of the geographical proximity and population.

The rulings and principles of the Supreme Constitutional Court that it had established with regard to the access of those constitutional texts and the possibilities for conducting the electoral process itself were therefore very important and constituted a governing and final reference when considering the implementation of those controls, which could be done by reviewing the decisions of the Constitutional Court prior oversight on 17 February 2013 and May 25, 2013 if it interprets article (113) of the 2013 Constitution and also its ruling in case No. (18) of the year (37) constitutional judicial session 1 March 2015 as follows:

First, with regard to the representation of the border governorates, the Constitutional Court ruled that the border governorates should be excluded from the rules of calculation (justice and equality) because they could not apply to them in view of

the number of their populations and voters and the desire to represent them in a way that reflects their geographical importance because they consider the national security fence and the first line of defense for the security of the nation and its citizens without being a constitutional violation because it is justified discrimination and has its basis on merits.

Second: With regard to the fair representation of the population, the Court concluded that it is based on (4) main axes (the first) that the deputy should represent in any constituency with the number of voters represented by the rest of the deputies in other districts and this principle does not mean that the equality between the numbers represented by the deputy in each district is absolutely equal because it is impossible to achieve this in practice, but it is enough to achieve this principle that the differences between these numbers and the general average of numbers of Represented by the deputy at the state level within the reasonable limits (and secondly) the division of electoral districts must be adjusted to suit the number of population in each of the districts to which the country is divided (and thirdly) to take into account geographical juxtaposition once the electoral districting (and fourthly) the non-demarcation of electoral districts in an arbitrary manner and without regard to the public interest.

Thirdly, with regard to the fair representation of the provinces, the Court ensured in its ruling that all state governorates should be represented in the Council regardless of their population.

In light of these regulations and standards, it was important to draft a bill consistent with constitutional principles, to refer to the latest national census of the Egyptian state and establish the rules of dividing electoral districts on the basis of which the Support of Egypt Coalition committed, which was based on the latest databases of voters and population issued by Central Agency for Public Mobilization and Statistics (2020) submitted by the National Electoral Commission during the preparation of the proposed bill package in May 2020 under the articles (516,515) dated May 17 2020, which resulted from their analysis of the analytical and digital monitoring that adopted the implementation of the rule of calculating the average number of citizens represented by the MP as approved by the Supreme Constitutional Court by dividing the total population of the Republic plus the number of voters in it and dividing by two so that the overall average number of voters in each province is reached and adopted as an average calculation for the process of dividing electoral districts and determining the fair quorum (governorates, districts) from the seats of the parliamentary councils.

In light of the previous digital census of the total population (99,842,504) population and the total number of voters (62,794,440) voters and the calculation of their total (population + voters) in total (162,636,944) citizens/voters and with the implementation of the equation By dividing this figure by 2, the overall average number of population and voters combined becomes (81,318,472) citizens/voters, which allows the application of the mathematical equation (equality) between the population and (parity) among voters, considering that the division of electoral districts must be based on the population and the number of voters. It is not possible to rely on population numbers below the number of voters or vice versa, a rule

7

that the Constitutional Court has already established when considering the electoral legislation package for 2013, where one of the grounds for the invalidity of these legislations was the imbalance of the arithmetic transactions for allocating seats between the governorates of Damietta and Aswan, between the governorates of Alexandria and Al-Sharqia, and between the governorates of Sohag and Qena.

To ensure the fair distribution of seats in parliaments, the Constitutional Court has obliged legislators to abide by the rule of calculating the average number of voters represented by the MP on the basis of sharing the overall average population and voters on the total number of seats allocated to the individual electoral system or to the approved systems with a reasonable deviation rate (more or less) to the result of this rule by 25%, as stated by the previous constitutional provision, due to the impossibility of achieving a reasonable deviation.

In order to apply these rules to the formation of The House of Representatives, Article (1) of the Amended Law (140) of 2020 stipulates that the House of Representatives shall form (568) members elected by direct secret universal suffrage, while Article (3) stipulates that (the election of the House of Representatives shall be By (284) seats in the individual system and (284 seats in the absolute closed lists system), which makes the fair mathematical quorum of the electoral seat in the council complete with a total of (596) seats is (143,166) voters while the value of the variable or deviation The number (25%) is (35,792) voters to have the maximum threshold in the House of Representatives (full) is (178,958) voters while the minimum threshold is (107,374) voters.

On the other hand, the fair mathematical quorum of the electoral seat once applied to one of the two electoral systems alone, whether individual or absolute closed list, which was

allocated each (284) seats becomes (286,333) voters while the value of the variable or numerical deviation (25) 71,583 voters to be the maximum threshold in the individual or absolute closed list system is (357,916) voters while the minimum threshold (214,750) voters. As for implementing these rules on the formation of (the Senate), Article (1) of Law (141) of 2020 stipulates that (the Senate is formed of (300) members, two-thirds of its members are elected by direct secret public suffrage, and the President of the Republic appoints the remaining third) while it stipulates Article (2) provided that (the Senate will be elected in the form of (100) seats in the individual system and (100) seats in the absolute closed list system), which makes the fair arithmetic quorum for the electoral seat in the full council in its two systems with a total of (200) seats is (406,592) voters. While the value of the variable or numerical deviation (25%) is (101,648) voters so that the maximum quorum for an electoral seat in the (full) Senate is (508,240) voters, while the minimum quorum for a seat is (304,944) voters.

On the other hand, the fair arithmetic quorum for the electoral seat in the Senate if this rule is applied to one of the two electoral systems alone - whether the individual or the absolute closed list - which are allocated to each of them (100) seats, becomes (813,185) voters, while the value of the variable or numerical deviation is (25%)) amounts to (203,296) voters, so that the maximum quorum for an electoral seat in the individual system or the absolute closed list system is (1,016,481) voters, while the minimum quorum for a seat is (609,899) voters.

However, it should be noted that these previous rules, despite their constitutional obligation, do not apply to the border provinces (North Sinai, South Sinai, The Red Sea, Marsa Matrouh Aswan, Wadi Al-Gadeed), as they were excluded (according to an interpretive ruling of the

Constitutional Court approved a general principle) starting with this criterion (the mathematical equation of the quorum of the parliamentary seat) with the emphasis that they should be represented in a way that reflects their importance according to the above-mentioned observations without considering the total population of the seat, and its voters will not reach the minimum average representation of parliament.

Al-Behira Case Study

2012 Elections						
National Statistics	Population	79,602,650				
	Number of Voters	51,631,990				
	Total	131,234,640				
	Overall Average	65,617,320				
Numerical Quorum	People's Assembly	General	498	131,762	Deviation	32,940
		Individual	166	395,285	Deviation	98,821
		Lists	332	197,642	Deviation	49,410
	Shura Council	General	180	364,541	Deviation	91,135
		Individual	60	1,093,622	Deviation	273,405
		Lists	120	546,811	Deviation	136,703
Behira Governorate	Population	5,206,859				
	Number of voters	3,220,325				
	Total	8,427,184				

	Overall average			4,213,592		
	People's Assembly	General	30	140,453		
		Individual	10	421,359		
		Lists	20	210,680		
	Shura Council	General	6	702,265		
		Individual	2	2,106,796		
		Lists	4	1,053,398		
2015 elections						
National Statistics	Population			87,963,276		
	Number of voters			55,015,248		
	Total			142,978,524		
	Overall Average			71,489,262		
Numerical Quorum	House of Representatives	General	568	125,681	Deviation	31,420
		Individual	448	595,744	Deviation	148,936
		Lists	120	159,574	Deviation	39,894
Lake Governorate	Population			5,804,262		
	Number of Voters			3,528,484		
	Total			9,332,746		
	Overall Average			4,666,373		
	House	year	34	137,246		

		Individual	27	666,625		
		Lists	7	172,829		
2020 elections						
National Statistics	**Population**	99,842,504				
	Number of voters	62,794,440				
	Total	162,636,944				
	Overall average	81,318,472				
Numerical Quorum	**House of Representatives**	General	568	143,166	Deviation	35,792
		Individual	284	286,333	Deviation	71,583
		Lists	284	286,333	Deviation	71,583
	Senate	General	200	406,592	Deviation	101,648
		Individual	100	813,185	Deviation	203,296
		Lists	100	813,185	Deviation	203,296
Behira Governorate	**Population**	6,525,443				
	Number of voters	3,985,032				
	Total	10,510,475				
	Overall Average	5,255,238				
	House of Representatives	General	34	154,566		
		Individual	17	309,132		
		Lists	17	309,132		

	Senate	General	14	375,374
		Individual	7	750,748
		Lists	7	750,748