GRADATIONS OF ACCOMMODATION:

ELECTORAL LAWS AS POWER-SHARING

MECHANISMS

BY

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ABSTRACT

This work seeks to examine the role that institutions play in integrating minority populations into predominant political systems. The work explores a number of accommodation strategies, ranging from strong, rigid measures to more fluid methods of integration. Overall, the work presented in this thesis supports the contention that institutions can affect the levels of formal political representation, participation, and efficacy rates of minority populations. There is also an underlying thesis which states that fluid accommodation strategies are preferable overall their rigid counterparts, namely because of the latter's divisive effects and propensity toward Balkanization.

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Minority Misrepresentation: The Democratic Dilemma

Representative democracy is premised on the idea of collective self-governance. However, even from the most incipient stages of formation, democratic theorists have challenged the idea of pure, unabated majority rule in democratic institutions. While pertinent minority groups of interest have changed over the course of time – from early concerns over political and religious minorities to modern discussions over racial and gender misrepresentation – the idea of minority inclusion in majoritarian systems has presented a seemingly inherent democratic dilemma.

This work is meant to contribute to the discussion by revisiting the underlying perennial question that lies at the heart of such inquiries: How can we manufacture institutions that counteract democracy's exclusionary function? This text will directly address this issue by examining numerous strategies of accommodation. The work strives to take the idea of accessibility in the political process a step further by examining the effects of several electoral laws on the political representation of racial minorities, and specifically those in advanced industrial democracies. While an in-depth study of specific voting regulations may appear as an insipid task to some, such assumptions show a lack of imagination. Electoral laws are the foundation of the democratic process. Such stipulations regulate nearly every aspect of voting procedures; they determine who may vote, how votes may be cast, and how those votes will ultimately be translated into seats.

However, despite their importance, electoral laws have received relatively little academic attention. Furthermore, a vast majority of writings on this topic deal with a single aspect of electoral law – that of electoral systems. Arguably, what makes electoral studies such a valuable and fascinating field is the fact that any particular set of regulations is just one of an infinite number of possible institutional arrangements. Only by contrasting current systems against alternative mechanisms can we begin to discern the perks and pitfalls of prevailing measures. Such endeavors challenge us to think beyond the status quo and force us to re-conceptualize the function and purpose of democratic institutions.

The view provided by such academic exercises also serves to remind us that electoral laws are not neutral. Voting regulations structure the entire game of politics, a game that is arguably played with a stacked deck. From a modern-day perspective, historical legacies provide endless examples of how electoral laws can prejudice the political arena by institutionalizing discriminatory systems (e.g. the disenfranchisement of women and minorities). While the evolution of systems throughout the democratic world has been a near unanimous progression toward greater inclusion, arguably biases still remain.

This work will begin by exploring a number of inclusionary electoral devices, starting with more "fluid" methods of accommodation and moving toward more "rigid" electoral devices. The differences between these strategies will be described in greater detail in later chapters, but in general fluid provisions are institutional mechanisms that merely encourage greater participation and representation of non-traditional political actors. Rigid systems, by contrast, are stronger provisions that actually have the intent of

manufacturing higher levels of representation for certain cohesive societal segments. Because of their robust nature, rigid mechanisms are generally more effective at producing immediate results by quickly bolstering the representation of targeted groups. However, this paper will argue that these inflexible strategies have several negative side effects that should be addressed before such measures are implemented.

Chapter 2 will begin the discussion by introducing a number of theoretical approaches for addressing the issue of minority political representation. Again, at its most basic level, this work grapples with a theoretical dilemma that is well established in the political arena – how can we reconcile the concept of minority representation with the basic democratic principle of majority rule? As the following chapter will explain, this work contends that there is no one single theoretical lens that is adequate to address this issue. Rather, throughout this work different hats will be worn at different times, depending on the specific topic at hand. It is important to note that these different theoretical approaches are not in conflict with one another. On the contrary, the theories complement one another by addressing different issues and thereby provide a fuller picture when taken in conjunction.

The chapter begins by explicating the underlying rational choice institutionalist argument inherent in the works of electoral engineers. According to these scholars, institutional designs have a discernable effect on electoral representation and even participation levels. Within this paradigmatic framework, it is often asserted that the consistent under-representation of minority groups is in part a product of the prevailing institutional arrangements. While many scholars within this genre of academic research

fail to elaborate their theoretical underpinnings, arguably their work does have an inherent rational choice institutionalist spin to it. Essentially, such claims contend that we should look at institutions to explain electoral outcomes, as opposed to other possible factors such as culture. Furthermore, scholars adhering to this line of logic often conclude that reform measures can alter electoral incentives, which in turn affect outcomes. Such incentive-based calculations and reasoning echoes the basic principles found in rational choice theories.

The next section in the chapter specifically links the issues of institutional design and minority political representation through the use of Lijphart's famous consociational and consensus democracy theories. In general, these theories evaluate electoral institutions as power-sharing mechanisms, or tools for integration. While consensus theory may be more appropriate for the specific research endeavors at hand, both theories provide useful examples as to how institutions can serve a conciliatory function in fragmented societies.[1]

The final theoretical prong introduced in this work is the normative literature on descriptive representation. This field of work dares to ask an essential question in terms of representative democracy – what is the value in engineering heterogeneous institutions? Descriptive theorists argue that plural societies should strive to construct heterogeneous governing bodies that accurately reflect the population at large. Opponents, on the other hand, argue that descriptive features are beyond the scope of the

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[1] Consociational theory is usually applied to deeply fractured societies and evaluates certain elements that are beyond the scope of the current analysis, such as elite behavior. Consensus democracy, by contrast, focuses more specifically on institutions and is less limited in terms of geopolitical applicability.

political realm and that representation should solely be defined in policy terms. While traditionally this body of literature has been highly subjective in nature, recent attempts have been made to ground such arguments with empirical data by linking descriptive representation to increases in political participation levels, efficacy rates, and trust in political institutions.

After addressing the theoretical value of descriptively representative institutions, it is logical to ask how such outcomes could be manufactured. Chapter 3 takes on this question by evaluating and systematically comparing electoral laws in a number of advanced industrial countries – focusing specifically on the United States, Australia, New Zealand, Canada, and the United Kingdom. In particular, this chapter is interested in comparing what I have dubbed the "who" and "how" of the federal voting process. On the "who" side of the question, the chapter delves into the issue of alien suffrage. Any work seeking to examine minority political participation should first start by acknowledging the citizenship barrier currently present in most nations. While not all immigrants are visible minorities and while many important minority groups have full voting rights, there is still a great degree of overlap between these two populations.[2] Thus, non-citizen disenfranchisement can serve as a major obstacle for minority groups in terms of political integration. While there is a general consensus among nations to restrict enfranchisement to those with full citizenship, chapter 3 will show that the specifics of such regulations vary from place to place.

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[2] See Chapter 3 for a list of top immigrant sending nations for each case study.

The second part of chapter 3 looks at the "how" aspect of voting regulations. More specifically, this section is concerned with the issue of language accessibility in the electoral process. Many minority and immigrant communities are comprised of nonofficial language speakers, although again this correlation is far from perfect. For non-native speakers, the process of obtaining information about the prevailing electoral system, registering to vote, and casting ballots in the predominant language can be a daunting task. This chapter looks at how each nation under investigation has responded to these challenges. The findings show that while all nations have addressed this issue in one fashion or another, some countries have developed much more elaborate and systematic responses to these electoral roadblocks.

The discussion of formal electoral rules as power-sharing mechanisms will continue in chapter 4 with the exploration of quotas and electoral systems. As mentioned before, voting systems are by far the most studied topic under the rubric of electoral law. Chapter 4 will review some of the major works in this field and apply relevant findings to the presented research question. The chapter will also broaden the population of interest beyond racial minorities in advanced industrial democracies by looking at gender representation and society building in post-conflict areas. While these populations are admittedly beyond the intended scope of analysis, findings from these fields on the mechanical effects of electoral laws and minority representation are pertinent to the discussion at hand. It is also in chapter 4 that we will be introduced to Manbridge's continuum of rigid and fluid accommodation mechanisms. While Mansbridge's system includes some strategies that are specific to increasing the political representation of

women, I will use her basic logic to develop a similar continuum for racial representation in chapter 6. Once the various accommodation strategies are systematized, we can begin to see patterns of outcomes associated with certain power-sharing mechanisms.

Chapter 5 is the final substantive chapter of this work. The chapter is somewhat set apart in its approach because it looks at a single case in depth, as opposed to looking at geographically broad findings on the topic. Specifically, chapter 5 asks how current reapportionment and redistricting policies affect the political representation of Canada's visible minority population. I conducted primary research on this topic by gathering current demographic information for all of Canada's federal electoral ridings. I then ran a series of regressions to find possible correlations between race, income, and political representation. As reported in chapter 5, the findings ultimately show that Canada's current redistricting and reapportionment formulas systematically under-represent areas with high visible minority populations, and especially those with lower-income minority populations.

Although all of the primary research in chapter 5 is limited to the Canadian context, information on redistricting and redistribution policies in a number of nations is used as background information. Of particular interest are other advanced democracies that have used redistricting and redistribution policies as a power-sharing mechanism, such as the United States, New Zealand, and at one time the United Kingdom. I ultimately classify such tactics as rigid mechanisms and argue that the inherent intransigence of these systems has the negative consequence of deepening societal cleavages.

While the question of minority representation in majoritarian systems is a difficult puzzle for democratic scholars to solve, there is no reason to believe that the dilemma is insurmountable. This work lays out several tactics for bolstering minority political representation, particularly that of racial minorities. Overall, the work asserts that electoral arrangements can have an impact on political representation levels; however, there is an underlying thesis that cautions against certain devices. In the final chapter, I will systematize all of the power-sharing devices explored in this work and ultimately argue that more fluid tactics are preferable over rigid electoral mechanisms. While rigid methods are often efficacious and produce noticeable results, this success comes with a price. Rigid methods require strong measures and the identification of a protected minority group. As provided examples will demonstrate, such tactics often exacerbate sectarian cleavages by superimposing societal divides onto the political landscape. Rigid measures also have the danger of highlighting the zero-sum fashion of representative democracy. This point will be further developed in chapter 5, where it is argued that the protection of rural minorities in Canada has had the unintended consequence of malapportioning ridings with large visible minority populations.

In our age of increasing diversity, the construction of representative democratic institutions is more important than ever. The integration of minority populations into predominant political institutions is a challenge that every democratic country must face. Recent events – such as the race riots in France, Australia, and the fallout from hurricane Katrina – show how social unrest can erupt when minority populations feel alienated and powerless in their own homes. Electoral scholars can help ameliorate such tensions by

delineating the mechanical effects of political institutions and by finding new ways to make democratic processes more accessible to everyone.

Chapter 2

Theoretical Approaches to Minority Representation

In recent years, the academic interest in the mechanical effects of electoral laws has grown exponentially. While electoral engineers have made huge progress in delineating the political consequences of institutions, they have not always been so adept at developing, or even acknowledging, the underlying theoretical assumptions in their work. The first part of this chapter will explicate the implicit rational choice framework within the subfield of comparative electoral institutions. The second section will link this argument to minority interests by introducing Lijphart's theories of consociational and consensus democracy. Finally, the last section of this chapter will step back and address the theoretical value in engineering heterogeneous representative assemblies. Here, the normative literature on descriptive representation will be introduced, including literature linking descriptive representation to substantive policy outcomes as well as arguments linking descriptive representation to other salutary effects, such as increases in efficacy and trust in political institutions.

Rational Choice Institutionalism

Most of the theoretical literature on rational choice institutionalism places this approach under the broader rubric of 'new institutionalism'.[3] Essentially, the diverse

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[3] There seems to be little consensus over how to classify all of the subtopics within the new institutionalist perspective. For example, Hall and Taylor (1996) claim that there are three branches (historical institutionalism, rational choice, and sociological), while Peters (1999) claims there are a minimum of six

approaches under this heading were all developed in the 1980s, when political scholars began questioning the assumption of wholly autonomous actors presented in then prevailing theories such as pure rational choice and behavioralism (Peters 1999, 1). In the late 1970s, rational choice scholars studying American congressional behavior began examining institutional incentives to explain the existence of otherwise irrational stable majorities that developed during the adoption of legislation (Hall and Taylor 1996, 942-943). Such a blending of techniques was the genesis of rational choice institutionalism.

On a simplistic level, rational choice institutionalism envisions electoral institutions as providing the rules that govern the game of politics. As Norris (2004) states, "Rational-choice institutionalism assumes that formal electoral rules have a substantive impact upon the strategic incentives facing politicians, parties, and citizens, so that changing the formal rules has the capacity to alter political behavior" (6). In this application of the theory, the formal rules that we are concerned with encompass the "legislative framework governing elections, as embodied in official documents, constitutional conventions, legal statutes, codes of conduct, and administrative procedures authorized by law and enforced by courts" (*Ibid*, 7).

Thus, while pure rational choice theory focuses exclusively on agency to account for explanatory factors, rational choice institutionalism expands the scope of analysis by recognizing a space for structural factors. Specifically, the theory paints a picture of strategic actors working within confining institutions. In this sense, institutional factors

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versions. Dowding (1994), on the other hand, views new institutionalism and rational choice institutionalism as two separate approaches.

are thought of as "collections of rules and incentives that establish the conditions for bounded rationality" (Peters 1999, 44).

The basic assumptions embedded in rational choice institutionalism serve as the – often hidden – foundations of comparative electoral studies. This theoretical lens has been applied to various units of analysis to account for a myriad of political institutional patterns. For example, a well-developed subfield within this literature is devoted to exploring the interaction between electoral and party systems (Duverger 1954; Rae 1971; Cox 1994; Norris 2004, 81-95). While Duverger's famous observation that majoritarian systems are inclined to produce two-party systems, a pattern so strong it is known as Duverger's law, predates the formation of rational choice institutional theory, the underlying logic is the same. In essence, Duverger explains this phenomenon as being the product of rational and strategic parties acting within a set of political rules. While every political party may not act the exact same way under a given set of institutional parameters, a certain Darwinian logic is assumed – parties that do not act strategically fail to gain office.

While the logic of rational choice institutionalism can be applied at various levels, the theory works best under certain conditions. As Geddes (2003) explains:

> The appropriate domain of rational choice arguments thus includes situations in which outcomes are very important to actors, since that impels the gathering of knowledge; situations in which the rules governing interactions are clear and precise; and situations that occur repeatedly so that actors can learn or so that efficient strategies can evolve even in the absence of conscious learning (187).

The last two criteria are often met in the study of political institutions. For example, in most situations electoral rules are clearly stated and, barring any recent institutional

changes, numerous political occurrences typically transpire under any given institutional setting. However, the first condition can present a challenge to electoral scholars, especially when rational choice institutional theorists take individuals as their chosen unit of analysis. Individuals can act in highly particularistic manners, and their stakes in a given political outcome are often minimal. It was once commonly argued that voting at all was an irrational act, given that any one vote is unlikely to determine the outcome of an election. However, rational choice theorists countered this by arguing that citizens may vote to maximize their personal sense of civic virtue (Riker and Ordershook 1968). Modern accounts of this topic tend to focus less on explaining why people vote, and instead tend to ask why people do *not* vote. In these accounts the costs and benefits associated with voting are weighed, with electoral rules generally viewed as potentially inhibiting or encouraging factors (Ladner and Milner 1999; Blais and Carty 1990; Jackman 1987). As Norris explains, "Rational-choice accounts emphasize that taken-for-granted institutions, rules, and regulations are not neutral in outcome; instead, they set the context through facilitating participation for some actors while discouraging or restricting others" (153). This line of logic will be reevaluated and applied in the following chapter.

Critics of rational choice institutionalism often claim that the theory lacks a comprehensive account of institutional creation and change. As Peters (1999) asserts:

> The various rational choice perspectives tend to be better at defining institutions than they are in describing and explaining the processes by which institutions are created...More than other approaches the rational choice version takes institutions as givens...Much the same can be said for arguments about how institutions change. These ideas do not appear to have been particularly well developed (54-56).

While in many rational choice accounts, the geneses of institutions are admittedly beyond the prescribed theoretical landscape, some recent work has made important developments in this area. For example, Boix (1999) empirically tests, and ultimately accepts, the hypothesis that electoral systems are only altered when it benefits the ruling party. While his study, which is limited to advanced democracies, may better elucidate the process of institutional change and not necessarily institutional creation, such efforts do show that rational choice institutionalism is capable of addressing institutional creation.

Finally, it is worth noting that while this paper will predominately rely on rational choice institutionalist theoretical assumptions, this is not meant to completely discredit other explanatory factors. When explaining the political integration and representation of minority groups, the importance of cultural variation is undoubtedly an important consideration. It is, for example, completely reasonable to assume that different ethnic communities will behave differently under similar rules. Indeed, there is currently tremendous inter as well as intra group variation among many of the ethnocultural communities under investigation in this work, despite the presence of uniform institutions. Thus, other theories that can better account for 'habits of the heart' are relevant to the topic at hand; however, such approaches are not necessarily incompatible with a rational choice framework (see Norris 2004 for an example of merging such approaches). Institutional changes are not a cure-all for the under-representation of minority groups and context specific factors are highly important. Yet, this paper argues that certain institutional mechanisms are important explanatory factors that can, at least partially, account for representational levels. While institutional factors may not affect all

ethnocultural communities in the same manner, or sometimes even at all, there are still important general tendencies that are worthy of consideration.

Consociational and Consensus Democracy Theory

An influential theory in comparative politics, and one of considerable importance to electoral engineers, is Lijphart's theory of consociational democracy. Lijphart first developed this theory in the late 1960s (Lijphart 1968; Lipjhart 1977). Essentially, the idea of consociationalism was meant to counter Almond's assertion that competitive elite behavior in culturally fragmented societies was an impediment to democratic stability (1956). Lijphart challenged this claim by arguing that "elite behavior should be treated as a variable: cooperative and coalescent elite behavior can turn a potentially unstable political system into a stable one" (Lijphart 1989, 39). This theory brought a sense of optimism to fragmented societies by postulating that while democratic stability may be difficult to attain, there was no reason to assume it was impossible.

Lijphart developed the specifics of consociational theory in an inductive manner. He first identified four countries that exemplified paragons of elite cooperation – the Netherlands, Belgium, Austria, and Switzerland. He then studied these countries and eventually noticed distinct institutional patterns. These observations were then classified and grouped as the four main characteristics of consociational democracies – grand coalitions, proportionality, mutual veto, and segmental autonomy. In some fashion, each of these characteristics serves as an institutional mechanism to ensure against the negative attributes of strict majority rule.

The first characteristic, grand coalition, refers to the practice that all societal segments are given a part in the governing process. Lijphart (1977) states that the diametric opposite of a grand coalition is the British model, where the ruling government is often opposed by a large opposition and leadership styles are competitive instead of coalescent in nature (25). In the same work, Lijphart also notes that parliamentary systems are preferable over presidential systems in this regard, mainly because of the latter's tendency to behave in a winner-take-all fashion (33).

A second characteristic is that of proportionality. As its name suggests, this concept refers to the practice of representing cultural segments in governmental practices in proportion to their presence in the society at large. According to Lijphart (1977), this practice should be implemented on a variety of levels, including the civil service, financial allocations, and in decision-making processes (38-41). While minorities are proportionally represented under consociational theory, this still does not ensure that their views will not ultimately be overlooked. Thus, Lijphart (1977) argues that the minority veto is an essential safety mechanism for important decisions (36-38). While such a design may present the danger of tyranny of the minority, Lijphart argues that overuse of the veto is unlikely for several reasons, including an understanding of the potential of deadlock and the incentive to maintain working alliances.

Another protection provided to minority interests under consociational theory is that of segmental autonomy and federalism. This principle can succinctly be summed up as guaranteed "rule by the minority over itself in the area of the minority's exclusive concern" (Lijphart 1977, 41). Thus while decisions of general interest are resolved under

proportional settings, segmental groups have exclusive control over their specific interests. Lijphart (1977) notes that federalism is therefore a 'special form' of segmental autonomy, although federalism can also be applied in non-plural settings (42).

This last statement brings us to an important informal characteristic of consociational theory. As mentioned earlier, this theory was specifically developed to rebut Almond's assertion that the centrifugal forces in culturally fragmented societies lead to elite competition and threaten stable democracy. Thus, the intended domain for consociational theory is essentially limited to countries that are plural in nature. According to Lijphart (1981), the term plural should be understood in a manner of degrees and not as a dichotomous label (355). However, there are certain characteristics that can tell us to what extent a society should be regarded as plural or homogenous. According to Lijphart (1981), the following four characteristics are what a textbook example of a plural society would look like, and the degree to which a certain nation is plural or not is determined by its deviations from these guidelines:

> 1. In a completely plural society, it must be possible to identify exactly the segments into which the society is divided.
> 2. It must also be possible to state exactly what the size of each segment is, that is, how many people belong to each of the segments.
> 3. In a completely plural society, there must be perfect correspondence between segmental boundaries and the boundaries between the political, social, and economic organizations.
> 4. Political parties are one type of organization covered by the third criterion. The final test of a completely plural society is that, since party and segmental loyalties should coincide, there should be little or no change in the voting support of the different parties from election to election: in a perfectly plural society, an election is a segmental census (356).

Lijphart (1977) also notes that segmental cleavages can encompass a variety of divisive characteristics, including ideological, religious, linguistic, regional, cultural, racial and ethnic (3-4).

A second, and related, influential theory developed by Lijphart is that of consensus democracy. This approach encompasses many of the same concepts as consociational theory, but there are subtle nuances that separate them. For example, while consociational theory was developed through an inductive approach, consensus theory was deductively developed as the logical opposite of majoritarian systems. In addition, while consociational theory focuses on elite behavior, which may simply entail informal practices, consensus democracy focuses more narrowly on institutional mechanisms for power sharing. Also, unlike consociational theory, consensus democracy is applicable regardless of societal fragmentation. As Bogaards states, "Whereas consociational democracy is explicitly defined in terms of both sociopolitical and political characteristics, consensus democracy is distinguished by political characteristics only" (410). Table 1 provides a comparison of these two approaches.

Table 1
Consensus v. Consociational Democracy

Consensus Democracy	Consociational Democracy
I. 1. Executive power-sharing	1. Grand Coalition
2. Executive-legislative balance	
3. Multiparty system	(5. Plural Society)
4. Multidimensional party system	
5. Proportional representation	2. Proportionality
II.1. Federalism and Decentralization	3. Segmental Autonomy
2. Strong bicameralism	4. Minority Veto
3. Rigid constitution	
III. Representative Democracy	(6. Elite predominance)

Adapted from (Lijphart 1989, 40)

The roman numerals under the consesnsus democracy column represent the different "dimensions" of consensual systems (Lijphart 1989). The first dimension, for example, encapsulates characteristics of the party system, electoral system, and government coalitions, while the second dimension classifies nations in accordance with their unitary or federal nature. While the first two dimensions are unique to consensual systems, Lijphart (1989) argues that consensual and majoritarian systems share the third dimension (37-38). While aspects of direct democracy – such as the initiative, referendum, and recall – show up in all systems, the underlying premise in both consensus and majoritarian institutions is based on the idea of representative democracy. Lijphart (1989) does note, however, that the referendum can be a consensual tool when it is used in combination with the initiative (38).

Thus, consensus democracy, like consociational theory, aims to ameliorate societal tensions via political channels. However, the analytical frame of consensus democracy is relatively restricted to the three listed dimensions. While the institutional formulas prescribed by consensus democracy facilitate power sharing, consociational

theory mandates that such accommodating practices be implemented at multiple levels. In a sense, then, the latter can be thought of as "the stronger medicine" (Lijphart 1989, 41). This again relates back to the intended areas of application – while somewhat homogenous societies may be able to handle the stress of competitive political behavior, fragile democracies in deeply plural societies need extra precautions.

While there are clear distinctions between consociational and consensus democracy, in practice these two approaches are often lumped together. In much of the extant comparative literature, this theoretical dyad is simplified as the notion that majoritarian systems are detrimental to the political representation of minorities. Furthermore, consociational and consensus scholars have argued that these effects take place on multiple levels. For example, proportional representation (prescribed by consociational democracy and fostered through the electoral system in consensus theory) arguably makes formal political representation more attainable for minorities, which in turn is believed to bolster minorities' psychological support for the ruling governmental institutions. The literature examining the psychological effects of electoral systems will be explored in greater depth in chapter 4.

Finally, it is worth noting that both of these theories have been linked with corporatism (see Lijphart and Crepaz 1991 for links with consensus theory and Lehmbruch 1979; McRae 1979 for consociational theory). As these scholars have pointed out, there is a striking resemblance among these theories with regards to their encompassing natures. Corporatism is an interest group system based on inclusion, while its logical opposite, pluralism, is a system designed for competition. Similarly, consensus

and consocioational theories stress the importance of inclusive governmental institutions, unlike majoritarian systems, which systematically create winners and losers. Thus, while these theories are concerned with different levels of government, both challenge the competitive nature seemingly endemic to politics, and alternatively seek to create institutions that mitigate the winner-take-all tendencies of democratic institutions.

Descriptive Representation

At the heart of all of these arguments lies the assumption that elected assemblies should be representative in nature. This brings us to the theoretical debate over descriptive representation. Essentially, descriptive representation can be defined as the concept that, "representatives are in their own persons and lives some sense typical of the larger class of persons whom they represent" (Mansbridge 1999, 629). In other words, descriptive theorists argue that governmental institutions should be permeable and accessible to all members of society, and that nations should strive to manufacture representative assemblies that reflect the population at large with some degree of accuracy.

There are two strands of descriptive theorists (Mansbridge 1999, 631-633). The first, known as microcosmic theorists, argue that government assemblies should be as reflective as possible, even if this entails selecting representatives via a lottery style drawing or statistical sampling (*Ibid*, 631-632). While many nations have such notions embedded within certain governmental functions, such as jury selection, it is unlikely that countries will seriously consider revamping ruling institutions to such a drastic degree.

By contrast, the second, more mainstream, theorists are those who argue for selective forms of democracy (*Ibid*, 632-633). Selective representation aims to compensate "for the effects of some other process that interferes with an expected proportionality" (*Ibid*). This branch of descriptive theorists, which logically includes electoral engineers who seek to rectify the consistent under-representation of societal segments, is the one that is relevant to the topic at hand.

A literature review of descriptive theorists produces two main arguments in favor of this form of representation. The first is the proposed connection between descriptive and substantive representation. Substantive representation refers to the act of governing in the "interests of the community" (Bratton and Ray 2002, 428). Thus, this line of reasoning assumes that a member of a given community will tend to support and enact policies that benefit the community in question (i.e. a Muslim will represent Muslim issues and women will represent women's issues). However, scholars have challenged such assumptions (see Pitkin 1967, 89), and the empirical evidence supporting such a connection is mixed at best. For example, Bratton and Ray (2002) find evidence that growing female representation in Norway led to substantive policy outcomes, as demonstrated by the increased availability of day-care coverage. However, Hero and Tolbert (1995) find no evidence of increased substantive representation in districts with a Latino representative nor a connection between the percent of Latinos in a district and policy preferences of legislatures. Thus, if there is a connection between substantive and descriptive representation, it may be a complicated relationship influenced by contextual circumstances and intervening variables.

A second argument in favor of descriptive representation highlights the psychological aspects of representation. Scholars prescribing to this line of reasoning claim that descriptive representation can lead to increased trust, participation, and a higher sense of efficacy among minorities. While empirical studies tend to support the claim that descriptive representation has a psychological effect on constituents, again, the exact manner of this relationship is still being examined. In a 2002 study, Gay found that both white and black constituents are more likely to contact a legislature with whom they share descriptive qualities. In addition, the study also found that white constituents tend to more favorably rate white representatives. Similarly, in Abney and Hutcheson's (1981) case study of the city of Atlanta, it was found that the election of a black mayor resulted in black Atlantans having a higher belief in the equity of government policies, a higher belief in the honesty of politicians, and a stable sense of trust in government.[4] During the same time, white Atlantans' ratings on all three of these measures dropped.

It should also be pointed out that there is a great amount of overlap between descriptive theorists and those consociational theorists who point to the psychological benefits of inclusive institutions. The difference seems to be that the latter focus on how institutions can engender equitable representation, while descriptive theorists are solely concerned with the effects of representation, regardless of how it is achieved. There is, however, an obvious opportunity for cross-fertilization between these fields. For example, descriptive theorists can offer insights into why nations should manufacture

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[4] The study covered the years 1970-1976. During this time, there was a drastic decline in governmental trust nationally, believed to be a result of the Watergate scandal. Thus, the very fact that black Atlantans' trust in government did not decline, despite national trends, is seen as positive sign.

inclusive institutions, while consociational and consensus theorists can prescribe what those institutions might look like.

The concept of descriptive representation is certainly not without flaws. One serious problem raised by critics is that of essentialism. This concept refers to the "assumption that members of certain groups have an essential identity that all members of that group share and of which no others can partake" (Mansbridge 1999, 637). Thus, the assumption that Muslims will represent Muslim interests is dangerous in two ways. First, it oversimplifies the Muslim community by conceptualizing it as one homogenous entity with a unified set of interests. Second, by arguing that non-Muslims cannot adequately represent Muslims, there is the opposite logic that Muslims cannot adequately represent non-Muslims. This leads to the ghettoization of minorities by relegating them to limited representational functions.

In addition to those who argue that descriptive representation is detrimental to minorities, there are also scholars who challenge the very idea of segmental representation in politics. Of importance here is the classic Burkean idea of representation, which contends that "representatives should not serve local interests but the nation" (Phillips 1991, 64). According to the Burkean concept of representation, elected officials should be above petty societal divisions and always put the interest of the country at large first. In line with this logic, a politician who was presented with a bill that would benefit the national economy, but result in a loss of jobs in her own district, would nevertheless support the measure. In a sense then, the Burkean politician is the antithesis of that envisioned by rational choice scholars. The latter present a view of a

rational politician who strategically responds to electoral incentives in an effort to maximize vote shares. The Burkean concept, on the other hand, envisions a politician who is above the political fray and puts the betterment of the nation first, not personal egoistic goals.[5]

As Pitkin (1967) notes, the concept of descriptive representation is also problematic because it inherently raises the "question of which characteristics are politically relevant for reproduction" (87). Here, critics charge that descriptive representation is the first step down a slippery slope. According to such arguments, the concept of group representation is seemingly limitless, and even the strongest supporter of descriptive representation would acknowledge that not all collective identities are deserving of formal representation. As the often-cited logic states, "no one would argue that morons should be represented by morons" (Mansbridge 1999, 629, quoting Pennock 1979, 314). However, some scholars in favor of descriptive representation have formulated guidelines for answering this seemingly problematic question. For example, Mansbridge (1999) argues that group representation could be contingent upon three factors (639). First, is there evidence that institutional features systematically dilute the formal representation of certain societal segments? Second, have members of this group expressed a desire to represent their own interests? Finally, is there evidence that dominant groups have, in the past or present, actively discouraged or even legally prohibited these groups from attaining formal political representation? If the answer to

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[5] One can, however, envision situations in which both theories would dictate that a politician would act in the same manner. These include situations in which a Burkean perspective would actually be the strategically preferable position.

these three questions is yes, then it is appropriate for scholars and policy-makers to search for ways to rectify the representational dearth within the given community.

While the remainder of this paper will not delve too greatly into the theoretical debate over descriptive representation, some key insights will be drawn about how the idea of descriptive representation has been applied in a variegated manner, granting some groups the right to self-representation while denying it to others. The general trend seems to be that while the threat of essentialism applies to ethnic and racial minority representatives, the same divisiveness has eluded socioeconomic representatives. As Phillips (1991) notes,

> In British politics there are working-class MPs from working-class constituencies who will proclaim unequivocally that they are there to represent their class; while the recently elected black MPs have been at pains to insist that they do not 'just' speak for black people, but for all the voters – black and white – in their constituency (66).

In chapter 5, it will be argued that the same pattern has developed in Canadian politics, as demonstrated by the over-representation of rural areas at the expense of urban and minority communities. The logic seems to imply that rural areas have distinct interests that merit special consideration in institutional formulas. When the question of urban and minority communities is raised, however, a Burkean idea of representation is adopted, which denies the need for segmental representation.

Conclusion

This chapter has introduced three distinct theoretical approaches that will be utilized throughout this paper – rational choice institutionalism, consociational and

consensus democracy theory, and theories of descriptive representation. As this chapter demonstrated, these theoretical understandings are quite compatible, and actually overlap to a considerable degree. While each of these theories will play a role at different times throughout this work, the underlying argument draws on all three – essentially that institutional formulas can encourage and discourage certain societal segments from gaining formal political representation, and the consistent under-representation of minority groups is a problem that has serious ramifications and warrants attention. The following chapter will highlight two electoral issues that are relevant to this topic – the disenfranchisement of non-citizens and language barriers in the electoral process.

Chapter 3

Structuring Democracy:
The Who and How of Voting

Voting is a fundamental element of representative democracy. However, as the histories of all too many nations can attest, voting rights and regulations have often been used in exclusionary fashions. While the general trend over time has been toward the eradication of systematic disenfranchisement (e.g. the extension of suffrage to lower income citizens, racial minorities, and women), the case can be made that a number of factors still prevent truly equal access at the polls. This chapter will highlight the discriminatory effects of election laws by examining who and how people vote in five nations – New Zealand, Australia, Canada, the United States, and the United Kingdom. While the chapter will largely focus on national laws, it should be noted that because of the strong federal nature of the systems under investigation, election laws often greatly vary from one locality to the next. Therefore, when appropriate, relevant local and sub-national examples will be provided.

In a broader sense, this chapter is meant to contribute to the field Massicotte et al. (2004) dubbed, "the comparative study of the conduct of elections" (13). This fledgling sub-field within comparative politics directs attention to often overlooked election laws by expanding the traditional scope of analysis beyond the study of campaign finance, electoral systems, and issues related to redistricting and redistribution. While subsequent

chapters will examine the latter two topics, this chapter will specifically focus on questions of who and how in the voting process.

It should also be noted that while there was not a strong theoretical assumption guiding the case selection for this chapter, the method used could be defended by the most similar systems approach. The contextual circumstances in all of these nations are as similar as we can get within a cross-national framework. For example, all of these nations are Anglo countries, they are all immigrant-receiving nations, and – as will be explained in regards to suffrage laws – they often share important historical experiences. Such similarities work to hold constant some of the cultural and historical influences, allowing us to focus on the effects of institutional differences.

WHO CAN VOTE?

Citizenship Requirements:

Before elections can be held, nations must first determine the scope of the franchise. For many democracies, this winnowing of the potential electorate starts with the exclusion of non-citizens.[6] The fact that many nations use formal state membership to define the parameters of their political community has been an issue traditionally overlooked by political scholars. As Earnest (2003) states, "Political scientists treat voter eligibility as an axiomatic, technical-legal issue that is largely apolitical" (3). However, in our highly migratory world, the disenfranchisement of non-citizens is affecting more

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[6] Massicotte et al. (2004) find that 48 out of the 63 (or 76 percent) of the democracies included in their study restrict the right to vote based on citizenship. In addition, many of the nations that enfranchise non-citizens have other discriminatory measures that only enfranchise certain resident aliens, such as Commonwealth clauses.

individuals than ever, and the discriminatory effects of such policies are increasingly seen as problematic. As Lardy (1997) states, "Electoral law is not merely a technical set of rules for administering elections, but a collection of coded pronouncements about who counts as a full member of the political community and why" (100).[7]

The disenfranchisement of non-citizens is an important issue in terms of ethnocultural political integration. While citizenship barriers are not an issue for every minority community, there is a great degree of overlap between immigrant and visible minority populations in the nations under investigation.[8] For members of these communities, the first electoral barrier is often the acquisition of formal citizenship. Table 1 provides some descriptive statistics showing the percent of foreign-born residents and top immigrant sending nations in the five countries of interest. The following discussion will highlight the main arguments both for and against resident alien voting rights, and then compare the current electoral laws for a number of nations, again with a particular focus on the chosen five countries.

Arguments For and Against Alien Suffrage:

Much of the scholarly work on alien suffrage is normative and unempirical in nature. Therefore, many of the arguments for and against non-citizen voting rights are not only conflicting they are also blatantly contradictory. For example, a common objection

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[7] The sentiment expressed by Earnest and Lardy echoes that of Massicotte et al. in their call for a "comparative study of the conduct of elections". Such declarations reflect a growing interest in more technical electoral rules among comparative and international relations scholars.

[8] In fact, critics have argued for the abolishment of certain integration initiatives on the grounds that they largely seek to accommodate disenfranchised communities (Chavez 1992).

to alien voting rights questions immigrants' political knowledge. Opponents of alien suffrage warn that recent immigrants may lack a basic understanding of the political system and issues. Therefore, extending the franchise could result in the casting of uninformed votes and may even lead to political manipulation (Aleinikoff and Klusmeyer 2002, 47; Hayduk 2004, 3-4 of 6).

Table 1
Foreign-Born Populations

Country:	Foreign-Born population as a Percent of the Total Population (2001)	Top Immigrant-Sending Nations[9]
Australia	23.1%	New Zealand, UK, China, India, South Africa, Indonesia, Philippines, Taiwan, Yugoslavia, Malaysia
New Zealand	19.5%	England, Australia, Samoa, China, Scotland, South Africa, Fiji, Netherlands, India, Tonga
Canada	18.8%	China, India, Pakistan, Philippines, Korea, Iran, Sri Lanka, Romania, US, Russia
United States	11.4%	Mexico, India, China, Philippines, Vietnam, El Salvador, Cuba, Haiti, Bosnia and Herzegovina, Canada
United Kingdom	8.3%	Pakistan, Somalia, India, Nigeria, South Africa, US, Bangladesh, Sri Lanka, Turkey, Australia

*Sources: Migration Information Source http://www.migrationinformation.org/index.cfm; Statistics New Zealand http://www.stats.govt.nz/census/cultural-diversity-tables.

Supporters of alien suffrage counter such claims by asserting that voting provides a lesson in civic engagement and that enfranchisement can be "seen as training for full citizenship" (Aleinikoff and Klusmeyer 2002, 53). In addition, supporters of non-citizen

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[9] Note that sending countries in New Zealand, Australia, and the United States are ranked in accordance with birthplace, while Canada and the UK rank sending countries by country of nationality.

voting rights argue that most voter education occurs during the campaign cycle and not years in advance (Hayduk 2004, 4 of 6). It should also be pointed out that equating immigrants with uninformed voters could be an erroneous assumption. For example, recent studies have shown that immigrants are often highly informed and engaged in the current civic discourse (Henderson 2005). As Henderson (2005) notes:

> Data from the Canadian Election Study and the World Values survey show that immigrants are far more likely to pay attention to election news on the radio, TV and in papers than are Canadian-born voters. Immigrant voters are more likely to have watched the leaders' debate, are more likely to seek political and electoral information on the internet and seek that information more frequently than Canadian-born voters. They are also more likely to answer knowledge questions about the political system correctly (60).

Political theorists scrutinizing the value of citizenship in the political process have also run into issues of cause and effect. For example, while questioning whether liberal theory can justify the disenfranchisement of non-citizens, Lardy (1997) notes that some might see citizenship as engendering the "bonds of civic friendship" valued by theorists such as Rawls and Dworkin (93). According to this view, citizenship requirements are perfectly defendable because citizenship status promotes a sense of civic comradeship, which is the foundation of political life. However, Lardy argues that these bonds may also be the product of participation, not a precursor for participation (*Ibid.* 94-95).[10]

Another common objection to alien voting rights calls into question non-citizens' loyalty and debt to society (Hayduk 2004, 3 of 6; Lardy 1997, 91; Aleinikoff and Klusmeyer 2002, 47). Supporters of alien suffrage, however, are quick to point out that

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[10] Lardy ultimately concludes that neither liberal nor communitarian (or republican) theory can justify the disenfranchisement of non-citizens.

there is no reason to assume that resident aliens are any less loyal to their host country than citizens. Such arguments claim that immigrants' loyalty is manifested by their services to society, such as military duty and tax payment. In the United States, for example, immigrants are actively recruited for the armed service and there are currently close to 40,000 aliens in the US military (Hayduk 2004, 3 of 6). The economic contribution of immigrants has also been highlighted, with immigrants accounting for substantial portions of the tax base in certain states (Immigrant Voting Project).

A final point of contention among scholars on both sides of the debate involves the links between suffrage and naturalization. A common argument against alien suffrage is that non-citizens should be encouraged to naturalize, thereby attaining voting rights via formal citizenship.[11] However, supporters of alien suffrage argue that voting rights encourage naturalization by fostering a sense of belonging within immigrant communities (Hayduk 2004, 3 of 6). In addition, there are often significant costs associated with the naturalization process. As Table 2 demonstrates, immigrants in our five nations of interest have to face a series of hurdles in order to acquire citizenship, and often times the naturalization process results in a loss of citizenship from their home nation. Such logic is furthered by the fact that immigrants naturalize at extremely low rates. In the United States, for example, less than half of eligible immigrants naturalize, and some ethnic groups, such as Latino immigrants, naturalize at even lower rates (Sierra et al. 2000, 537). Non-citizen voting rights have also been seen as a tool to integrate minority populations that are notably reluctant to gain citizenship in their state of residence. Such

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[11] Aleinikoff and Klusmeyer (2002) state that such reasoning can, in part, explain why non-citizen voting has not been a bigger issue in the United States, Canada, and Australia (46).

was the case in the Netherlands when non-citizen voting rights were adopted in an effort

to accommodate – or perhaps a more cynical reading might suggest placate – the

marginalized Moluccan community (Jacobs 1998, 364). While the arguments connecting

political integration and naturalization are stimulating, such debates would benefit from

empirical research examining if there is a causal relationship between these variables, and

if so, in what direction the relationship works.

Table 2
Naturalization Requirements[12]

Canada	United States	Australia	United Kingdom	New Zealand
Three-Year residency requirement	Five-Year residency requirement	Two-Year residency requirement	Five-Year residency requirement	Five-Year residency requirement[13]
Ability to speak a predominant language	Ability to speak a predominant language	Ability to speak a predominant language	Ability to speak a predominant language	Ability to speak a predominant language
Knowledge about history and government	Knowledge about history and government	Knowledge about history and government	Knowledge about history and government	Knowledge about history and government
	Good moral character	Good moral character	Good moral character	Good moral character

One conclusive fact has emerged from the recent debates about alien suffrage –

restricting the vote to naturalized immigrants leaves large segments of the population

with no formal political representation. Such effects are especially pronounced in highly

populous urban centers. For example, in many New York City districts, more than one

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[12] The information in Table 2 was obtained by looking at government immigration websites for each country under investigation.
[13] Only a three-year residency requirement applies if the application for citizenship was received on or before April 21, 2005.

third of the resident population is disenfranchised due to the citizenship requirement (Immigrant Voting Project). In our age of increasing migration, such trends are likely to continue. The resulting democratic deficits may eventually cast doubt on the legitimacy of the citizenship requirement. In fact, recent developments in many nations seem to indicate that the link between citizenship and voting is already becoming ever more tenuous.

Voting Rights for Non-Citizens – A Comparison of Laws:

As Table 3 demonstrates, in the 1970s, a number of nations began to extend suffrage to resident aliens. Within the field of citizenship politics, a lot of work has been geared at explaining the emergence of such laws; however, as of date, few broad generalizations can be made. There is a major theoretical rival in international relations between nationalist and post-nationalist scholars on this topic. The former argue that the expansion of the franchise to non-citizens is the result of state specific conditions, while the latter explain the phenomenon as a byproduct of supranational factors. In a methodically rigorous examination, Earnest (2003b) tests both theories in twenty-five nations, and finds more support for the nationalist explanation, although weak evidence of some post-nationalist factors were also identified.[14] In a more idiographic approach to the question, Jacobs (1998) uses a discourse analytical framework to show that the

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[14] It is interesting to note that while Earnest (2003b) found evidence supporting the nationalist explanation, many significant factors actually worked in the opposite direction as hypothesized. For example, his study revealed that, contrary to expectations, parties on the left are actually less likely to extend the franchise.

success, and failure, of non-citizen voting rights in the Netherlands was a result of the compatibility of narratives presented by parties on the left and right.

Regardless of particular theoretical commitments, there is certainly evidence that the formation of supranational institutions has spawned agreements for non-citizen voting rights in various nations. For example, in accordance with the Treaties of Maastricht and Amsterdam, EU states are required to extend local voting rights to resident aliens who are citizens of other EU nations (Earnest 2003b, 14). Commonwealth clauses, which extend voting rights to aliens based on citizenship in a Commonwealth nation, are another relevant example. Such measures are particularly interesting because while in a sense they undermine the legitimacy of citizenship requirements, they do so in an exclusionary fashion. It is also interesting to observe that many Nordic Union states began offering alien suffrage on a similarly discriminatory basis, but then removed such restrictions, while EU and Commonwealth nations seem more reluctant to fully embrace alien voting. Other restrictions, such as residency requirements and limits on which elections non-citizens can vote in, also vary from state to state.

Table 3
Resident Voting Around the World

Country	Jurisdictions
Belgium (2004)	Local Elections
Austria (2002)	Local elections in Vienna
Barbados (1990)	Citizens of British Commonwealth can vote in national elections
Hungary (1990)	Local elections for permanent residents
Chile (1989)	Local and national elections
Iceland (1986)	Nordic Union citizens can vote in local elections
Spain (1985)	Local elections
Venezuela (1983)	10-year residents can vote in local and state elections
Finland (1981)	Nordic Union citizens can vote in local elections (expanded in 1991 to all 4-year residents)
Netherlands (1979)	Local elections in Rotterdam (expanded nationwide in 1985)
Norway (1978)	Local elections for Nordic Union (expanded in 1995 for 3-year residents)
Denmark (1977)	Local elections for Nordic Union (expanded in 1981 for all foreign residents)
Portugal (1976)	National and some local elections (expanded in 1997 to all 3-year residents)
Sweden (1975)	Local and regional elections, plus some national referenda
New Zealand (1975)	Local and national elections
Ireland (1963)	Local elections (expanded 1985 to remove 6-month residency requirement and to allow British citizens the vote on the national level)
Israel (1950)	Local elections for Jewish residents only
United Kingdom (1948)	National elections for Commonwealth and Irish citizens
Switzerland (1849)	5-year residents in Neuchatel canton (expanded in 1979 for 10-year residents in Jura canton)

Source: Immigrant Voting Project. http://www.immigrant voting.org/material/TIMELINE.html

A closer look at the five countries of interest can better illustrate the various approaches to non-citizen voting currently in use. Of all the nations under investigation, New Zealand has the most inclusive enfranchisement. Since 1975, non-citizens have had the right to vote in all New Zealand elections, with a one-year residency requirement as the only applicable restriction (Earnest 2003, 13). New Zealand is one of only a few

nations that allow universal alien suffrage, and it has the most lenient residency requirement among them. Uruguay, for example, also grants full voting rights to non-citizens, but a fifteen-year residency requirement must first be met (*Ibid*, 14).

Prior to enacting universal alien voting rights in 1975, New Zealand only allowed citizens of the United Kingdom to vote in parliamentary elections (*Ibid,* 5). This raises another common system for alien suffrage – Commonwealth clauses. Commonwealth clauses are relevant to four of the five nations under investigation. It is interesting to note, however, that all four of these nations have moved along different historical trajectories. While in New Zealand the Commonwealth clause was a gateway for opening universal alien suffrage, Australian laws, which use to permit British citizens to vote in parliamentary elections, became more restrictive when the nation rescinded alien voting rights in 1984 (Earnest 2003 survey, 11). Today, the only enfranchised resident aliens in Australia are those who were grandfathered in after the 1984 legal adjustments. The United Kingdom, on the other hand, has fully maintained its Commonwealth clause, which grants all Commonwealth and Irish citizens voting rights, since its establishment in 1949 (Aleinikoff and Klusmeyer 2002, 48).

At one time Canada also extended alien voting rights to British citizens via a Commonwealth clause, but in 1975 the measure was rescinded. However, since the abolishment of federal alien voting rights two provinces, Nova Scotia and Saskatchewan, have offered provincial voting rights to British citizens (Earnest 2003 survey, 6). It is surprising that such discriminatory laws have not received more attention within Canada's multicultural setting. After all, Canada was one of the first nations to establish a

truly open immigration policy by abolishing discriminatory racial and national preferences in 1962 (Citizenship and Immigration Canada). Other immigrant-receiving nations did not follow suit until years later, 1973 in the case of Australia and 1978 in the United States.

Furthermore, the disenfranchisement of non-citizens greatly restricts the political landscape in Canadian urban centers, a result that is increasingly being seen as problematic in places such as the Greater Toronto Area. In 2005, the Toronto Civic Panel addressed this issue and ultimately recommended that non-citizens be given the right to vote in municipal elections within the city (Gray 2005). Ethnocultural communities have also voiced their opposition to the disenfranchisement of non-citizens. For example, in a focus group session with representatives from Toronto's ethnocultural communities, a political activist from Toronto's Tamil community identified citizenship requirements as a major barrier to political participation for this community.[15] Despite the fact that ethnocultural communities and certain government assemblies are concerned with the disenfranchising effects of citizenship requirements, as of date such restrictions have not been successfully challenged.

Unlike Canada, many successful grassroots campaigns have been organized around the issue of alien voting rights in the United States. While voting in federal elections is restricted to US citizens, a number of local initiatives have extended limited voting rights to resident aliens. For example, a half dozen townships in the state of Maryland have passed initiatives granting alien suffrage, and the state of Maryland

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[15] This focus group session took place in Toronto on January 28, 2006 and was made possible by a grant from the Centre of Excellence for Research on Immigration and Settlement (CERIS).

responded by enacting the necessary legislation to recognize the new constituents (Earnest 2003, 6-7). In addition, some major American cities – including New York, Chicago, and Arlington – permit resident aliens with children in public schools to vote in local school board elections (*Ibid*). Many other cities have followed suit and tried to enact such reforms; however, they have not always been as successful. In Massachusetts, for example, the municipalities of Cambridge, Amherst, and Newton have all passed initiatives to extend voting rights to resident aliens (Castagna et al. 2005, 4). However, as of date, the Massachusetts state government has failed to enact the necessary enabling legislation to put these initiatives into effect. In other cities, such as Washington, DC, Los Angeles, and San Francisco, similar initiates were quelled at the ballot box (Immigrant Voting Project). In other states, such as Minnesota, Maine, and Texas, incipient suffrage movements are just beginning to challenge the existing legal framework.

It is interesting to note that the initiative and referendum have been utilized in many of these campaigns. Such developments are in accordance with Lijphart's (1989) assertion that direct democratic measures can serve as a consensual tool (38). The decentralized and permeable nature of the US system could explain, in part, why so many grassroots movements around this issue have taken hold. These institutional mechanisms have allowed alien suffragists to put this issue before the public and thereby build momentum, even if their legal objectives are not ultimately met. Such strategies are not available in other institutional setting. For example within the Canadian context, British Columbia is the only province with the initiative and referendum (Elections Canada: Referendums, Plebiscites, Recall, and Initiative).

The bottom-up approach utilized in the US example is also a strategically viable option given that non-citizens are a "politically powerless minority" (Brozovich 2002, 418). In most cases alien suffragists are working to change the status quo; however, elected representatives have no electoral incentive to take a political risk for non-voters. Such legislative sluggishness is demonstrated by the Massachusetts example. While local municipalities successfully passed initiatives granting alien voting rights, state legislators were more reticent to adopt the necessary enabling legislation. A study examining the chances of political success for this legislation ultimately concluded by stating, "Passage of the enabling act is not likely. Even though there is a large immigrant population whose leaders support non-citizen voting, legislators are wary of jeopardizing their incumbency" (Castagna et al. 2005, 48). Direct democratic initiatives are one way to circumvent such political stalemate, although, as in the case at hand, they may only be effective to a certain point.

The How of Voting

The Language of Democracy:

While the political integration of ethnocultural communities may be hindered by the disenfranchisement of non-citizens (except arguably in the case of New Zealand), studies have confirmed that minorities continue to have lower participation levels even after controlling for non-citizenship rates (Jones-Correa 2005, 551). Such studies suggest that there may be other barriers in the electoral process that disproportionately impact racial and ethnic communities. For example, another often-cited factor is the use of

official languages in the voting process. Ethnocultural communities are often comprised of non-official language speakers, and numerous studies have found that language barriers can discourage such individuals from participating in the formal political process (Jones-Correa 2005; Contreras 2002; Jedwab 2005).

While all of the nations under investigation have made efforts to increase the political participation of non-official language speakers (see Table 4 for a detailed list[16]), the United States has by far gone to the greatest lengths to ensure their inclusion. It is first important to note that because of the extremely decentralized nature of the electoral process in the United States, it is difficult to provide an exhaustive list of voting procedures in all jurisdictions.[17] To begin with, there is no single federal agency in charge of overseeing elections that is comparable to the electoral commissions found in the UK, Australia, New Zealand, and Canada. Instead a myriad of federal agencies are endowed with particular functions, such as the Federal Election Commission in charge of administering and enforcing federal campaign finance laws and the Voting Section of the US Department of Justice Civil Rights Division in charge of enforcing anti-discrimination laws. In accordance with the 2002 Help America Vote Act (HAVA), a new federal agency, the US Electoral Assistance Commission, was created. However, this neophyte agency has yet to play an important role in the administering of US elections, and its function seems limited – as its name would suggest – to providing

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[16] The information in Table 4 was collected by looking at official electoral laws, Constitutions, and information supplied by electoral commissions and other oversight entities.

[17] The extremely decentralized nature of the US voting system has led scholars, such as Massicotte et al. to exclude the United States from comparative electoral studies, since including the US would essentially increase the N by 50.

Table 4: Language Assistance Measures			
	Guidance Materials/Voter Information Services	**Registration and Voter Enrollment Forms**	**Ballots**
United Kingdom	Voter information available in Arabic, Bengali, Chinese (traditional), Gujarati, Punjabi, and Urdu. Information may also be available in other languages upon request.	Rolling registration forms and application to vote by post available in Arabic, Bengali, Chinese (traditional), Gujarati, Punjabi, and Urdu. Materials may also be available in other languages upon request.	English only (or Welsh in Wales)
New Zealand	Voter information available in Arabic, Chinese (simplified), Chinese (traditional), Cook Island Maori, Farsi, Fijian, Japanese, Korean, Niuean, Punjabi, Samoan, Somalian, Thai, Tokelauan, Tongan, and Vietnamese.	Voter registration forms available in English only (with notes provided in Maori). Maori enrollment option form available in English and Maori.	English only
Australia	Voter information available in Arabic, Bosnian, Chinese, Croatian, Farsi, German, Greek, Indonesian, Italian, Khmer, Korean, Macedonian, Polish, Portuguese, Russian, Serbian, Spanish, Turkish, and Vietnamese.	English only	English only
United States	Minority language assistance available in accordance to the VRA.	Minority language registration forms available in accordance with the VRA.	Minority language ballots made available in accordance with the VRA.
Canada	Voter information guides available in Arabic, Bengali, Chinese (traditional), Chinese (simplified), Croatian, Farsi (Persian), German, Greek, Gujarati, Hindi, Hungarian, Italian, Korean, Polish, Portuguese, Punjabi, Romanian, Russian, Serbian, Somali, Spanish, Tagalog (Filipino), Tamil, Ukrainian, Urdu, Vietnamese and aboriginal languages.	English and French only	English and French only

assistance, especially financial, to State and local agencies, which have retained the responsibility of actually administering elections.

While the American voting process is generally decentralized, there are strong federal regulations overseeing electoral issues in certain jurisdictions. In accordance with the Voting Rights Act (VRA) of 1965 and subsequent amendments – generally considered the most successful piece of civil rights legislation in US history – select jurisdictions are required to provide minority language assistance in the voting process. Under the Act, there are two ways that a state or political subdivision can come under VRA jurisdiction. The first is in accordance with section 4(f)(4) of Act, which covers any jurisdiction in which: "(1) Over 5% of the voting-age citizens were, on November 1, 1972, members of a single language minority group; (2) Registration and election materials were provided only in English on November 1, 1972, and (3) Fewer that 50% of the voting-age citizens were registered to vote or voted in the 1972 Presidential election" (US Department of Justice). A political subdivision can also become a covered jurisdiction in accordance with section 203 of the Act. Here, the Act mandates that any political subdivision in which more than 5% of the voting-age citizens, or 10,000 voting-age citizens, are members of a language minority with limited English skills, and in which members of the language minority have higher illiteracy rates than the national average, must provide language assistance (*Ibid*).[18]

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[18] The coverage of jurisdictions with more than 10,000 minority language speakers was the result of Chinese political activist who argued that the 5% threshold was too difficult for ethnocultural communities in large urban centers to meet, despite the fact that these districts had large raw numbers of minority citizens.

The Voting Rights Act was not originally intended to protect language minorities. Rather its original intent was to rectify the egregious violations of voting rights experienced by African Americans in the Deep South. However, the legal framework developed to protect the voting rights of blacks in the US was extended to language minorities with the 1975 amendment to the VRA. Such changes were the result of Hispanic activists who successfully argued that English only ballots and election materials were in effect a literacy test, a device strictly outlawed due to its discriminatory effects (Chavez 1992, 78). By demonstrating that linguistic minorities experienced comparable discrimination to that of blacks at the polls, such groups gained coverage under pertinent civil rights legislation.

While linguistic minorities were not the original intended recipients of voting rights coverage, the Act now plays an important part in the political integration of such groups. As of August 2004, there are over 400 covered jurisdictions required to provide language assistance to voters (US Department of Justice). These jurisdictions provide services in numerous languages including American Indian tribal languages, Spanish, Chinese, Filipino, Korean, Japanese, Vietnamese, and numerous others. If a jurisdiction is covered by one of the relevant sections of the VRA, then it must provide all voter information materials, registration forms, and ballots in the protected language. Essentially, all information that is provided in English must also be available in the minority language.

Empirical studies have shown that the minority language provisions of the VRA do have a positive impact on political participation levels. For example, Jones-Correa

(2005) found that language provisions have a positive impact on all covered populations in terms of voter turnout, although the precise impact of these measures varies amongst minority groups and between naturalized and native-born citizens. Studies have also confirmed the widespread use of bilingual election materials in the US. For example, case studies in New York and California have shown that "half of first-time Asian-origin voters in New York and 60 percent of those in southern California took advantage of either bilingual materials or assistance" (Jones-Correa 2005, 552; citing the National Asian Pacific American Legal Consortium 1997).

While the United States has the most comprehensive approach to voting assistance for linguistic minorities, the other nations under investigation have also addressed this issue. In the United Kingdom, for example, the increasing minority population has prompted the Electoral Commission to reconsider its practice of printing election materials in only English and Welsh. In a special report on this topic, the Commission suggested that Returning Officers be given the authority to print sample ballots, official election posters, and statutory forms in minority languages (UK Electoral Commission: Equal Access to Democracy 2003, sections 3.6, 3.13, 3.17).

The Commission's proposal is also useful because it highlights the difficulties that nations would face in trying to implement such changes. For example, the Commission noted that the tight timescale between nomination closings and the printing of ballots in the UK would prove troublesome if ballots were to be translated into several languages (*Ibid*, 3.5). The Commission was, however, able to develop creative strategies for overcoming such practical difficulties. For example, the Commission noted that the

increasing use of electronic voting machines, which have the capacity to serve individuals in multiple languages, could circumvent this problem (UK Electoral Commission: Ballot Paper Design Report and Recommendations 2003, section 3.16). The Commission also called for the creation of pilot schemes to investigate the possibility of asking voters about their special needs at the point of registration, including the need for services in non-English languages, thereby making it easier to deliver such services at election time (UK Electoral Commission: Equal Access to Democracy 2003, section 3.20).

The remaining three nations – New Zealand, Australia, and Canada – have also expressed a desire to make the electoral process more accessible to non-official language speakers, although their attempts have been somewhat less ambitious. For example, all of these countries have made voter information available in multiple languages, and New Zealand even prints Maori on some official forms. Starting in 2000, Elections Canada implemented the practice of hiring ethnocultural outreach officers in hopes of increasing voter awareness and participation in these communities.[19] The outreach officers assisted in disseminating voter information in the targeted communities and more generally served as liaisons between the minority communities and Elections Canada. For the 2006 election, outreach officers were employed in fifty-two ridings throughout Canada, listed in Appendix A. However, these nations have not gone as far as removing language

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[19] Elections Canada has used the same strategies to increase outreach to aboriginal, youth, and homeless populations. In 2004, for example, 124 ridings hired outreach officers for aboriginal communities, 48 for ethnocultural communities, 92 for youth, and 5 for homeless populations.

barriers in the actual registration and voting process. The general consensus, therefore, seems to draw a line between voter information and official election materials.

Conclusion

The rational choice perspective would lead us to believe that voting laws have the most disenfranchising effect on those who face the greatest obstacles under the current system. As this chapter has demonstrated, for immigrant populations these challenges often start with the acquisition of formal citizenship. Even after such requirements are met, immigrant and ethnocultural populations often face impeding language barriers in the electoral process. As the comparisons in this chapter have demonstrated, some nations have made substantial progress in removing such obstacles. New Zealand's inclusive enfranchisement laws and America's comprehensive language assistance measures are examples of how nations can implement proactive measures to foster the political integration of minority communities.

Again, this chapter is not arguing that institutions are the sole factor that can explain minority voter participation. Culture undoubtedly plays an important part, and as this chapter has demonstrated, there are significant differences between and within minority communities. The chapter has shown, however, that institutions do have an impact. As reflected in the presented studies, accessible electoral laws can increase voter participation in targeted communities. While culture remains an ever-present black-box,

the presented work supports the argument that accessible institutions can increase participation.

The effects of institutional measures, however, are difficult to directly test in a cross-national framework. First, the decentralized nature of electoral laws makes it challenging to systematically test institutional factors across federal levels. Furthermore, there is a general lack of data exploring the political behavior of racial and ethnic minorities, and when data is available it is often at inappropriate levels. For example, Jedwab (2005) relies on federal riding Census data to conclude that linguistic minorities vote at lower levels than the Canadian population at large. Jedwab's logic, however, could be challenged on the grounds that it inherently commits an ecological fallacy – just because federal ridings with high proportions of linguistic minorities have lower turnout rates does not necessarily mean that linguistic minorities themselves turnout at lower rates. Similarly, it is hard to test the effects of local enfranchisement laws and minority language assistance provisions in the United States because data sets are not readily available at these levels. Because of these impediments, the arguments in this chapter must remain somewhat speculative. Nevertheless, it is notable that scholars, policy-makers, activists, and the few empirical studies on this subject have identified institutions as a factor that influences the political incorporation of ethnocultural communities. Institutions cannot fully account for the different levels of participation between and within groups, but they seem to be a factor that systematically has an impact. The following chapter will continue with this line of reasoning by examining the political consequences of electoral systems.

Diminishing Distortions: Electoral Institutions and Political Representation

While Chapter 3 focused on methods for assisting and enabling minority voters in the electoral process, this chapter will step back and look at the broader systemic effects of political institutions. As mentioned before, reconciling the concept of majority rule with the need for minority representation is a fundamental paradox facing democracies. This chapter will explore how formal electoral institutions can ameliorate, or at times exacerbate, such majority-minority sectarian cleavages in the political arena. The discussion will highlight both "rigid" methods of affording representation, such as electoral quotas, as well as more "flexible" methods, including the use of alternative voting methods. The chapter ultimately argues that while rigid methods are an effective way of ensuring representative outcomes, such processes have the serious danger of bolstering dividing lines in plural societies. Flexible mechanisms, by comparison, achieve broadly representative outcomes in a less synthetic manner and do not superimpose existing social power-dynamics onto the political infrastructure. Such fluidity serves to downplay in-group/out-group feelings and thereby fosters amicable majority-minority relations.

This chapter will also broaden the population of interest beyond racial minorities in advanced industrial countries. Methods of affording representation to ethnic, religious, and linguistic minorities in numerous political settings, including post-conflict areas, will

be explored. All of the examples support the underlying argument of this chapter (that electoral institutions can be used to integrate minority populations into the dominant political arena and that flexible methods of incorporation are preferable over rigid systems). In the following chapter, this thesis will be reapplied to the question of racial minorities in advanced democracies, with a particular focus on the representation of visible minorities within the Canadian political system.

Electoral Arrangements and Minority Representation

Quotas:

A common method of ensuring minority representation is the use of reserved seats, or quotas. Through this method, certain minority populations are guaranteed a minimum level of representation, usually based on population percentages and prescribed through election laws and constitutional arrangements. As demonstrated in Table 1, this method is particularly common in fledgling democracies and post-conflict areas as a means to incorporate ethnic and religious minorities into the dominant political system. While somewhat less common, some advanced industrial nations have used affirmative measures to represent minority populations. In Belgium, for instance, the constitution dictates that the parliamentary cabinet must have equal numbers of French and Dutch speaking representatives (Lijphart 1977, 41). Because Belgium's population is currently comprised of 60% Dutch speakers and 40% French speakers (CIA World factbook), the parity formula effectively over-represents the French population.

Many democracies also have quota provisions in place for women. In Afghanistan, for example, both the Election Law 2004 and Constitution make specific provisions for female representation. According to these regulations, the top vote-getting female candidates are guaranteed representation, a minimum level of female candidates must succeed in each province, and the presidential appointments for the senate must result in gender parity (IDEA). Gender quotas are also common in advanced industrial societies. In many of these nations, the quotas are voluntary regulations put in place by parties, rather than formal legal obligations. In Australia, for example, the Labor Party (ALP) has a self-imposed 40% quota for females in most party positions (Ibid).

Table 1
Ethnic and Religious Quotas

Country	Protected Minority Population
Jordan	Christians and Circassians
India	Scheduled tribes and castes
Pakistan	Non-Muslim minorities
New Zealand	Maori
Colombia	"Black communities" and indigenous peoples
Croatia	Hungarian, Italian, Czech, Slovak, Ruthenian, Ukranian, German, and Austrian minorities
Slovenia	Hungarians and Italians
Taiwan	Aboriginal community
Western Samoa	Non-indigenous minorities
Niger	Taurag
Palestinian Authority	Christians and Samaritans

Source: Administration and Costs of Elections Project: http://www.aceproject.org/main/english/es/esc07b

While quotas have been a successful mechanism for increasing the number of minority representatives, the political culture in many advanced industrial democracies seem to oppose such affirmative measures. In Britain during the late 1980s and early 1990s, for example, the Labour Party adopted a policy of short-listing female candidates in all constituencies where a woman contended for office and set an internal goal of achieving 50% female candidates (Studlar 2004, 9). The policy was eventually challenged by two unsuccessful male candidates arguing that their access to employment was hindered due to their sex, a claim that was upheld in the courts under the *1975 Sex Discrimination Act* (Ibid). Although Parliament responded in 2002 by passing the *Sex Discrimination Act (Political Candidates)*, which legally permits parties to enact affirmative gender policies, the acrimonious objections of opponents demonstrate the controversy surrounding such measures.

The intent and success of quotas have also been called into question in several other contextual circumstances. In New Zealand, for instance, it has been the long-standing policy to grant the indigenous Maori population a certain number of reserved seats, which are selected through a separate Maori electorate. Arguably, however, the original intent of the Maori ridings was not to provide better representation to New Zealand's aboriginal population. Rather, the ridings were historically malapportioned and the system seemed nothing more than a perfunctory mechanism to "pacify and assimilate Maori" (Banducci, Donovan, and Karp 2004, 536). In other words, Maori districts served to accelerate the assimilation process by incorporating aboriginals into the predominant political system and then underrepresented their interests within that institution.

There is evidence that British colonizers used a similar tactic in India. Like the Maori districts in New Zealand, British forces created a separate electorate for the Muslim community in India, through which reserved Muslim seats were filled. However, as Wright (1997) explains, "There is good evidence that these gestures were actually intended to perpetuate British rule by the classic strategy of divide and rule, and separate electorates certainly encouraged communal appeals to voters of the minority community" (852). According to this argument, the method through which Muslim representation was attained did not abate minority/majority tensions. On the contrary, by dividing the population through the use of quotas and separate electorates, the system itself encouraged non-integrative measures as politicians tried to appeal to their bases, which were inherently defined in terms of ethnicity.

There is evidence that a similar effect is taking place in Bosnia. Here, the use of racial and ethnic provisions in electoral formulas has led to what Simonsen (2005) calls the "institutionalization of ethnicity" (297). The Bosnian system came about through the Dayton Accord in an effort to rebuild the political infrastructure during the post-conflict era. The electoral institutions were designed to maximize power sharing amongst the Bosniaks, Serbs, and Croats. For instance, Bosnia has a three-member presidency – one Bosniak, one Croat, and one Serb (CIA World Factbook). The chairmanship of the presidential council rotates every eight months, ensuring that all factions have a chance of governing at the highest level. The House of Peoples (or Dom Naroda) is also a power-sharing device, comprised of 15 members – 5 Bosniaks, 5 Serbs, and 5 Croats (Ibid).

Despite the fact that Bosnia follows a classic consociational prescription, the

purported benefits of such designs have yet to be realized. For example, while Bosnian society has begun to reintegrate its different ethnic cleavages, such advances are conspicuously absent in the political landscape. As Simonsen (2005) notes:

> Ironically, it is in the political arena that ethnic divisions are upheld most vigorously. There is little evidence of voting across ethnic boundaries: parties and candidates are above all still 'ethnic'. And support for nationalist hardliners is not in decline (303).

Thus, while in theory Bosnian political institutions are a consociational paragon, the system has not performed the way many leading political scholars and policy makers would have predicted nor wanted. The Bosnian example, however, does seem to lend some credence to the rational choice institutionalist perspective. First, the unexpected results are easily explained as the consequential products of rational political actors looking to maximize their political appeal within an electorate that is defined in terms of a single descriptive characteristic. Furthermore, the fact that inter-ethnic social ties are growing more rapidly outside of the political arena seems to suggest that the current institutions are retarding group integration. This, in turn, supports the claim that institutional arrangements, and not just cultural variables, affect the rate and success of integrative strategies.

Proportional Representation:

Of all of the possible institutional mechanisms to provide better minority representation, electoral system designs are by far the most studied tools in political science. An enormous literature devoted to comparative electoral studies has sprung up in

recent years, as both the theoretical and legislative interest in electoral engineering has grown exponentially. Within this body of literature, there seems to be a general consensus that majoritarian electoral systems are adversarial to the concept of minority representation, whether the minority is defined in political or descriptive terms. Although numerous electoral designs have been proposed as alternatives, this chapter will focus on two systems that commonly are lauded for their proportional outcomes and opportunities for minority political gains – proportional representation and cumulative voting.

Proportional representation is an electoral arrangement that is intended to minimize the distortion between votes received and seats received. The most common form of proportional representation is PR list, under which voters vote for a party list, or a slate of candidates, in large multimember districts. Parties are then allotted legislative representation based on their percentage of votes, and individual candidates fill awarded seats according to their position on the party list.

Most proportional systems use closed lists, a system under which parties determine the ordering of candidates on their respective lists. This system has successfully been used to increase the diversity of representative assemblies in plural societies. In such diverse settings, parties may find it beneficial to manufacture representative lists in hopes of appealing to a wider-range of voters. This was the case in South Africa, where the representative results of the 1994 election were largely viewed as a product of closed list PR. As Reynolds (1997) states,

> To a significant extent the diversity of the new National Assembly was a product of the use of List PR. The national, and unalterable, candidate lists allowed parties to present ethnically heterogeneous groups of candidates which, it was hoped, would have cross-cutting appeal (3 of 4).

As well as granting parties greater control over the selection of candidates, PR systems have also been praised for their ability to lower the electoral threshold, thereby allowing smaller parties to contend for seats. This proposed benefit is especially important according to consociational theory. Norris (2004) summarizes the underlying logic proposed by consociational scholars in the following four points:

> The core argument is that, in contrast to majoritarian electoral systems, PR (1) produces a more proportional outcome; (2) this outcome facilitates the entry of smaller parties into parliament; (3) this entry includes the election of ethnic minority parties; and, in turn, (4) these elections produce greater diffuse support for the political system among ethnic minority populations (210).

Thus, consociational theory not only proposes certain mechanical outcomes (e.g. the entrance of smaller parties into the political arena), it also makes claims about the psychological effects of broadly representative outcomes. In this regard, the theory is similar to democratic theorists who argue that descriptive representation can engender support for the political system amongst minority populations. Consociational theorists, however, add an empirical claim about how such representation might be achieved.

While consociational theory provides a provocative logical picture that ties together electoral systems and voter psychology, the empirical support for these claims is mixed at best. In a 1999 study on New Zealand's switch to a mixed proportional electoral system, researchers found that "there was a general shift in attitudes between 1993 and 1996 toward greater feelings of efficacy...the change was significantly more pronounced

among voters who preferred small parties, and possibly among Maori" (Banducci et al., 550).[20] However, Norris's 2004 comparative study on consociational theory produced far less definitive results. The study found that when there was a significant difference between majority and minority populations in terms of support for the political system, it was in fact the majority population that possessed the more positive attitudes. However, the gap between these cohorts did not systematically vary according to electoral designs.

Not only has the accuracy of the purported psychological benefits of proportional systems been challenged, the desirability of ethnic parties has also been called into question. As noted earlier, proportional systems lower the electoral threshold, thereby allowing smaller parties to enter the political stage. In deeply plural societies, these smaller parties may very well form around ethnic divides. Because proportional systems have the capacity to afford representation to more parties, the importance of mass brokerage politics breaks down and more extreme values can gain formal political representation. Such a centrifugal force could easily undermine stability in non-consolidated democracies. It has also been noted that higher numbers of competitive parties often result in coalition governments. Israel's inability to form and maintain a majority government is often attributed to its proportional system in conjunction with its low electoral threshold (Diskin and Diskin 1995, 32). Critics claim that such electoral arrangements are undesirable because minority governments can lead to political stalemate. Perhaps even more important in deeply plural societies is the threat that radical interests will gain the ability to hijack the national agenda as center parties give in to

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[20] The uncertainty of the effects on the Maori population stem from the fact that the significance of results varied based on how Maori populations were defined and measured.

compromise in hopes of forming a working coalition. It is not hard to imagine a situation in which a small party ends up yielding a disproportionate amount of power due to its swing votes in a coalition setting.

It should also be noted that the mechanical effects of proportional systems might differ depending on geopolitical location. For example, while lower electoral thresholds may aid in the creation of ethnic parties in fledgling democracies, the same effects may not be seen in established systems (New Zealand's switch to a proportional system seems to support this point). Furthermore, in many advanced democratic systems, large brokerage parties tend to dominate the political arena. In such circumstances, the more desirable outcome may be to increase minority representation within such dominant parties, as opposed to creating rival fringe parties.

Cumulative Voting:

Cumulative voting is another electoral system that has been used in plural settings to produce more representative outcomes. Under this system, representatives are elected from multimember districts and voters are given a vote for each available seat. What sets cumulative voting apart is that, unlike other voting systems where voters can only express preference for a candidate once, under cumulative voting voters may "plump" all of their votes for a single candidate, or spread their votes among different candidates. Under this system, then, minority voters can aggregate their votes in support of their preferred candidate, thereby increasing their chances of meeting the 'threshold of representation' (Bowler et al 2003, 25). As Canon (1999) explains, "minorities who comprise at least

1/nth of the district (where n is the number of legislative seats) *should* be able to elect at least one of their preferred candidates" (366, italics added).

As Canon's statement demonstrates, even proponents of cumulative systems only state that minorities *should* be able to elect a representative of their choice under this electoral arrangement. In other words, a cumulative system in no way guarantees that a minority group *will* succeed in electing its preferred representative. This is because under a cumulative system minorities have the opportunity to gain representation, but they must strategically coordinate their votes in order to do so. Thus, this system requires that a minority community be unified in its electoral preference and strategy. For example, Bowler et al (2003) construct a hypothetical situation in which two minority voters are trying to elect both of their preferred candidates in a five-member district (32-33). The authors demonstrate that under these conditions there are a total of thirty-six possible vote total outcomes, of which only six result in the election of both candidates. Furthermore, if the required threshold of representation is doubled, then only two of the possible thirty-six combinations result in the election of either of the preferred candidates. While the exact mathematical logic will vary from one election to the next, one thing is clear – a majority of possible outcomes will not result in the preferred outcome.

While the election of candidates under a cumulative system requires strategic voting, there is growing evidence that minority communities are capable of meeting these coordination demands. In the United States, for example, there are currently over one-hundred political subdivisions using modified at-large plans, such as cumulative and

limited voting, many of which adopted such systems in efforts to comply with VRA

lawsuits requiring greater political access for minority citizens (Bowler 2003, 21).[21] In

many of these cases, minorities have in fact been more successful gaining formal political

representation under such alternative electoral arrangements. For instance, the school

board in Amarillo, Texas – a town comprised of approximately 24% minorities – had

only elected a single minority politician ever under a majoritarian voting system. In its

first election under cumulative voting in 2000, however, the city elected two minorities

(an African American and a Latina representative) (*Ibid*, 1). Similarly, in Chilton County,

Alabama, prior to the adoption of a cumulative system, not a single minority

representative managed to get elected to the county commission or school board in a

century (Guinier 1994, 16). After the county adopted CV, however, this quickly changed

and minority politicians immediately began seeing success. CV has even been

implemented outside of the political realm with similar effects. For example, numerous

corporations have adopted cumulative voting in an effort to better represent smaller

shareholders on corporate boards (*Ibid*, 15).

While much of the experience with CV has been positive, not all of the evidence

supports extended use of this electoral system. For example, while CV makes the

electoral process more accessible for racial and ethnic minorities, the same positive

impetus is given to political minorities, which can open the door to marginalized

representatives of the right who are not sympathetic to the idea of racial and ethnic

descriptive representation or substantive policy goals. For instance, in the Chilton County

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[21] Limited voting (LV) systems are similar to cumulative voting, except under LV voters are given less votes than seats available and voters can only vote for a candidate once.

example, the CV system increased the number of racial representatives, but it also increased the number of Republican representatives (Guinier 1994, 15-16). There are several other proposed drawbacks associated with this system. As Canon (1999) elaborates:

> There are several potential problems with cumulative voting: 1) it is relatively complex and produces voter confusion, at least in the short term; 2) it will shift power to groups of voter with higher turnout rates (elderly, wealthy, highly educated, whites); 3) it would benefit minorities of the right; 4) multimember districts in which the cumulative system would occur would be so large as to virtually do away with the concept of geographic representation that is so central to American politics; and 5) it could produce a less stable, more fractured political system (367).

Such cautions serve to curb electoral engineers' enthusiasm for a cumulative system. While these potential pitfalls should be kept in mind, there is still reason to believe that alternative voting methods can ameliorate majority-minority tensions in plural democracies. Perhaps the greatest strength of a cumulative system in such settings is its inherent plasticity. In other words, a cumulative voting system does not prescribe a concrete answer to representational deficits; rather it just offers a formula. As previously mentioned, a cumulative system may provide greater minority representation, but there is no mechanical logic guaranteeing such an outcome. Thus, on one hand, the system may introduce a degree of unwelcomed uncertainty for those seeking specific results. On the other hand, however, this degree of malleability provides the benefit of allowing the electorate to choose its own strategy and ultimate outcome. This concept is reflected in the larger theoretical distinction differentiating between "flexible" and "rigid" systems of representation.

The Benefits of a Fluid System:

So far this chapter has outlined three electoral devices for increasing minority representation – quotas, proportional representation, and cumulative voting. These are just three of a numerous amount of mechanisms currently in use to achieve the stated goal of manufacturing representative assemblies. With all of these options, how are electoral engineers to know which devices are preferable over others? Should the specific demographics of a region influence the choice of electoral rules? What unintended consequences might result from a particular electoral arrangement? Luckily, democratic scholars have begun to systematize representational mechanisms in ways that can help answer some of these questions.

An important distinction that is being drawn in recent literature differentiates between "fluid" and "rigid" representational devices. Fluid systems are mechanisms that merely encourage or help engender representative assemblies. Rigid systems, by contrast, mandate specific outcomes and allow little to no variation in the representational levels of the identified minority group. Table 2, developed by Mansbridge (1999), provides an initial scale of fluidity.

Table 2
Institutionalizing Fluid Forms of Descriptive Representation

Least Fluid

1. Quotas in constitutions
2. Quotas in law
3. Quotas in party constitutions
4. Majority-minority districts
5. Quotas as party decisions
6. Proportional representation and/or cumulative voting
7. "Enabling devices"
    a. schools and funding for potential candidates
    b. caps on nomination campaign expenses
    c. public funding of nomination campaign expenses
    d. establishing formal search committees within each party to help identify and nominate potential candidates from disadvantaged groups
    e. high-quality public day care for elected officials
    f. scholarships to law schools and public policy schools for members of historically disadvantaged and proportionally underrepresented groups

Most Fluid

Mansbridge (1999), 653

Some of the above mechanisms are obviously intended as a means to increase female political representation, such as the provision for day care centers, and are not directly applicable to the question of racial and ethnic minority representation. In addition to having some provisions that are not relevant to the question at hand, the table also omits some popular power-sharing devices. For example, federalism is a common method of affording sectarian autonomy in plural settings. Because of the permanent nature of stable political subdivisions, this method would almost certainly be placed near the least fluid end of the scale. In addition, in terms of visible minority political representation, topics covered in previous chapters, such as accessible language provisions and liberal suffrage laws are other potential enabling devices. Despite the fact that the above list is not completely comprehensive, the table still provides a general

guide for measuring the fluidity of a particular electoral mechanism. It should also be noted that the direct effectiveness of the power-sharing mechanism declines as you move toward the least fluid end of the scale. In other words, the enabling devices would merely encourage less homogeneous assemblies while quotas require it.

While rigid systems may be more efficacious in the short term, these devices can have some serious unintended consequences. As our earlier discussion on quotas demonstrates, such affirmative measures can be met with hostility from those possessing a laisser faire, hands-off approach to political competition. In addition, as the Bosnian example demonstrated, such rigid approaches can actually hinder political integration by structuring the political arena around plural fault lines. The example of New Zealand also helps demonstrate this point. While at first glance New Zealand is an example of a nation with working quotas that have seemingly fostered minority political integration, a deeper understanding of the system reveals that the rigidity of this particular quota system is actually softened by the fact that the reserved seats are contingent on voluntary Maori enrollment in the separate electorate. Thus, the traditional "divide and conquer" strategy is transformed into an optional unitary mechanism.

Quotas are not the only rigid systems that can discourage integration. A similar effect can occur in strong federal settings where political subdivisions correspond with racial, ethnic, and cultural divisions. As Simonsen (2004) notes in regards to federalism, "In this context, too, the issue of institutionalizing ethnic differences appears again: once federalism defined by ethnicity is implemented, any development towards a reduced salience for ethnicity is made much more difficult" (309). Simonsen goes on to note that

Afghan warlords actually tried to get the country to adopt a federal system defined along ethnic lines in the country's rebuilding period in 2003, presumably because such a system would benefit their private interests (*Ibid*). In advanced industrial counties, an example of political boundaries overlapping with cultural and ethnic divides can be found in Canada, where the francophone minority is largely encompassed within the territory of Quebec.

While rigid systems have been criticized for their divisive effects, fluid representational mechanisms have been lauded for their fleeting political boundaries. For example, in Guinier's (1994) analysis of cumulative voting, the author states that one of the most important benefits of this system is the fact that voters can "self-select their identities" (16). Self-selection provides a way of "transcending 'artificial groups' based solely on residence or race" while still allowing the possibility of in-group political organization (*Ibid,* 149). In addition, because identities under this system are not indelible, the possibility of cross-racial coalitions increases (*Ibid,* 16). For example, under a cumulative system, a minority group might decide to form a coalition with another political block to elect their top two preferences. Fluid systems have another related potential benefit. Under such systems, formal political representation is less of a zero sum game compared to circumstances under rigid mechanisms. For instance, the use of quotas, federalism, and racial redistricting all require identifying a protected minority, which often inadvertently diminishes the representation of other groups. Under a fluid system, however, all politically cohesive groups are given the same opportunities to gain formal representation.

Conclusion

This chapter has demonstrated that a myriad of electoral devices are currently available to increase the political representation of a minority group. While democratic systems will always favor the majority, these mechanisms can act as a safeguard to ensure that certain minority segments are not continuously without political representation.

The evidence in this chapter also supports the claim that, in terms of political representation, electoral designs matter. While a great deal of this chapter was specifically concerned with exactly how these designs shape the political landscape, it is important not to lose the forest through the trees. When we step back and analyze all of the information presented in this chapter, it is clear that electoral designs affect minority political gains in one way or another. This statement seems to hold true in numerous political settings, from advanced industrial counties to post-conflict societies. Electoral system designs are not the only factor influencing political representation. In fact, many of the cases presented in this chapter are essentially concerned with how culture and political institutions react with one another. Nonetheless, the evidence supports the claim that institutions do play an independent role. This is especially evident in cases where a political subdivision tweaks its electoral system. Such cases provide a quasi-experimental design, where we can observe the ramifications of the new system compared to the old. These cases are particularly telling because they essentially hold constant other possible influencing factors.

The chapter also takes the analysis further by asserting that rigid power-sharing devices should be avoided if possible. As the evidence shows, these devices seem to reinforce the in-group/out-group or us versus them mentality. Furthermore, as Mansbridge (1999) notes, such rigid devices are often "both static and highly essentializing" (652). Fluid systems, by comparison, offer the opportunity for minority communities to gain representation, while avoiding many of the negative attributes associated with rigid plans.

The following and final substantive chapter will provide an in-depth analysis of another power-sharing device – redistricting. Redistricting is a rather rigid system of representation and arguably has many of the common flaws associated with other strongly prescribing mechanisms. Despite its blemishes, this method is a popular strategy in nations using single-member districts. The following chapter will outline how this device has been used to over-represent minority populations, with a particular focus on Canadian methods of redistricting and reapportionment. The chapter ultimately argues that this rigid system has been used within the Canadian context to afford better representation to rural constituents, and in the process inadvertently diluted the political representation of urban and visible minority populations. Thus this is another example of how rigid devices structure representation in a zero sum fashion. This design is particularly troubling because some of the most excluded groups in Canadian politics, visible minorities, are not the beneficiaries of the special mechanisms; in fact, they are the systematic losers in the design.

Chapter 5

Unequal Votes: The Malapportionment of Canadian Minorities

As the previous chapter stated, scholars and policy-makers have come to the general consensus that proportional forms of electoral systems are preferable over majoritarian systems in pluralist settings. However, many established democracies have majoritarian systems and -- even with the increase in electoral engineering in recent years -- few have seriously considered abolishing these systems in favor of more proportional forms.[22] Instead of opting for electoral reform to address representational deficiencies, a number of nations with majoritarian systems have found ways to tweak their institutions in order to abate the internal winner-take-all momentum of these electoral arrangements. This chapter will focus on one such power-sharing device commonly found in majoritarian settings -- redistricting and reapportionment formulas.

Many nations with single-member district electoral systems have used specially designed ridings or reapportionment formulas in an effort to better represent an identified minority community. Under such systems, district lines are drawn in such a manner that minority communities are largely encompassed within a single district, thereby creating a safe riding for that minority population. Similarly, nations have also used reapportionment formulas that afford extra representation to areas containing concentrated minority populations, meaning representation is given over and above what population figures alone would warrant.

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[22] New Zealand stands out in this sense for its switch to a MMP system in 1996 from its traditional FPTP system.

While these methods have successfully been used to bolster minority political representation, such arrangements are far from an electoral panacea. These systems have several dangers, mainly resulting from their inherently rigid nature. As previously explained, rigid systems have an undesirable divisive effect. In the case of redistricting, riding boundaries can quite literally divide a neighborhood in half. Furthermore, the system as a whole structures representation in a zero-sum fashion, where some identified group gains political representation at the cost of another. Under such a system, representation is analogous to a pie: when someone gets a bigger piece, someone else is left with a smaller piece. It is easy to see the adversarial underpinnings of such a design and how these arrangements can actually magnify societal cleavages in the political realm. The Canadian political system provides a telling, and surprisingly understudied, example of this institution and its effects. Within the Canadian setting, long-standing practices have afforded rural constituents extra representation in reapportionment and redistricting plans. This paper will argue that while such methods have effectively protected rural political interests, the same system has effectively diluted the political clout of urban and ergo visible minority populations.

Minority Political Representation in Canada:

The political representation of Canada's visible minority population is an issue of growing concern. In recent years, an increasing amount of attention – both political and academic – has been devoted to exploring new ways to expand the representative nature of Canadian democracy. At the heart of such inquiries is a desire to diversify Canadian

politics, by incorporating new voices into the political process and creating less homogenous representative assemblies. As a result, scholars and policy-makers have considered a number of ways to eliminate the electoral barriers that currently deter the participation of non-traditional political actors. Such strategies range from the adoption of affirmative measures during the candidate selection process to comprehensive electoral reform (e.g., Tanguay and Bittle 2005; Law Commission of Canada 2003; Royal Commission on Electoral Reform and Party Financing, *Reforming Electoral Democracy: What Canadians Told Us* 1991, 42-52; Megyery 1991). However, glaringly absent from the conversation thus far is an analysis of Canada's electoral redistribution and redistricting policies. Yet there is reason to believe that current measures adversely affect the representation of ethnic communities. Canada has developed a unique approach to redistricting and redistribution, one that counteracts the notion of 'one person, one vote' by providing 'effective representation' to group interests. The resulting tradeoff between individual and group representation, coupled with Canada's geographic and demographic landscape, presents a representational dilemma – by affording overrepresentation to some collective groups, others become relatively underrepresented. Unfortunately, such paradoxes often result in measures that systematically lower the representational levels of non-traditional political actors, namely that of visible minority constituents. Of particular concern are institutional mechanisms that amplify rural representation while diluting urban representation. Such outcomes are troubling in terms of visible minority vote shares because malapportioned urban ridings contain large percentages of Canada's minority population.

This paper will analyze current redistricting and redistribution policies within a broader multiculturalist framework. The first section of the paper will examine the extent to which minority representation has influenced recent boundary delineations and redistributions. Next, there will be an empirical examination of the visible minority vote share in federal ridings across Canada. The results lend support to the argument that visible minority communities, especially lower-income minority communities, are disproportionately affected by the dilution of urban political representation. Finally, the empirical findings will be placed within the current discussion of ethnic political representation and strategies for future mobilization will be suggested.

Redistricting and Redistribution in Canada:

Canada's geographical magnitude and demographic composition present a unique challenge in terms of representative democracy. The Canadian political system must cope with vast regional differences, ranging from declining and sparsely populated areas of the country to heavily industrialized and highly populous urban centers. Canadian redistricting and redistribution formulas were developed as a response to this challenge. While these policies are ostensibly designed to respect voter parity (the notion that every vote should carry the same weight), there are in fact several mechanisms to ensure regional and group representation. Within the Canadian context, the traditional use of such measures has been to bolster rural representation by ensuring that population alone does not determine the allocation of seats at the federal level. For example, the senatorial clause of 1915 requires that the number of seats given to a province be no less than the

number of Senate seats from that province (s. 51A *Constitution Act*). In addition, the grandfather clause of 1985 requires that the number of House seats allocated to each province not be less than the number of House seats that province had in the 33rd Parliament, thereby setting a base level of representation for areas with declining populations (s. 51 *Constitution Act*). The traditional justification for these policies has been to help ensure adequate rural political representation and to limit federal ridings to a manageable geographic size.

Essentially, such measures override the principle of voter parity by lowering the electoral quota (the population of a province divided by its total number of federal seats) in rural areas. Such measures result in a tradeoff between regional and individual representation, which at times can be quite drastic. For instance, an MP from British Columbia represents, on average, 108,548 constituents, while an MP from PEI represents an average of 33,824 constituents (Elections Canada 2002, 22). The lower levels of representation in urban centers are of particular concern to visible minority constituents, given that nearly 85% of Canada's visible minority population lives in urban ridings, whereas only 40% of the nation's non-visible minority population resides in urban districts.[23] Table 1 lists all provincial quotas, in ascending order, and the number of additional seats each province receives through the use of special clauses, or non-population based considerations.

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[23] These figures were calculated using the Statistics Canada definition of "urban". As such, ridings with at least a population of 1,000 and no fewer than 400 persons per square kilometer were classified as urban.

Table 1
Federal Electoral Quotas

Province	Electoral Quota	Additional Seats
National Quotient	107,220	
Prince Edward Island	33,824	3
Saskatchewan	69,924	5
New Brunswick	72,950	3
Newfoundland and Labrador	73,276	2
Manitoba	79,970	4
Nova Scotia	82,546	3
Quebec	96,500	7
Alberta	106,243	0
Ontario	107,642	0
British Columbia	108,548	0

Source: Elections Canada. Representation in the House of Commons of Canada.
http://www.elections.ca/scripts/fedrep/federal_e/fed_prlmnt_e.htm

Not only is there a bias in the redistribution process that aids rural provinces, there is also a bias in the redistricting process that appears to favor rural ridings over urban ridings within a province. In accordance with the Electoral Boundaries Readjustment Act (EBRA), individual riding populations may vary up to plus or minus 25% of the provincial quotient, and in extraordinary circumstances this 25% limit may even be exceeded (s. 15 (2)). EBRA lists a number of reasons that justify population deviations, including the need to respect a community of interest or a community of identity, historical patterns, and the need to keep ridings within a manageable geographic size (Ibid). The Supreme Court of Canada has also addressed the issue, asserting that deviations from strict voter parity are necessary to provide 'effective representation' to certain groups (The Attorney General for Saskatchewan v. Roger Carter (1991)). It is

also worth noting that the *Carter* ruling specifically listed minority representation as a justification for population variance.

The 25% and beyond guideline permits a considerable amount of intra-provincial variation. In Ontario, for example, riding populations range from 60,572 in Kenora (43.7% below the provincial quotient) to 122,192 in Mississauga-Cooksville (13.5% above the provincial quotient) (Report of the Federal Electoral Boundaries Commission for Ontario 2003, 25-27). In a comparative perspective, such high variation levels are extremely abnormal. In Australia, which like Canada is a geographically large country with concentrated areas of population, the cut off for variations in federal House ridings is set at 10% (Toronto Staff Report 2002, 12). Similarly, in the United States, which firmly enforces the concept of 'one person, one vote', the courts have struck down redistricting plans with population variations as little as 3.1% (see *Kirkpatrick v. Preisler (1969)*).

The inevitable tension between regional and individual representation is also aggravated in the Canadian context by the fact that the House of Commons is the only effective federal legislative chamber. In other pluralist democracies, such as the United States and Australia, such conflicts are partly dealt with through federal systems that have lower chambers upholding representation by population and upper chambers designed for regional and provincial representation. Thus, such systems respect voter parity while the threat of tyranny of the majority is checked by upper houses. However, because the Canadian Senate is effectively a powerless institution, the House of Commons must

simultaneously respond to both of these representational demands, which are inherently conflicting.

While the notion of effective representation has predominately been used to afford additional rural representation, the concept can apply to a myriad of group interests. In fact, post-*Carter*, a growing number of minority communities have successfully made claims for special consideration in the redistricting process. Such developments are most readily demonstrated by successful mobilization efforts in several francophone communities. For example, in a PEI provincial riding, deviations from voter parity were justified in order to better represent a compact Acadian community, which the courts officially recognized as a community of interest (Smith 2002, 16-17). Similarly, at the federal level, commissioners in Nova Scotia purposely designed electoral districts to magnify the representation of Acadian communities, once by lowering the electoral quota in a district and in another instance by adjusting boundaries to better account for an Acadian community (Courtney 2001, 175).

More rarely, the concept of effective representation has been used to advocate for stronger representation in visible minority communities. In one prominent example, a Nova Scotian provincial riding was granted a lower electoral quota in an effort to amplify the representation of Black communities (Smith 2002, 17-18). The political impact of the riding, which now contains a critical mass of minority constituents, was realized when it elected the first Black representative to the House of Assembly (*Ibid*). Canada's aboriginal population has also begun to see the effects of affirmative districting. In fact, federal boundary commissioners in New Brunswick attempted to take the notion of

effective representation a step further by proposing that the province's First Nations population be centralized in one riding, regardless of location (Report of the Federal Boundaries Commission for New Brunswick 2003, 14). A non-contiguous aboriginal district would have been a first in Canada, although similar developments were seriously investigated after a Lortie Commission recommendation proposed a similar design (Royal Commission on Electoral Reform and Party Financing, *Reforming Electoral Democracy: Final Report,* 298-300). However, First Nations and non-aboriginal representatives criticized the New Brunswick Commission's proposal at public hearings and community consultation sessions, and the recommendations were eventually withdrawn (Report of the Federal Boundaries Commission for New Brunswick 2003, 14). Although the New Brunswick proposal was dropped, other provinces, Saskatchewan for example, have created districts with large aboriginal populations in hopes of increasing the community's formal political representation (Courtney 2001, 175).

While such examples show that electoral designers are beginning to give greater thought to the representation of aboriginal and visible minority populations, such examples are still the exception and not the norm. Arguably, the slow recognition of the political cohesiveness of these groups, contrasted against the long accepted political interests of rural communities, is evidence of a representational double standard. After all, the belief that rural constituents have a cohesive political agenda that cannot be adequately represented by legislators from different geographical areas is essentially a nascent version of identity politics. Furthermore, while rural representation is ingrained

into the predominant political institutions, the recognition of other group interests are somehow viewed as aberrant departures from a Burkean status quo.

A Comparative Look at Minority Districting Measures:

While the consideration of minority communities in the redistricting process is a relatively new phenomenon in Canada, many other nations with single-member district (SMD) electoral systems have already embraced districting as a means to provide representation to minority communities. In the United States, for example, the effects of redistribution on racial communities received national attention in the 1960s after American legislatures blatantly malapportioned districts with large minority populations. As a result, the Voting Rights Act of 1965 and subsequent amendments were passed. Such laws now require the close monitoring of any redistricting plan that affects areas with substantial minority populations and may even necessitate approval from the Department of Justice. Such laws also helped provide the legal framework for the implementation of affirmative gerrymandering. In the 1990s, American legislatures began creating a number of majority-minority and supermajority-minority districts, meaning districts with a critical mass or even an absolute majority of minority constituents. However, in order to manufacture such results, legislatures had to create tortuous and highly contrived district lines. One of the most extreme applications of racial districting was addressed in the Supreme Court case of *Shaw v. Reno* (1993). This was a case out of North Carolina, in which a bizarrely shaped minority district was challenged.

The district essentially followed the interstate throughout North Carolina, periodically branching out to encompass minority communities along the way.

Like other rigid representational measures, minority districting was not without its share of critics. Such measures received a wide range of political and academic attention, the results of which were mixed at best (see Arden, Wayne, and Handley 1997; Cox and Katz 1999; Epstein and O'Halloran 1999). Minority districts were criticized from both those on the political right, who argued that such measures were undemocratic, as well as those on the political left, who argued that such measures actually harmed the substantive representation of African Americans. The Supreme Court eventually intervened and curtailed such practices by asserting that minority representation cannot be the predominant issue in determining district boundaries (see *Reno v. Shaw* 1993; *Miller v. Johnson* 1995; *Bush v. Vera* 1996; *Shaw v. Hunt* 1996).[24] While the political viability of such measures have certainly been called into question, it is clear that the numerous minority districts created in the 1990s had a drastic effect on descriptive representational levels – the US Congress gained more minority representatives after the implementation of minority districts in the 1992 redistricting than in any other prior election (Banducci et al. 2004, 535).

Although the American experience with affirmative districting has received the most attention, other nations have applied similar tactics. In the United Kingdom, for example, electoral quotas have been routinely lowered in an effort to provide better

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[24] Such rulings have not completely eliminated the practice of minority-based districting. Rather, they have limited the concept's scope of application. Current court rulings have established the, somewhat ambiguous, guideline that race cannot be the predominant factor in redistricting measures.

representation to Scottish ridings (Norris 2004, 228).[25] Similarly, in New Zealand persons of Maori descent are given the option of enrolling in a separate electorate. The special Maori ridings overlap with the general electorate, so every geographic location is covered by two ridings. Because there are fewer Maori electorates, however, these districts cover a larger geographical area than their general electorate counterparts. As mentioned in the previous chapter, Maori districts were originally severely underrepresented and may have been an electoral ruse to placate and assimilate Maori into colonial political institutions (Banducci et al. 2004, 536). Such deficiencies have since been addressed, however, and today the number of Maori electorates varies based on enrollment.

The above examples help contextualize the Canadian experience, or relative lack thereof, with minority districting. On some level, the lack of attention this issue has received in Canada may be understood as a paradox of multiculturalism. As the examples demonstrated, advocates of minority representation in other nations became vigilant in the redistricting process because of blatant past abuses in the system. Through this process, tactics that were originally designed to protect majority rule have evolved into mechanisms that bolster minority representation. The Canadian experience, on the other hand, appears to be more accurately characterized as a case of selective blind liberalism, applying protective measures to rural constituents but not other collective groups. However, the perceived lack of need to monitor the situation, combined with rapidly changing demographics, may permit representational biases that are hard to reconcile with Canada's professed commitment to diversity.

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[25] Although such practices were common in the UK, they are no longer practiced. After devolution and the establishment of the Scottish Parliament in 1999, there was less of a perceived need for such measures.

While Canada does not have an extensive background of considering minority representation in the redistricting process, its recent experiences with the topic have already raised several intriguing questions. For example, it is puzzling that some Canadian minority communities support the use of affirmative districting, some oppose it, and others have yet to address the issue. What little research exists on this question suggests that urban visible minority communities have been less likely to mobilize around redistricting and redistribution issues than have rural and national minority groups, but the reasons for these differences are not yet clear. Courtney (2001) speculates that urban minority groups have several advantages over rural minorities, which make boundary changes for the former less critical (225-229). According to Courtney, one such advantage is the fact that ethnic voters are densely concentrated in urban centers, thereby providing a critical mass for minority representation (227). Courtney also asserts that political parties have more effectively courted urban minorities, and that rural minority communities have a longer history of discrimination and exclusion from the Canadian political process (227-229). In other words, urban minorities have had an easier time accessing formal political institutions and therefore have not perceived a need to address issues of redistribution and redistricting. However, these speculations are inconsistent with studies suggesting that visible minorities in urban centers, such as Toronto, are vastly underrepresented at all political levels (Siemiatycki and Saloojee 2003), and that some large minority groups – Chinese Canadians for example – have done very poorly in terms of formal political representation (Barber 2004; Wong 2004). Furthermore, if there

is a rural bias, then the lack of urban minority mobilization around redistricting and redistribution issues is all the more surprising.

Linking Urban and Visible Minority Representation:

While urban minority communities have essentially been silent on this matter, other groups have voiced concerns over the representational implications of current redistricting and redistribution policies. In the last round of federal redistricting, the City of Toronto flipped the concept of effective representation around by advocating for the recognition of 'effective representation for urban Canadians' (Toronto Staff Report 2002). The City argued that urban under-representation is problematic for three reasons, one of which focused on how ethnic and racial minority communities are disproportionately affected by the current policies (*Ibid*, 9). In their analysis, the City noted that while in 1961 only 3.1% of the City's population belonged to a visible minority group, by 2001 this number jumped to over 50% (*Ibid*).

The City of Toronto's efforts were not without reward. During public hearings held for the last federal boundary readjustment, the City raised the issue of urban malapportionment by suggesting that riding populations should not vary more than 5% from the set provincial quotient (Elections Canada: *Ontario's Commission Report*). While the Commission found such small variation levels unviable, the City was successful in persuading the Commission to change some proposed districting plans for the Greater Toronto Area. Perhaps the City's greatest success was in the Scarborough region. The Commission's original plans for this area deviated greatly from the

provincial quotient and would have resulted in severely malapportioned ridings. However, at the City's suggestion, it was decided that Toronto federal districts did not necessarily have to correspond with municipal boundaries (*Ibid*). With this in mind, the Commission was able to redraw the Scarborough ridings, which are all now within 8% of the provincial quotient (*Ibid*).

Empirical Analysis

While it has been suggested that there is a rural bias, which disproportionately dilutes the visible minority vote share at the federal level, such a relationship has never been empirically verified. To test for such effects, three regressions were run, all with riding population as the dependent variable. The regression series begins with a simple bivariate regression looking at the relationship between the percent of visible minorities in a district and riding population. This simplistic model is then built on in the second regression by adding variables accounting for socioeconomic and urban status. Finally, the results of the third regression look at the interaction of income and visible minority status. By building the regression up in this manner, we are able to analyze the same reapportionment formula from a variety of perspectives. As previously stated, the current reapportionment formula in Canada is a rigid device that structures representation in a zero-sum manner, with some groups gaining representation at the expense of others. This regression series was designed in an add-on fashion to provide statistical snapshots from

a variety of perspectives, thereby exposing the representational effects on different groups.[26]

The results from the regression series are displayed in Table 2. As previously stated, the first regression was a simple bivariate model, with district population as the dependent variable and the percent of visible minorities in the riding population as the independent variable.[27] The regression included information for all provincial federal ridings.[28] The results are displayed in the Model 1 column of Table 2.The output, which is significant beyond the 99% level, reveals a positive correlation between the percent of visible minorities in a riding and the population size of a district. According to the results, a one-percentage point increase in the visible minority share of a district population is associated with an increase of approximately 440 constituents.

A couple of notes regarding the dataset and analysis are in order. First, because the independent variable is measuring the number of visible minorities in a riding relative to the entire riding population, the results demonstrate that visible minorities comprise a larger share of riding totals in more populous ridings. Or, conversely, that non-minorities

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[26] Because the following models are dealing with units of unequal size, care was taken to look for the effects of heteroscedasticity. However, it was ultimately decided that a weighted least squares procedure (WLS) was not required to correct such effects. The main consequence of heteroscedasticity is a high standard error, which makes it harder to reject the null hypothesis. The following models, however, were already shown to be significant.

[27] The data was collected from Statistics Canada's electoral riding profiles for the 2003 Representation Order, which reflects information from the 2001 Census. Therefore, information regarding minority status and income were collected via a self-reporting process. The Employment Equity Act defines visible minorities as "persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour."

[28] Note that the dataset does not include the three federal ridings designated to the territories. This is because the territories do not abide by the same reapportionment formula as the rest of the provinces. The territories are essentially allotted a single federal district that covers the entire territory; therefore commissioners have no actual control over riding population in the territories. This omission lowered the N from 308 to 305.

comprise a smaller share of totals in more populous ridings. Thus, the results do lend

support to the argument that visible minorities are disproportionately affected by the

dilution of urban political representation.

Table 2 Regression Results:
Riding Populations by Race and Socio-Economic Status

Variable	Model 1	Model 2	Model 3
% of Visible Minorities in Riding Populations	439.5** (52.5)		1,092.4** (227.4)
Average Household Income		.626** (.09)	.575** (.08)
Urban Status		30,935** (7,059.1)	
Urban status * Average Household Income		-.382** (.12)	
Percent of Visible Minorities * Average Household Income			-.013** (.004)
Constant	92,689.8** (1,065.4)	58,654** (5,078.5)	61,348.1** (4,766.4)
R-Value	.434	.523	.551
R-Square‡	.188	.266	.297
N	305	305	305

** p<.01, * p<.05; Standard errors in parentheses
‡ Adjusted R-Square for multivariate models

It should also be noted that the R-value of .434 is a fairly strong result, especially

for a model with only a single predictor. Thus, in terms of reapportionment formulas in

Canada, the racial demographics of an area appear to tell us a lot about its actual

representational levels. Finally, some may question if total population is the most

appropriate dependent variable. Other measures, such as eligible or registered voters,

might provide a more accurate picture of vote dilution. There is, after all, no guarantee that differences between total population figures and eligible voters will not vary between ridings. Some have even argued that such differences should be considered in the boundary readjustment process (Royal Commission on Electoral Reform and Party Financing, *Reforming Electoral Democracy: What Canadians Told Us* 1991, 55). However, current redistricting and redistribution policies rely on total population figures, thus this measure seemed most appropriate for the analysis.

Next, a socio-economic element was added to the analysis by examining the relationship between average household income, urban status, and population size across all federal ridings.[29] An interaction term (urban status * average household income) was also included to test if the effects of income are dependent on location. The results, displayed in the Model 2 column in Table 2, show that all variables are statistically significant. According to the output, urban ridings have an average of 30,935 more constituents than rural ridings. The results also show that there is a positive correlation between income and district population. Such findings at the federal level are not surprising given that smaller rural riding populations often have lower income levels. The outcome from the interaction term also supports the claim that the positive relationship between income and district population is largely a rural phenomenon, as the slope for income in rural districts is nearly three times the slope for income in urban districts.

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[29] Average household income is measured in dollars. Urban status represents a dummy variable where all federal districts were assigned a value of 1 if they were urban, and a value of 0 if they were rural. The Statistics Canada definition of urban was used to code the districts. Therefore, districts with at least a population of 1,000 and no less than 400 persons per square kilometer were classified as urban.

Thus, while such effects may be regional in nature, the results do show that lower income areas are afforded better representation than higher income districts.
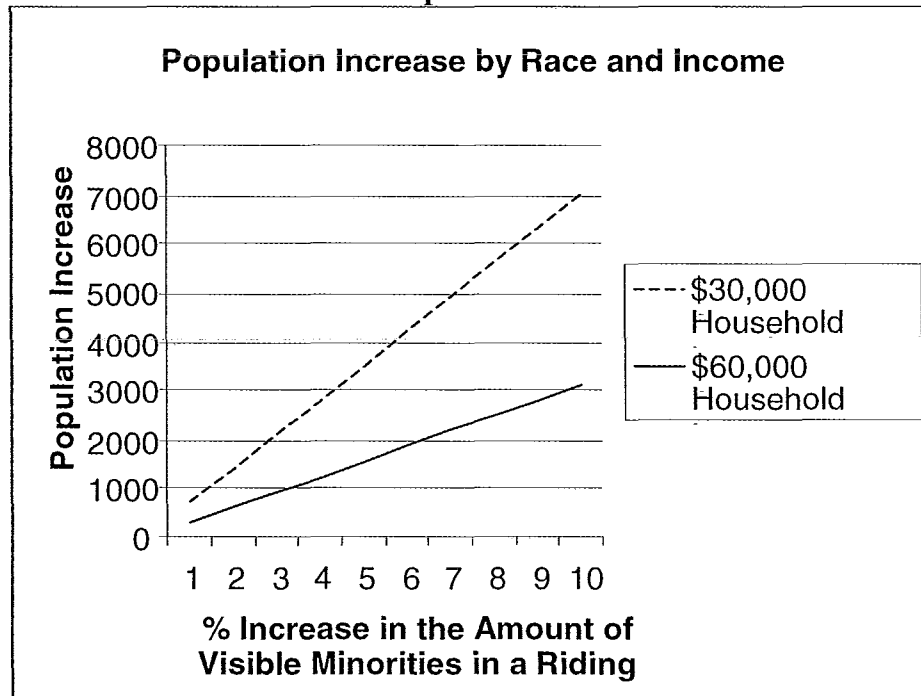
However, when race and socio-economic status are simultaneously considered, a different picture emerges. The Model 3 column in Table 2 displays the results of a multivariate regression that includes an interaction term (percent of visible minorities in a district * average household income). This interaction term will reveal if the representational levels of visible minority constituents is also related to income levels. In recent years urban poverty has been rapidly increasing, and because visible minorities disproportionately live in urban settings, there is reason to believe that urban malapportionment is disproportionately affecting lower-income minority communities.

As Table 2 demonstrates, all results are again statistically significant and there is still a positive relationship between the size of a visible minority population and average household income with the dependent variable. The inclusion of the interaction term reveals that the intersection of race and socio-economic status also has a significant impact on political representation. According to the results, visible minority vote shares are more diluted in lower income ridings than in higher income ridings.

Such results indicate that socio-economic differences within Canadian visible minority communities have a discernable effect on political representation. These trends probably reflect the fact that many inner-city ridings, where large percents of visible minorities reside, also have lower income levels. In fact, in recent decades urban poverty rates have grown at a faster pace than rural poverty rates, and today urban poverty is more pervasive than rural poverty in all but two provinces (*The Daily*: Study: Rural-

Urban Income Gap). However, unlike lower income rural ridings, inner-city ridings are not given lower electoral quotas. The resulting correlations between race, income, and representation are quite drastic. For example, in a riding with an average household income of $30,000, a one-percentage point increase in the amount of visible minorities in the riding is associated with an increase of 702 constituents. In a riding with an average household income of $60,000, however, a one-percentage point increase in the visible minority share of a population is associated with an increase of only 312 constituents. Graph 1 provides a pictorial demonstration of the relationship.

Graph 1

Population Increase by Race and Income

Population Increase (y-axis: 0, 1000, 2000, 3000, 4000, 5000, 6000, 7000, 8000)

% Increase in the Amount of Visible Minorities in a Riding (x-axis: 1 2 3 4 5 6 7 8 9 10)

Legend: - - - $30,000 Household; —— $60,000 Household

Conclusion

The analyses demonstrate that visible minorities, especially lower income minorities, are disproportionately affected by current redistricting and redistribution policies. Institutional mechanisms designed to amplify rural representation have the secondary effect of diluting urban representation at the federal level. In recent decades, Canada has experienced a sharp influx of immigrants, many of who have settled in metropolitan areas. Such changing demographics have caused the traditional urban versus rural divide in Canada to have significant racial implications.

Critics may argue that the representational biases highlighted in this chapter are unintentional in nature. While such arguments may be valid, it does not justify the ends. As this chapter has highlighted, there are solid historical reasons for offering additional representation to rural constituents. This paper argues, however, that such justifications need to be re-examined in light of modern demographic changes. As is often the case in policy evaluation, it is outcome, not intent, that should matter.

The dilution of urban and visible minority vote shares could have a number of representational effects, which presents fertile areas for future research. It is conceivable that differing electoral quotas could impact the level of constituency services in ridings. In other words, an MP representing a less populous riding might be more efficient at responding to constituent needs than an MP in a highly populated district. It should also be noted that representatives in diverse urban ridings face a number of representational roadblocks that their rural counterparts avoid. For example, urban MPs often represent constituents of varied linguistic backgrounds, thereby hindering effective communication.

It is also possible that the current rural bias results in a substantive under-representation of urban and visible minority policy matters at the federal level. In its report, the City of Toronto presented evidence that rural policy matters are in fact given higher priority than urban policy matters in the House of Commons (6-7). In addition, the differing sizes of electoral ridings could impact voter participation levels, as comparative studies have demonstrated a negative relationship between district size and voting rates (Norris 2004, 163). In other words, it appears that voters are more likely to participate in smaller ridings, although there is no consensus regarding the exact reasoning for such a relationship. With the recent emergence of new surveys aimed at exploring the political participation and behavior of Canada's minority populations, it is now possible to explore the links between minority status, district size, and political participation.[30] Finally, as examples from both within and outside Canada have shown, districts that are more sensitive to minority communities could result in the election of more ethnic representatives, thereby aiding in the creation of a parliament that is a true microcosm of the population.

While Canada has just recently begun to consider minority representation in the redistricting process, it is clear that this issue is not going away anytime soon. With the *Carter* ruling still standing, and given the successful mobilization effort of minority communities thus far, it is only reasonable to expect a growing number of organized groups to view redistricting and redistribution measures as a means to increase their formal political representation. Canada has developed a unique approach to such matters,

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[30] Examples of such surveys include the 2002 Ethnic Diversity Study (EDS) as well as the 2000 World Values Survey and Canadian Election Study, both of which oversampled Canadian minorities.

one that counters the principle of 'one person, one vote' with the notion of effective representation. However, thus far, the application of this approach has had the unfortunate effect of systemically disadvantaging certain societal groups.

The resulting representational deficits in the Canadian political system are partly symptomatic of the rigid mechanisms in use. Such rigid measures systematically create winner and losers, an effect that is clearly evident in the case of Canada. If Canada is going to continue using redistricting and reapportionment formulas as a method of affording representation, which is the likely scenario, then the negative outcomes associated with this system need to be recognized and addressed. It should first be acknowledged that the Burkean representational standard is an illusion, and that group representation is inherent in the current system. Such an acknowledgement would open the door to a truly pluralist process, where a variety of group interests could be recognized in the predominant political institutions. This would also help ensure that some groups are not consistently on the losing end of such arrangements. After all, while it is admittedly beyond the power of a geographically based electoral system to provide representation to all conceivable group interests, the practice of consistently representing some, at the expense of others, only sharpens existing societal cleavages.

Chapter 6

The Dangers of Rigidity

The previous chapters have highlighted a number of accommodating electoral devices that can be used to better integrate minority populations into predominant political institutions. Overall, this work contends that there is an intrinsic value in fostering heterogeneous democratic institutions, and that electoral laws are a means by which to achieve this end. The work also takes this stated thesis a step further by asserting that certain strategies of accommodation are preferable over others. Specifically, it is argued that caution should be used when implementing rigid electoral devices, namely because of their tendency to magnify social divides. While rigid devices are effective tools for bolstering the political representation of the chosen minority population, the divisive side effects of such mechanisms often counteract any conciliatory function that accompanies representational gains.

Mansbridge's continuum of fluidity provides a system by which we can classify the strategies of accommodation investigated in this work. Although Mansbridge's classification provides a solid foundation, some minor alterations should be done in order to make the system more relevant to the discussion at hand. For example, if we remove the tactics intended solely for women's representation, and add strategies that were covered in this work but not included in the original diagram, we would end up with a classification system similar to that found in Table 1.

Table 1
Institutionalizing Fluid Forms of Descriptive Representation

Least Fluid

8. Quotas in constitutions
9. Quotas in law
10. Quotas in party constitutions
11. Majority-minority districts
12. Quotas as party decisions
13. Proportional representation and/or cumulative voting
14. "Enabling devices"
    a. liberal enfranchisement laws
    b. elections conducted in multiple languages
    c. schools and funding for potential candidates
    d. caps on nomination campaign expenses
    e. public funding of nomination campaign expenses
    f. establishing formal search committees within each party to help identify and nominate potential candidates from disadvantaged groups
    g. scholarships to law schools and public policy schools for members of historically disadvantaged and proportionally underrepresented groups

Most Fluid

Adapted from Mansbridge (1999), 653

According to the table, quotas are among the most rigid power-sharing devices, and, as the discussion in Chapter 4 demonstrated, such tactics repeatedly have severe negative side effects. To begin with, such strategies are often unviable in the political context of many advanced industrial democracies. The debate surrounding political quotas in the United Kingdom and the controversy over affirmative action measures in the United States demonstrate this point. Furthermore, when such mechanisms are implemented, they appear to intensify existing cleavages by institutionalizing social divides and encouraging sectarian appeals. Such centrifugal tendencies seem to counteract any unifying effects brought about by reserved representation. Due to their non-democratic origins, representational levels achieved via political quotas are also frequently challenged as being arbitrary and synthetic. In order for seats to be reserved, a

base level of representation must first be established. Deciding on a target level of representation can present a political quagmire, and as the examples of British colonizers demonstrate, representational levels that fall below the minority's population share can actually retard meaningful integration.

After mandatory quotas, racial districting is the most rigid power-sharing device covered in this work. The construction of majority-minority districts is often an overtly deliberate and superimposing act, characteristics that warrant its classification on the rigid-side of the continuum. Unlike mandatory quotas, racial districting measures do not guarantee higher levels of political representation. Rather, they merely engender representative outcomes by providing a critical mass of minority constituents. However, the intent and effect of these tactics are often the same. Both are aimed at increasing minority political representation, and they both can have an unintended Balkanizing effect. As stated earlier, district lines can quite literally divide a neighborhood in half, and this divisive effect can be amplified if those dividing lines correspond with population demographics. Redistricting measures are also similar to quotas in that they both require the identification and selection of a protected minority group. Such tactics raise sticky political questions – such as who should be protected and how much protection should they receive – in addition to presenting the danger of pitting minority groups against one another. This last danger can be seen in the Canadian context, where it was shown that the protection of rural constituents results in measures that systematically dilute the political representation of visible minorities. A similar effect was also noted in the United States, where it has been argued that the creation of black districts detracts from the

political salience of other minority groups and ultimately harms progressive substantive policy goals.

As the provided examples demonstrate, minority districting is a fairly common power-sharing strategy in nations with single-member district electoral systems (SMD). While such measures help counteract the majoritarian effect of SMD voting methods, a preferable strategy for those seeking representative outcomes is the adoption of an alternative electoral system. As the table demonstrates, the two voting methods covered in this paper (cumulative voting and proportional representation) are toward the more fluid end of the scale. The voting systems are placed in this position because of their tendency to foster representative outcomes without identifying a protected minority group or superimposing sociological divides onto the political arena.

As the literature review revealed, proportional systems allow more diverse outcomes by minimizing the difference between votes received and seats received. This voting method also has the mechanical effect of lowering the electoral threshold thereby allowing smaller parties to gain formal political representation. In terms of descriptive representation, closed list proportional systems are especially desirable because they allow parties greater control in manufacturing heterogeneous slates. Cumulative systems have similar effects, achieved by offering cohesive societal segments the option of plumping their votes.

Although such alternative voting methods are promising methods of accommodation, they too have noted pitfalls that need to be considered. For example, under a cumulative system, there is no guarantee that any given minority population will

choose to fully support a single candidate. There is also the potential danger that minority populations will lack the organizational capacity to launch a successful electoral campaign for their candidate of choice. A number of criticisms have also been launched against proportional systems. For example, it has been argued that proportional representation introduces a degree of political instability by increasing the number of contending parties, and thereby encouraging coalition governments. It is argued that such coalition governments are undesirable in deeply plural societies because they offer small parties a chance to yield disproportionate power and consequently radicalize national politics.

The final power-sharing mechanisms explored in this work – liberal suffrage laws and language initiatives – are classified in the presented continuum as "enabling devices". Enabling devices are the most fluid of all accommodation strategies. These mechanisms take a bottom-up approach and focus on empowering, or enabling, members of minority populations. Liberal suffrage laws and language initiatives are measures that could make the democratic process more accessible to non-traditional political actors. Such strategies could help integrate minorities into the predominant political institutions while avoiding an overtly mandating function.

The major drawback of such enabling devices is that results are not instantaneous and representational gains are not guaranteed. Such a degree of uncertainty is typical of fluid methods of accommodation. As we move down the continuum in Table 1, from rigid to fluid strategies, we can see that the connection between electoral devices and representational gains becomes more tenuous. Such effects demonstrate an apparent

tradeoff between fluidity and outcomes. Thus, while fluid methods avoid the divisive effects of rigid strategies, they cannot offer the benefits of immediate results. Electoral engineers may therefore be well advised to seek accommodation strategies near the middle of the continuum, such as alternative electoral systems. Such strategies may be able to strike a desirable balance between unimposing measures and results, especially if they are used in conjunction with enabling devices.

This work has demonstrated that in terms of formal political representation, rules matter. While electoral laws are certainly not a panacea capable of instantly achieving equality in the political realm, under the right circumstances they can serve as a successful method of integration. In the current age of increasing migration, democracies must find new ways to make their political institutions more accessible to minority populations. The strategies outlined in this work are just a few of the available methods that can help achieve this goal. Electoral engineers must, however, be mindful of the unintended consequences associated with electoral power-sharing devices, especially when considering rigid accommodation methods.

Democracy is an institution that inherently favors the majority. However, electoral power-sharing devices can help ease the tensions created by majoritarian systems. Such mechanisms challenge the winner-take-all tendency inherent in democratic institutions and search for new ways to make formal electoral processes more accessible to everyone. The presented accommodation strategies are methods by which democracies can manufacture heterogeneous governing assemblies. Through such strategies, electoral

engineers can help construct institutions that are microcosms of society at large, and thereby reinforce the representative nature of democratic government.

Appendix A

Ethnocultural Outreach Officers by Federal Riding
2006 Federal Election

Electoral District Name	Ethnocultural Community Relations Officers
Sackville--Eastern Shore	1
Papineau	1
Beaches--East York	1
Bramalea—Gore—Malton	1
Brampton—Springdale	1
Brampton West	1
Cambridge	1
Don Valley East	1
Don Valley West	1
Etobicoke—Lakeshore	1
Etobicoke North	1
Markham—Unionville	1
Mississauga--Brampton South	1
Mississauga—Erindale	1
Mississauga—Streetsville	1
Oak Ridges—Markham	1
Richmond Hill	1
Scarborough—Agincourt	1
Scarborough Centre	1
Scarborough—Guildwood	1
Scarborough--Rouge River	2
Thornhill	1
Toronto—Danforth	1
Trinity—Spadina	1
Willowdale	1
York West	1
Saint Boniface	1
Winnipeg Centre	1
Winnipeg North	1
Calgary Northeast	1
Calgary--Nose Hill	1
Calgary Centre	1
Edmonton--Mill Woods—Beaumont	1
Lethbridge	1
Abbotsford	1
Burnaby—Douglas	1

Burnaby--New Westminster	1
Delta--Richmond East	1
Fleetwood--Port Kells	1
Newton--North Delta	1
New Westminster--Coquitlam	1
Okanagan—Coquihalla	1
Port Moody--Westwood--Port Coquitlam	1
Richmond	1
Surrey North	1
Vancouver Centre	1
Vancouver East	1
Vancouver Kingsway	2
Vancouver Quadra	1
Vancouver South	2
West Vancouver--Sunshine Coast--Sea to Sky Country	1

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