report

Electoral systems and the protection and participation of minorities

By Andrew Reynolds

Voting at a polling station in Nairobi during the 2002 Kenyan elections.
Sven Torfinn/Panos Pictures.

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Executive Summary

In every successful case of peaceful and democratic conflict avoidance in the world, minority communities and their rights have been included and protected the legislative process.

But minorities are still consistently excluded from electoral reform, constitution drafting and the creation of new governments. However, attempts at inclusion made by non-minority rights specialists during electoral reform can entrench segregation and lead to the same result.

Electoral systems are the skeletons on which the body of a peaceful or a conflict-ridden society grows. By considering the electoral systems behind different conflict situations worldwide, and examining and evaluating the level of minority inclusion, this report shows clearly how the participation of minorities in the legislative process at the stage of electoral reform is a key tool, both in peace building and in future conflict prevention.

The report gives the example of Bosnia, where the Dayton Peace Accord of 10 years ago has turned elections into ethnic censuses that completely exclude smaller minorities such as the Roma, which could lead to conflict in the future. The report also discusses Iraq, where, in January 2005, the national list system used for the Constituent Assembly meant that the Sunni minority were certain to be seriously under-represented if Sunnis boycotted the polls. This further destabilized an already precarious security situation and exacerbated the conflict in the region. The system was adjusted for the December 2005 elections, but the country is still struggling to recover. The report also evaluates how Kenya, Lesotho, Malawi, Nigeria and Zimbabwe have, to varying degrees, seen their political sphere defined and polarized ethnically by the First Past the Post electoral systems they inherited from colonial rule, resulting in the marginalization of minorities in political life.

Electoral systems can influence not just the numbers of minority candidates elected but also how majority parties seek to appeal to or marginalize minority voters, and how inclusive candidate lists will be. One system might encourage the forging of alliances between parties that, in turn, will affect the broader political climate, while another may exaggerate conflict. If the results a system gives rise to are not considered 'fair', this may encourage minority groups to seek non-democratic retribution.

Furthermore, the type of electoral system can influence how party leaders engage voters. Some systems reward candidates who appeal to a cross-section of society while others reward those who appeal only to their own groups.

By considering specific countries, conflicts, minorities and electoral systems, the report offers guidance on how best to ensure minority rights to public participation. These rights include:

- the right to exist and be recognized
- the right of individuals to choose their identities and not suffer for doing so
- the right of all members of society to freely practise their language, culture and religion, by themselves or in community with others, including in public and at elections
- the rights of all to participate in the decisions that affect them without any form of discrimination.

It also gives guidelines on how to design electoral systems in transitional and post-conflict situations that promote cooperation rather than ongoing tension between groups. It argues that:

- Designers must have a clear understanding of the situation of all ethnic, national religious and linguistic minorities, including numbers of minorities, geographical spread and levels of literacy.
- Systems should be designed for the particular needs of the society and all minorities in it.
- No system should force electors and the elected into pre-determined identities.
- Special measures must be used, where needed, to ensure fair representation of minority women.

A commitment to understanding how electoral systems impact on the stability of societies at every level is vital for anyone involved in conflict prevention, electoral design and reportage. The protection of minority rights is best achieved and articulated through a combination of majority sensitivity and minority inclusion. In this, the practical tool of electoral systems plays a vital peacekeeping role.

by Preti Taneja
Human rights journalist

Introduction

With the rapid growth in the number of multi-party states, and the diffusion of democratic norms and standards, the ability of minorities to be included and represented in parliament and government has taken on increasing importance. The protection of minority rights is best achieved and articulated through a combination of majority sensitivity and minority inclusion. The representatives of minority groups, both men and women, must enjoy full access to participate in the political sphere, public life and the relevant aspects of decision-making. Such guarantees are also essential components of conflict management and multi-ethnic accommodation in those societies where disputes over communal difference have turned, or have the capacity to turn, into violent conflict. Most peace settlements pay particular attention to how representative bodies are elected and who shares in executive and legislative power.[1] The inclusion of minorities in representative bodies is a necessary, if not sufficient, condition of conflict prevention and longer-term conflict management. There is not a single case of peaceful and democratic conflict avoidance in which the minority community is excluded from legislative representation.

However, the full participation of minorities in government does not equate to veto power, nor does it imply that elected minority representatives are the only politicians capable of protecting and advancing the dignity and political interests of marginalized communal groups. But it does imply that members of minority groups can run for office, have a fair shake at winning office, and then have a voice in national, regional and locally elected government structures. Having representatives of one's own group in parliament is not the end of adequate representation or political involvement, but it is the beginning. In many societies, minority exclusion exists alongside the exclusion of women, and thus women from minority groups can endure overlapping discrimination and marginalization from power. Minority women bring distinctive experiences to legislatures and peace negotiations, which are likely to be powerful contributions to the process of democratization and social rebuilding. For example, the 68 women in the new Afghan National Assembly form a significant and at times progressive voting block.

The critical rights that all minorities (as groups and as individuals) are entitled to, that should govern the design of electoral systems, are the following. First, the right to participate in public life, and not to be discriminated against. This implies that each minority group should be treated equally. Equally important is the right of all minorities to be recognized, as religious, ethnic or linguistic groups. This implies that if one minority group is recognized in an electoral system, all such groups should be. Finally, there is the right set out in basic minority rights documents that all minorities and individuals have the right to choose to be or not to be associated with a minority group and not suffer any detriment because of this. This would imply that any electoral system that forces people to declare their identity and gives them privileges for doing so (or detriment for not doing so) would be illegal.[2]

This report focuses on the electoral system, the way votes are translated into seats, and its impact upon the representation of minority communities. It begins with discussions of the importance of minority representation for minority inclusion and protection, and whether it is better for minorities to self-identify or have their rights assigned on the basis of a legal pre-definition of their status. After considering these questions, the report outlines the menu of electoral system options and their consequences, and the process of electoral system design and reform. Data is then presented on the presence of minority representatives around the world and the prevalence of reserved seats for communal/minority groups in national parliaments. Next follows a discussion of the impact of electoral systems, not just on the numbers of minority members elected but how the system can mould elite behaviours and levels of inclusion and accommodation. Last, the report makes a number of recommendations about good practice when it comes to minority representation and electoral system design.

The electoral system chosen to constitute any elected body will have a significant impact on the access that minorities have to parliamentary representation. When it comes to electoral systems' consequences, the key variables are whether the system is proportional or majoritarian, how many members are elected from each district, whether there is an imposed threshold for representation, whether voters can choose between candidates as well as parties, and where minority voters live (clustered together or geographically dispersed). Special mechanisms, such as reserved seats, quotas or mandated multi-ethnic or gender-sensitive 'slates', will affect who makes it into parliament. Some systems in certain contexts can be highly exclusive, while others can be broadly inclusive, and conflict is often bred from, or perpetuated by, exclusion. It is also true that, while inclusion is often productive, the inclusion of minorities can also be done in ways that fail

to fully realize minority interests. Baldwin notes that in Kosovo the 'right to participate has largely been the right of minority leaders to participate [and] before 2001 very few of these leaders could claim any democratic accountability, and even after 2001 there was not a culture of accountability of leaders.'[3]

Experience has also demonstrated that electoral systems can help to engender various types of majority and minority political behaviours: some systems place a premium on hostile, ethnically chauvinistic appeals for votes, while others advantage those parties that take an accommodating, multi-ethnic stance. If sensitivity to context is maintained, the electoral system can be crafted to minimize the polarization of politics along communal lines and to encourage multi-ethnic movements that include minorities as substantive elements. At the very least, the electoral system should not accentuate religious, language, regional or cultural divides.

The effects of the electoral system will also be conditioned by issues of access and simplicity. If literacy levels and voting experience are low, then a clear and meaningful system supported by robust voter education will enable minority groups to play a significant role. The way in which district lines are drawn (and by whom) and upon which data those lines are based (population figures) are also key to minority recognition. Above all, minority members must be eligible to vote and stand for office to make their participation meaningful.

This report marshals evidence from the lessons of electoral design in multi-ethnic states to offer guidance on how best to ensure minorities' rights to public participation and how to design systems that promote cooperation rather than conflict between groups. It is based on current and ongoing cases (such as Afghanistan and Iraq), along with important historical cases (such as Bosnia, India, Kosovo, New Zealand, South Africa. etc).

Two key points emerge from the study. First, that when designing an appropriate electoral system that addresses the needs of a minority, the case context determines all. The capacity of minority representatives to gain office and influence under various electoral systems is conditioned by a host of historical, demographic and communal factors. The recommendations found at the end of this report offer the beginnings of a design approach that takes into account such moulding factors. The second crucial point is that adequate minority representation goes beyond minority members being included in legislatures. Minority rights are also dependent upon how legitimate these members of parliament are as representatives of minority communities, and whether they have power and influence beyond their (often) small presence and numbers.

The importance of minority representation

What is the benefit of having minority faces in legislatures and ensuring parliament goes some way to reflecting the social diversity of a nation? In her classic book *The Concept of Representation*,[4] Hanna Pitkin argued that thinking of representation solely along formal lines – that representation is the mere granting of authorization to one to act on behalf of another – is too limited. There is something of that in representation, but taking that idea alone ignores what a parliament must look like in order to successfully represent. A representative assembly takes into account questions of geography and demography, not just politics and ideology. Behind 'descriptive' representation is the idea of the mirror, which argues that the government should be a portrait in miniature of the society as a whole, reflecting divergent groups, opinions and traits.

Most democrats would applaud the idea of 'descriptive representation' but there are problems with the notion. First, there is the question of what and who should be represented, as voters are bundles of social backgrounds and beliefs. United States electoral law takes race into account for districting purposes, with its laws arguing that it is wrong for certain previously disenfranchised groups to be excluded from electing representatives from their particular group. Thus African-Americans and Latino-Americans in America are, in certain circumstances, entitled to have district boundaries that maximize the share of minority voters, to give them the opportunity to elect candidates of their choice. But this begs the question: why not help other groups that have been traditionally under-represented – the poor, gays and lesbians, certain religious denominations, not to mention other 'ethnic' groups? In Bosnia, elections revolve around the 'three constituent peoples', but if you are from a different minority group, the Roma for example, or consider yourself of mixed ethnicity, you are effectively shut out.

Second, the mirror notion of descriptive representation may be deemed counter-productive if it *precludes* citizens from choosing representatives who do not look like them. One of the basic ideas of liberal democracy is freedom of choice at the ballot box and if one is corralled into having to vote for a candidate of one's own ethnicity, then that intrinsic free choice is constrained. Third, descriptive representation has the danger of ultimately becoming an end in itself. Our concerns about successful representation should not end once we have ensured that parliament has the appropriate number of black people and white people, Hutus and Tutsis, Catholics and Protes-

tants. Indeed, at this stage, our concerns about adequate political representation should be just beginning. Donald Horowitz cautions that:

> *'proportionate minority office-holding does not guarantee that minority interests will receive attention in the legislative process. Indeed, minority office-holding may come at the expense of minority representation in the larger sense, for the creation of ethnically concentrated constituencies means not only more minority-dominated constituencies, but also more constituencies in which majority-group voters dominate and in which majority-group candidates do not need to worry about minority support or minority interests.'*[5]

John Stuart Mill believed that the advocacy of a wide range of sympathies would develop a representative's conscience and allow them to appreciate all aspects of society. The alternative, the exclusive representation of a particular group by a member of that group, means that the representative would have less opportunity to develop empathy with others. Thus, if just white people were represented by whites and black people by blacks, the political elites would find it more difficult to develop understanding.

But it is clear that some degree of descriptive representation, taken in conjunction with many other requirements, is valuable, especially when minority groups have common interests, tend to vote as a block in elections and are broadly marginalized from decision-making. This is not just a symptom of unhealthy majority–minority relations in new democracies in the developing world. The lack of minority representatives in America and Europe, for example, has been indicative of the exclusion of important interests from government and policy. Over recent years this under-representation has somewhat improved, but, with few African-Americans in the US Congress, Asian or black British citizens in Westminster, or non-white members in the French Parliament, one can only hope that minorities' interests are being served by majority (white) representatives. This is not guaranteed, as modern representative politics is rooted in the ethos of promoting sectional interests.

Mill argued that women and minority opinion (in his writings, the instructed elite) had considerable talents and skills, which would be lost to government and administra-

tion if these whole classes of people were excluded from representation. The presence in government of groups that had previously been discriminated against might help to break down ignorance and intolerance. Finally, and of most importance to constitutional design in transitional and post-conflict democracies, the inclusion of the diversity of majorities and minorities within legislatures can reduce group alienation and violence in those divided societies where politics is often viewed as a win-or-lose game. Many peace settlements over the last 25 years have revolved around inclusive electoral systems or reserved seats for communal groups as part of broader power-sharing constructs. Democratization in South Africa has shown that the representation of alienated minorities helps to mitigate anti-system violence and engenders an atmosphere of cooperation.[6]

Minority group pre-determination or self-determination

One key question, when it comes to the representation of minorities, is whether a separate voters roll should be maintained for the minority to be able to elect their 'own' candidates. Minority groups – whether based on language, ethnicity, religion or any other identity – coalesce either voluntarily, coercively or by some mixture of the two. Even if identities are historically crafted and fluid (see Deborah Kaspin on Malawi for a good example of identity formation affecting politics in a democratizing African state),[7] electoral politics may still allow for groups to define themselves and come together as political blocks voluntarily. This is 'self-determination' where labels are not imposed from the outside; rather, they are adopted and claimed by individuals who see themselves as part of a collective group.[8] The alternative is where political institutions pre-determine who is a member of each group on the basis of criteria that range from being rational and legitimate to suspect and oppressive. Apartheid South Africa was an excellent example of the evils of a deeply flawed system of ethnic classification, that created a straitjacket through which oppression could be meted out.

Unfortunately, many peace settlements rest upon a pre-determined view of who, and how large, the various conflicting groups are, and this can create a rigid foundation which retards the growth of cross-cutting, multi-ethnic, political movements and can exclude minorities that are not party to the conflict. While elections to the Northern Irish Assembly do not pre-determine voters' ethnic affiliations, they do require parliamentarians to identify themselves as Unionist/Protestant, Nationalist/Catholic, or non-aligned.

By their very definition, communal rolls, reserved seats and race-conscious districting rely upon a pre-determined

assessment of what constitutes a group and how large such groups are. New Zealand is more flexible in allowing voters to choose between being on the Maori or general voters' roll, but there does exist in law the capacity to be challenged if one registers as a Maori and (as yet rarely used) judicial guidelines revolve around blood lines and one's 'Iwi', or Maori community, attachment. Much criticism of power-sharing theories of democracy has revolved around the belief that such arrangements segment a society into fixed and pre-determined groups, which act as the pillars of an elite cartel that is more interested in self-enrichment than in representing their communities.

The key conundrum inherent within separate communal voters' rolls is how to choose which groups are awarded seats or are recognized as eligible for special treatment. What are the building blocks for the power-sharing settlement and who has (or needs) special rights? Do minority groups have to be small and oppressed, or can they be small and powerful? And what constitutes a clearly defined ethnic group to begin with? In Kosovo, the small Egyptian community made claims that they should be treated on a par with minority Serbs. In Denmark and Germany, the minority groups allotted special privileges are European national minorities, not the equally large immigrant communities from Africa, Asia or the Middle East. In Bosnia, citizens are boxed into Bosniac, Croat or Serb identities that effectively deny the existence of smaller minority groups (such as the Roma) or those Bosnians who are multi-ethnic or claim no ethnic identity at all. A too-rigid view of what constitutes an ethnicity may not gain purchase on the important political divisions in society.

Second, pre-determination within power-sharing settlements can exclude the weaker groups that are not party to the chief conflict. Significantly, this means their voices are silenced precisely because they are not in the midst of the violence. The Batwa ethnic group of Rwanda were overlooked and excluded in the seat allocation aspects of that country's peace settlement because the conflict revolved around Hutus and Tutsis. In Sudan, smaller minorities were excluded from the north–south Comprehensive Peace Agreement.[9] Armenians and Maronites were side-lined in Cyprus because Turkish Cypriots refused to allow any other groups to acquire minority political status.[10]

Third, pre-determination often excludes the recognition of minority groups that are less visibly identified as 'groups': communities of interest which may still be identity based but are not ethnic groups as classically envisioned. Communities linked by sexual politics, gender issues, youth or age issues are almost never included as valid building blocks of a polity. The dangers of precluding non-ethnic identities for 'special recognition' was demonstrated by farcical scenes in Northern Ireland in November 2001 when three mem-

bers of the non-sectarian Alliance Party of Northern Ireland had to re-designate themselves as 'Unionists' in order to ensure the election of David Trimble as First Minister and the continuation of the Assembly.

Last, pre-defined communal groups and fixed reserved seats are not responsive to the inevitable flux in numbers of majority and minorities in nation-states. Rarely are there clauses in electoral legislation for the periodic review of minority group size and the related number of reserved seats. The fixed Christian/Muslim parity in the Lebanese parliament has always been controversial, especially since the Christian part of the population has declined significantly over the last 20 years. Similarly, the fixed number of communal seats in Fiji may not bear much relation to the proportions of indigenous and Indian Fijians, as migration and birth rates change the balance over time. Finally, there is something inherently illiberal in the state imposition of a communal identity and political role on an individual without their acceptance of such a designation. While many minority citizens may well identify with a communal group, and indeed demand communal rights, not all individuals will. It is inordinately difficult to adequately establish criteria that draw the boundaries of ethnicity yet do not include and exclude wrongly at the margins. Nevertheless, ensuring some way of including

minority members in legislatures is crucial. As Yash Ghai notes:

> *'Minorities have the right to influence the formation and implementation of public policy, and to be represented by people belonging to the same social, cultural, and economic context as themselves. For a political system to be truly democratic, it has to allow minorities a voice of their own, to articulate their distinct concerns and seek redress, and lay the basis for a deliberative democracy.'* [11]

The extremes that the Balkan states went to in the early 1990s illustrate the pressures placed on a fledgling multi-ethnic democracy to reassure and include the minorities within their borders. The rigid segmentation in Bosnia has already been mentioned, and Article 10.1 of the 1992 Croatian Constitution stated that any group with over 8 per cent of the population should be 'represented in the Parliament proportionally to their respective participation in the overall population'. When the Serbian minority did not win seats in 1992, thirteen Croatians of Serb ethnicity were added to parliament.[12] In Kosovo, 17 per cent of the 120 parliamentary seats were reserved for minorities – 10 for the Serbs and 10 for the Roma/Ashkali/Egyptians/Bosniacs/Turks/Gora.[13]

Electoral system choices and consequences – a brief overview

This report is focused on the specific ways that votes in an election are translated into seats and not the surrounding issues encompassed by the broader electoral framework (i.e. voter, party and candidate registration; campaign finance; election observation; ballot design; counting, tabulating and reporting votes; constituency boundaries; the election commission; and methods of dispute settlement).[14] These related ground rules for democracy will impact the chances for minority electoral success and their subsequent influence, but they fall outside of this report's specific brief. Nevertheless, there are areas of overlap between the electoral system and the legal framework for elections. For example, the question 'Who can vote?' is both a legal and practical question. Even if national and ethnic minorities are enfranchised along with other citizens, they may be precluded from voting as a result of local discrimination, intimidation or violence. They may be entitled to vote but are they registered? Registration that ties minority groups to specific districts may be less inclusive than registration for a larger regional or national-based electoral system. Women from all communities are faced with hurdles to participation, but women in minority communities may be faced with even greater barriers to voting and standing for office. Some electoral systems may ease these difficulties while others can accentuate them.

Ultimately, electoral systems are merely tools of the electorate. They are the mechanism used to select decision-makers when societies have become too large for every citizen to be involved in each decision that affects the community. Some systems may give primacy to a close relationship between the votes cast overall and the seats won (proportionality), or they may funnel the votes (however distributed among parties) into a legislature that contains just two broad parties. Another important function of an electoral system is to act as the conduit through which citizens can hold their elected representatives accountable.

While there are some basic elements of participatory democracy present in all methods of electing leaders around the world, the details of electoral systems vary widely. When seeking to design, innovate or change systems, the institutional cloth needs to be cut to suit each distinct body politic. What works well in France may not be as appropriate for a place like Mauritius, for example. Westminster winner-take-all elections may prove to be dangerous in a new multi-party state like the Congo. Even among fully fledged consolidated democracies, elec-

toral systems are prosaic, and innovation and reform are the order of the day.

Two main families dominate: plurality-majority systems and proportional systems, but increasingly nation-states are evolving mixed (or hybrid) combinations of the two. Within these broad families are a number of distinct types of electoral systems in operation at the national level, with many permutations on each form. As of 2006, just under half (91, or 46 per cent of the total) of the independent states which have direct parliamentary elections use plurality-majority systems (e.g. First Past the Post [FPTP], the Block Vote [BV], the Alternative Vote [AV], or the Two-Round System [TRS]). Another 72 (36 per cent) use Proportional Representation (PR) type systems (either List PR or the Single Transferable Vote [STV]), 30 (15 per cent) use mixed systems (Parallel or Mixed Member Proportional [MMP]). Individually, List PR systems are the most popular, with 70 out of 199 nation-states and related territories giving them 35 per cent of the total, followed by the 47 cases of First Past the Post (24 per cent).

Systems can be defined and categorized with reference to three basic mechanistic issues: (1) how many representatives are elected from each constituency/district (i.e. the district magnitude)? (2) Is the formula used a plurality, majority, or type of proportionality? (3) What is the threshold for representation for parties and candidates? (This can either be imposed by law or practically determined by the number of seats in a district.) In combination, these three elements will be the chief determinants of the way votes cast are translated into seats won. They will affect the number of seats each party wins, the geographical distribution of party seats, and the nature of the individual candidates elected. Within List PR systems a further crucial question is whether voters can choose candidates from within the party's list (i.e. the list is open) or not (i.e. the list is closed). An open list will allow voters more latitude in determining not just which parties win seats but how a party's parliamentary caucus looks (which can lead either to progressive or conservative outcomes).

Electoral systems[15]

- *Alternative Vote (AV)* – Preference voting in single-member districts. Voters rank order the candidates using numbers. If no candidate achieves an absolute

majority of first-preferences (i.e. 50 per cent + 1), votes are re-allocated from losing candidates until one candidate has over 50 per cent of the votes cast.

- *Block Vote (BV)* – Plurality voting in multi-member districts. Voters have as many votes as there are candidates to be elected. So, if four MPs are to be elected, each voter has four votes. The candidates with the highest vote totals win the seats.
- *First Past the Post (FPTP)* – Plurality voting in a single-member district. There is a single vote for a candidate in a single constituency. The winning candidate is the one who gains more votes than any other candidate, but not necessarily a majority of votes.
- *List Proportional Representation (List PR)* – Parties present lists of candidates to the electorate, voters vote for a party, and parties receive seats in proportion to their overall share of the national vote. If a party wins 20 per cent of the votes, the party is entitled to 20 per cent of the seats. Winning candidates are taken from the lists.
- *Mixed Member Proportional (MMP)* – This combines both constituency and List PR elections. Most commonly a mix of FPTP and List PR. The PR seats compensate for any disproportionality produced by the constituency seat results. That is, if a party wins

10 per cent of the national vote but no FPTP seats, it is awarded enough list seats to make their share of the assembly 10 per cent.

- *Parallel System* – This is a similar system to MMP and combines both district and List PR elections. Unlike MMP, the PR seats do not compensate for any disproportionality arising from the district elections. In effect, the two halves of the election system are detached.
- *Single Non-Transferable Vote (SNTV)* – Plurality voting in multi-member districts. Voters have only one vote but there is more than one MP to be elected from the constituency. Candidates with the highest vote totals take the seats.
- *Single Transferable Vote (STV)* – Preference voting in multi-member districts. Voters rank order candidates on the ballot paper as under AV. To win a seat candidates must surpass a quota of first-preference votes. Voters' preferences are re-allocated to other continuing candidates when an unsuccessful candidate is excluded or if an elected candidate has a surplus.
- *Two-Round System (TRS)* – Plurality voting in a single-member district. A second election is held if no candidate achieves an absolute majority of votes (50 per cent +1) in the first election, i.e. a run-off system.

Figure 1: Electoral system families
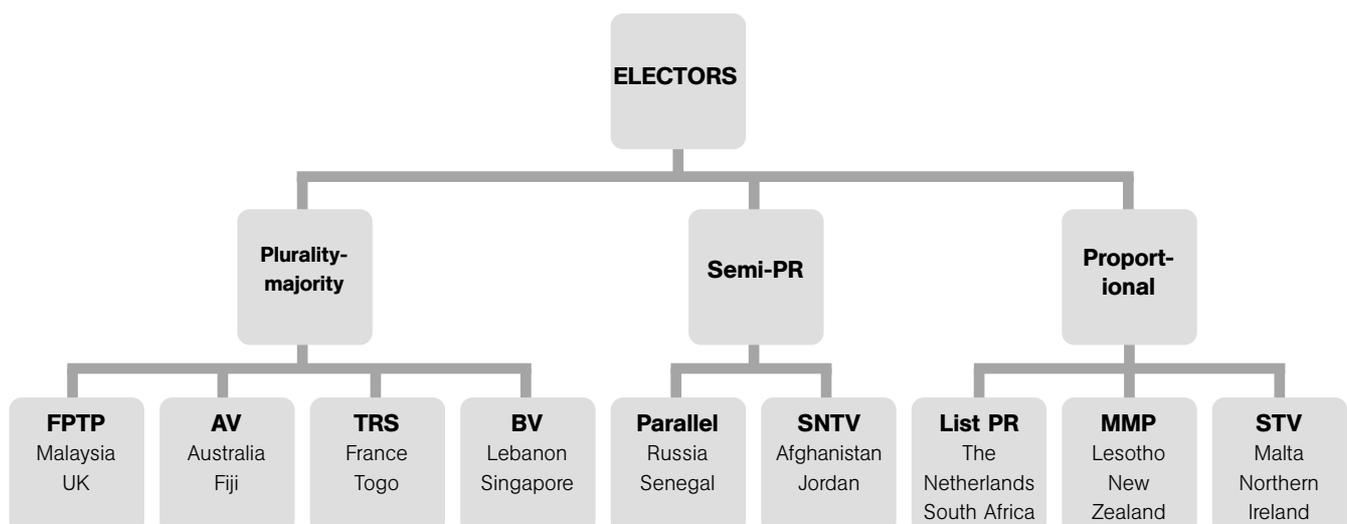
The global trend in electoral system design and reform

Over the first century of multi-party democracy (roughly between 1880 and 1980), it was apparent that, once an electoral system was in place, it was unlikely to change, as the power to change lay with those (political elites) who had benefited from the system in the first place. However, over the last 25 years, the pace of electoral system reform has dramatically speeded up. Many unconsolidated and transitional democracies have radically altered their previous systems, while new democracies have shied away from the moribund systems that were on the legislative books but rarely used. For example, Fiji moved from First Past the Post to a mixture of the Alternative Vote and communal rolls; Thailand moved from the Block Vote to a Parallel system with PR; while Ecuador switched from straight List PR to a Parallel system with lists and the Block Vote. Mongolia moved from the Block Vote to FPTP and then back again, and Iraq and Afghanistan shook off long-dormant systems (TRS and FPTP) to use List PR and SNTV for their new multi-party experiments in 2005. Indonesia reformed their nationally based PR system to make the districts much smaller, while in South Africa a government-appointed task force in 2004 recommended changing the national list system to one with 69 multi-member constituencies electing between 3 and 7 and 100 'compensatory MPs' drawn from a national list. Finally, after the 2005 crises in Lebanon, a review commission is investigating ways to reform their 'confessional' electoral system. The proposal is to add on a proportional element to the communal Block Vote system to make the system 'Parallel'.

But it is not just new democracies grappling with electoral system reform. A number of established democracies have also reformed, or are looking to reform, their systems. Japan switched from the Single Non-Transferable Vote to a Parallel system in 1993; New Zealand made a dramatic shift from First Past the Post to a Mixed Member Proportional system for their elections of 1996; and Italy moved to a similar system, from List PR, in the early 1990s. Furthermore, a number of other established democracies are considering change. Their have long been calls to extend MMP beyond Wales, Scotland and London to the British House of Commons. There are growing calls in Canada to change the FPTP system to a more proportional one and there is considerable experimentation with alternative electoral systems at the city and state level in the USA. In the Netherlands, bills have been proposed to parliament which would build in smaller majoritarian districts to their long established system of national List PR, while President

Putin wishes to take Russia in the opposite direction by eliminating the single-member district seats in the Duma, leaving one huge national list.

A number of Westminster-type democracies in the Caribbean have seen their FPTP systems produce dramatic and anomalous results in recent years. In 1999, in Grenada, the ruling party won every seat with 63 per cent of the vote; in St Lucia, in 1997, the St Lucia Labour Party won every seat bar one with 62 per cent; in St Vincent, in 1998, the United Labour Party went into opposition with 7 of 15 seats on the basis of their 58 per cent of the national vote. The dead heat in Trinidad and Tobago in 2001 between the predominantly Afro-Caribbean People's National Movement and Indo-Caribbean United National Congress led to the creation of a constitutional review commission which has questions of electoral system reform at the heart of its brief.

Within these developments, five main themes appear to be driving the calls for electoral system reform. (1) The desire to increase the geographic representation of cities and villages, and enhance the accountability of individual representatives within List PR systems (e.g. in Indonesia and South Africa). (2) The unease with vote–seat anomalies inherent in FPTP or Block Vote systems (e.g. in Lesotho and Mongolia). (3) The desire to reduce party fragmentation in unstable political systems (e.g. Italy and Russia). (4) The hope of encouraging inter-ethnic accommodation in societies divided by ascriptive identities (e.g. Bosnia and Fiji). (5) A fifth driving force of change has been the belief that electoral systems need to better include and represent minority communities. This attitude was a contributing factor to system reform in New Zealand[16] and has been cited as a reason to consider change in Britain, Canada and the USA. Fraenkel and Grofman note that the dramatic changes in electoral systems in the South Pacific have in part revolved around the question of:

> *'how to handle ethnic heterogeneity, whether in hyper-fractionalised settings (Papua New Guinea, Solomon Islands, Vanuatu) or bi- or tri-polar territories where two or three sizeable ethnic groups compete for political power (indigenous Fijians and Indo-Fijians in Fiji; Kanaks and white settlers or their descendants, in New Caledonia).'* [17]

The fact that often two or more competing objectives exist at the same time partly explains the increasing popu-

larity and implementation of mixed electoral systems which combine geographical representation and lists (proportional) representation. Sometimes these mixed systems maintain overall proportionality (as in the Mixed Member Proportional systems of Germany and New Zealand) but more often Parallel systems have been crafted which in effect run two separate elections for different parts of the legislature at the same time. The use of Parallel systems has become particularly commonplace in the new democracies of Asia (e.g. Timor), Eastern Europe (e.g. Georgia) and West Africa (e.g. Guinea).

The theoretical impact of various systems on minority inclusion

When it comes to the descriptive representation of minority members in national legislatures, conventional wisdom maintains that systems of List PR should (1) be better for the inclusion of very small minority groups; (2) enable minority MPs to be present as more than just the representatives of 'minority parties'; and (3) facilitate minorities being elected in regions where they are not in a majority. Conversely, plurality-majority systems (like FPTP, AV, TRS or the BV) can see the election of minorities if minority groups are sufficiently geographically concentrated in certain districts. A small minority all living in one part of an inner city, for example, may be able to elect a candidate of choice if there are single-member districts. In the United States, a number of 'majority-minority' districts are deliberately gerrymandered to ensure at least 65 per cent of the potential voters in a district are African-American, to encourage the election of African-American Congress people. In other nation-states, certain regions or islands with minority inhabitants may be deliberately over-represented in the legislature.

Based on such theory, it is reasonable to assume that hybrid systems using both list and single-member districts (such as MMP or Parallel systems) can give minorities two chances to be elected: first, through the local district and, second, through the proportional, often national, lists. If the minority is geographically dispersed and politically fragmented, then the more proportional MMP will serve them better, but if they are concentrated and unified then they may gain more seats under parallel systems, where greater emphasis rests on the district side of elections. Although a rarely used system, the Single Transferable Vote has long been cited as a friendly system to minorities and majorities, combining the advantages of multi-member district proportionality with preference voting, which might help moderate minority candidates. Last, the Single Non-Transferable Vote, as used in Afghanistan and Jordan, and previously in Japan and Taiwan, could allow for minority electoral success if they are regionally concentrated and develop a good nomination and vote distribution strategy. The Japanese experience of SNTV from 1945 to 1993 tells us little about ethnic minority abilities under the system, because of the predominantly homogeneous nature of Japanese society, but after 2005 we do now have some evidence from the heterogeneous society of Afghanistan.

Two other aspects of PR systems (List and MMP) pertain to the election of minorities. First, where the threshold for representation is set. When the threshold is low (as in the Netherlands [0.67 per cent] or Israel [1.5 per cent]), very small parties based on minority interests can gain seats; when the threshold is very high (as in Turkey, where it is 10 per cent) such minority interests are likely to be shut out. Second, minority candidates can be impacted by whether voters can pronounce on the party list (i.e. the list is open) or whether they have to accept the rank ordering of candidates that is presented by the party (i.e. the list is closed). This voting mechanism interacts with the degree of progressiveness or conservativeness of the electorate. If the voters are, by and large, inclined to support a multi-ethnic and diverse polity, then open lists can allow them to support minority candidates who may not be at the top of their party's list (as has happened with women in Scandinavia); but if majority group voters are more likely to plump for people who look like them, then a closed list will allow parties to circumvent some of the prejudices of the electorate (as has happened in South Africa).

Data on electoral system impact on minority representation

To date, there has not been a broadly comparative survey published which compares the number of minority representatives across countries and electoral systems. There has been some within-country research and work on reserved 'communal' seats, but nothing to give a global view of the varying rates of minority success when it comes to seeing their representatives elected to parliaments. Table 1 presents evidence gathered from 31 countries using seven different types of electoral systems. The list includes highly ethnically diverse nations along with more homogeneous societies; established and new democracies; and rich and poor states. Table 1 lists the percentage of the legislature made up of minority MPs, the communities' share of society overall and the over-/under-representation of each group. It describes minority representation above and beyond the reserved communal representation discussed later in this report.

Table 1: Minority members in national legislatures

Country	Minority (% of population)	Seat (%)	Under/over	No. of elections	Elec. sys.
Afghanistan	Hazara (16.0) Tajik (30.0) Uzbek (13.0)	12.0 21.3 8.0	-4.0 -8.7 -5.0	1*	SNTV
Australia	Aborigines (1.4)	0.0	-1.4	5	AV
Belgium	Francophones (32.0)	40.3	8.3	4	List PR
Bulgaria	Turks (9.4)	6.9	-2.5	4	List PR
Canada	Francophones (20.9) Asian* (1.5) Black* (1.2) Inuit* (3.5)	24.5 5.2 1.3 0.6	3.6 3.7 0.1 -2.9	3	FPTP
Denmark	Muslim (1.3) Inuit (0.9) Faroese (0.9)	1.1 1.1 1.1	-0.2 0.2 0.2	1*	List PR
Estonia	Russophones (30.3)	4.7	-25.6	4	List PR
Fiji	Indo-Fijian (42.0)	38.0	-4.0	1*	AV
Finland	Swedes (5.8)	7.7	1.9	3	List PR
Fr. Polynesia	Whites (10.1) Chinese (3.7)	15.8 5.3	5.7 1.6	1*	List PR
Germany	Nth Africa/Mid East (3.0)	0.6	-2.4	1*	MMP
India	Muslims (11.4)	5.3	-5.1	4	FPTP
Ireland	Non-Whites (0.5)	0.0	-0.5	1*	STV
Israel	Arabs (Palestinians) (17.5) Druze (1.5)	7.5 1.0	-10.0 -0.5	4 4	List PR
Latvia	Russians (33.1)	9.3	-23.8	4	List PR
Lithuania	Poles (7.0) Russians (8.5)	3.1 2.4	-3.9 -6.1	3 3	List PR
Malawi	Asian (0.1)	1.0	(0.9)	1*	FPTP
Mongolia	Kazaks (5.9)	4.2	-1.7	2	BV
Namibia	White (5.0)	8.3	3.3	1*	List PR
New Zealand	Maori (12.3) Pacific Islander (5.0) Asian (0.5)	16.0 3.0 2.0	3.7 -2.0 1.5	1*	MMP
The Netherlands	Africa/Mid East/Turk (4.0) Caribbean (1.3)	6.7 3.3	2.7 2.0	1*	List PR
Norway	Asian/Non-White (2.0)	0.6	-1.4	1*	List PR

Romania	Hungarians (7.1)	7.5	0.4	3	List PR
	Roma (1.8)	0.3	(-1.5)	3	
Slovakia	Hungarians (10.8)	12.4	(1.6)	5	List PR
	Russian (1.0)	0.7	(-0.3)	5	
Slovenia	Hungarians (0.4)	1.1	(0.7)	4	List PR
	Italians (0.1)	2.3	(2.2)	4	
South Africa	White (14.0)	29.3	(15.3)	2	List PR
	Coloured (8.0)	8.9	(0.9)	2	
	Indian (2.4)	6.9	(4.5)	2	
Sweden	Med/Mid East (1.9)	1.8	(-0.1)	1*	List PR
	Black (0.1)	1.2	(1.1)		
	Latino (0.1)	0.6	(0.5)		
	Sami (0.2)	0.3	(0.1)		
Switzerland	Francophones (18.0)	22.5	(4.5)	4	List PR
	Italophones (7.0)	4.0	(-3.0)	4	
	Romansh (0.7)	1.1	(0.4)	4	
Trinidad & Tobago	Afro (37.0)	41.7	(4.1)	1*	FPTP
	Mixed (20.0)	11.1	(-8.9)		
	Chinese (2.0)	3.0	(1.0)		
United Kingdom	Afro-Caribbean (0.9)	0.6	(-0.3)	3	FPTP
	Asian (2.9)	0.7	(-2.2)	3	
United States	African-American (12.1)	8.4	(-3.7)	7	FPTP
	Latino (8.9)	4.3	(-4.6)	7	
	Native American (0.8)	0.1	(-0.7)	7	
Zambia	White (0.1)	0.7	(0.6)	1*	FPTP
	Asian (0.1)	0.7	(0.6)		
Zimbabwe	White (0.5)	0.7	(0.2)	1*	FPTP

NOTE: AVERAGE 1990–2003 (OR MOST RECENT PARLIAMENT WHERE NOTED *)
SOURCES: MINORITY %: *WORLD DIRECTORY OF MINORITIES*, LONDON, MRG. 1997. ELECTORAL SYSTEM: ANDREW REYNOLDS, BEN REILLY, AND ANDREW ELLIS. *THE INTERNATIONAL IDEA HANDBOOK OF ELECTORAL SYSTEM DESIGN.* 2005. 1990–2003 DATA FROM LUBLIN (UNPUB. 2006); MOST RECENT ELECTION DATA BY AUTHOR.

Table 2: Under/over-representation by electoral system

	List PR (17 cases)	FPTP (8)	MMP (2)	AV (2)	BV (1)	STV (1)	SNTV (1)
No. of groups over/ under-represented	21 over 13 under	9 over 8 under	2 over 2 under	0 over 2 under	0 over 1 under	0 over 1 under	0 over 1 under
Average	-0.6 +0.9*	-0.8	0.2	-2.7	-1.7	-0.5	-5.9

NOTE: * WITH LATVIA AND ESTONIA REMOVED.

The data collected in Tables 1 and 2 generally support conventional wisdom about the likelihood of minority success under various election systems, but the survey of 31 countries also illustrates that broader institutions of power-sharing, economic power held by a minority com-munity and geographical concentration also help ensure that members of minorities are elected to parliament. Of the 62 minority groups analysed, 32 are 'over-represented' when compared to their share of the population while 30 groups are under-represented. When the minority is

greater than 10 per cent of the population the over/under division is 8/9.

When it comes to representation by electoral system the 20 PR cases (of List, MMP and STV) perform best, although only under MMP (New Zealand and Germany) are minorities, on average, over-represented (and this is driven by New Zealand). However, if one removes Estonia and Latvia from the List PR group, the average over-representation of a minority moves to a system high of 0.9. This gives us a better picture of the general trend under List PR, because those two cases so dramatically under-represent Russian-speakers that they skew the entire results. This is more due to lack of voting rights for Russians in the Baltic states than the effect of List PR. The worst system on average for minority groups is SNTV, but again this is driven by the single case of Afghanistan in 2005.

A more nuanced analysis of Table 1 finds that: (1) white people are consistently over-represented when they are a small minority in a former colonial possession (Namibia, Polynesia, South Africa, Zambia, Zimbabwe). (2) Small but economically powerful communities of South Asians are often slightly over-represented in Africa (although not in Fiji and the UK). (3) When consociational regimes are based on List PR elections (as they usually are), significant minority players can be over-represented (e.g. French-speakers in Belgium and Switzerland; whites, coloureds and Indians in South Africa).

Regionally, minority groups are more likely to be over-represented in Western Europe and North America (14 groups were over-represented, 12 under-represented) than in the Asia-Pacific region (4/8) or Eastern/Central Europe (4/7). While the eight minorities in African states in Table 1 (five countries) are all over-represented to some degree. Some of the most vibrant minority representation can be found in the large district closed List PR systems of the Netherlands and South Africa, where members of minorities sit on the government and opposition benches, in big and small parties. The 15 minority MPs in the Dutch parliament in 2006 were born in Curaçao (1), Suriname (4), Morocco (3), Iran (1), Turkey (5) and Portugal (1), and they are distributed between six parties: CDA (4), GL (4), PVDA (3), VVD (2), D66 (1), LPF (1). In South Africa's first two democratic elections, minority white, coloured and Indian MPs were included in both the governing African National Congress (ANC) and opposition parties. In 1994 and 1999 the ANC was catapulted to victory on the back of a vote which was overwhelmingly rooted in the black South African community, but in both parliaments white MPs constituted 10–15 per cent of the ANC's caucus. Only half of the Zulu Traditional Inkatha Freedom Party MPs were Zulu, the others being white and Indian South Africans.

Even though they use an FPTP system, Canada displays a significant number (21) of minority MPs (not including Francophone Canadians) who cut across party boundaries: there are 12 Liberals, 6 Conservatives, 2 Bloc Québécois and 1 NDP.

In a natural experiment in Britain and Ireland, the MMP system does not perform quite as well as the New Zealand case might suggest. Currently the United Kingdom operates MMP elections for the Scottish and Welsh and London Assemblies, List PR for elections to the European Parliament and FPTP for the House of Commons. Northern Ireland uses STV to elect its Assembly and List PR for Euro elections. As Table 4 shows, there are five Asian MEPs (6.4 per cent) elected by List PR, which compares well to their 2.9 per cent population share. There is a record high of 10 (1.5 per cent) Asian MPs in the House of Commons elected by FPTP, but only a single British-Asian Assembly member in the Scottish, Welsh and London Assemblies combined. In contrast, there are only five (0.8 per cent) Afro-Caribbean MPs at Westminster, a single London Assembly member, and none in Scotland, Wales or Northern Ireland. The European Afro-Caribbean and Asian MPs demonstrate party balance – two Labour, two Conservative, one Liberal Democrat; in the House of Commons thirteen Afro-Caribbean and Asian Labour MPs are joined by two Tories, while both Afro-Caribbean and Asian London Assembly members are Labour.

Table 3: Ethnic diversity of South African National Assembly 1994–9

	African	White	Coloured	Indian
1994 numbers	208	130	29	33
1994 %	52	32	7	8
1999 numbers	232	104	42	22
1999 %	58	26	10	5
% population	75	13	9	3

Table 4: Minority representation in the United Kingdom 2006

	Ethnicity (% of population)	Assembly – No. (%) (Scotland: 129, Wales: 60, London: 25)		European – No. (%) (78)	Commons – No. (%) (646)
		MMP	STV	List PR	FPTP
Scotland	Asian (1.4)	0	–	0	1
	Afro (0.2)	0	–	0	0
Wales	Asian (1.1)	0	–	0	0
	Afro (0.2)	0	–	0	0
London	Asian (14.1)	1 (4.0)	–	0	2
	Afro (10.1)	1 (4.0)	–	0	3
N. Ireland	Asian	–	0	0	0
	Afro	–	0	0	0
England	Asian	–	–	5	7
	Afro	–	–	0	2
Total	*Asian (4.4)*	*1 (0.5)*	*0*	*5 (6.4)*	*10 (1.5)*
	Afro (2.0)	*1 (0.5)*	*0*	*0*	*5 (0.8)*

NOTE: FIGURES FROM 2001 CENSUS; 2003 SCOTTISH, WELSH AND NORTHERN IRISH ASSEMBLY ELECTIONS; 2005 UK HOUSE OF COMMONS ELECTIONS. ENGLAND EXCLUDES LONDON.

Communal/reserved seats[18]

When minorities fail to 'naturally' make it into legislatures through the regular electoral competition, they can be guaranteed some representation through reserved 'communally based' seats. Historically, the practice of seat reservation, or gerrymandering, for distinct ethnic groups has long existed. The recognition and desire for some degree of pre-arranged descriptive representation is not a new thing – nor is it a construct unencumbered by past mis-use. In the mid twentieth century, many colonially administered territories reserved seats for indigenous groups, either as a transitional mechanism, a strategy of divide and rule or, less subtly, as a sop to keep them from power. Anglophone possessions ceded a modicum of political influence by giving a minority of the legislative seats to the majority population – notably in India, Kenya, Nyasaland and Tanzania. The apartheid government in South Africa took the logic of electoral confinement to the extreme in their Tricameral parliament of the 1980s, which had separate houses of parliament for Coloureds, Whites and Indians but, tellingly, not for the majority black South African population.

After the Second World War, separate communal rolls with reserved seats became integral parts of power-sharing solutions to end internal conflicts; for example, Lebanon in 1943, Cyprus in 1960 and Zimbabwe in 1980. Such solutions were 'rediscovered' in the 1990s in the compartmentalized ethnic arrangements of peace pacts in Bosnia and Kosovo. At the beginning of the twenty-first century, the aura around reserved communal seats and special mechanisms has swung to a point where it is seen as more progressive to reserve seats or ensure by some method that minorities are descriptively represented in legislatures. The aura of paternalism and tokenism, however, continues to taint such affirmative action mechanisms.

The use of reserved seats and special arrangements in parliaments around the world is widespread. Table 5 lists 32 countries (or autonomous territories) reserving seats for communal/minority groups, or where some special mechanism is in place. One can add to these cases the Palestinian Authority and the Tibetan government in exile. Another two nations, Ukraine and the United States, engage in explicit race-conscious districting and at least four, Denmark, Finland, Tanzania and the United Kingdom, have historically over-represented defined ethnic territories in their popularly elected lower houses (this is above and beyond the practice of federal nations over-representing smaller territorial units in their upper houses).

Table 5: Cases of reserved seats, communal rolls and race-conscious districting

Country	Type of mechanism	Size of legislature	%
Reserved – *Reserved communal seats*			
Bhutan	10 religious appointees (Buddhist)	150	7
Colombia	1 Black	161	1
Croatia	6 Croat Diaspora 1 Serb 1 Hungarian 1 Italian 1 Czech/Slovak 1 Ruthenian/Ukranian/German/Austrian	151	7
India	79 Scheduled Castes 41 Scheduled Tribes 2 Anglo-Indians (nominated)	545	22
Iran	5 Zoroastrians, Jews and Christians	290	2
Jordan	9 Christians 3 Circassians 6 Bedouin	80	22
Kiribati	1 Banabans	41	2
New Zealand	7 Maori seats	120	5
Niger	8 Tuareg	83	10
Palestine Authority	6 Christians and 1 Samaritan	88	7
Pakistan	10 for non-Muslim minorities (4 Hindus, 4 Christians, 1 Ahmadis/Parsees, 1 other religions)	128	8
Romania	19 seats for small minorities	343	4
Samoa	2 seats for part- and non-Samoans	49	4
Slovenia	1 Hungarians 1 Italians	90	2
Tibetan govt in exile	5 major religious sects reserved seats	46	?
Taiwan	8 Aboriginal	225	3
Venezuela	3 seats – indigenous population	165	2
Reserved – *Upper Houses*			
Belgium (Senate)	29 French 41 Flemish 1 German	71	100
Colombia (Senate)	2 indigenous communities	102	2
Ethiopia (Upper House)	22 minority nationality representatives	117	19

Country	Type of mechanism	Size of legislature	%
Electoral systems			
Denmark	Exemption from 2% rule for parties representing German minority	179	NA
Germany	Exemption from 5% rule for parties representing national minorities	603	NA
Lebanon	64 Christian (Maronites, Greeks, Druze) 64 Muslims (Shia, Sunni)	128	100
Mauritius	Best loser ethnic balancing	66	NA
Poland	Exemption from 5% rule for parties representing German minority	460	NA
Singapore	Minority candidates (Malay or Indian) on lists (1/6)	83	NA
Power-sharing settlements			
Bosnia	15 Croat 15 Serb 15 Bosniac	45	100
Cyprus (1960)	56 Greeks 24 Turks	80	100
Fiji	23 Indigenous 19 Indian 1 Rotumans	71	61
Kosovo	10 Serb 10 Roma, Ashkali, Egyptian, Bosniac, Turkish, Gorani	120	17
Macedonia (proposed)	Albanian, Macedonian		
Rwanda	45 Hutu 13 Tutsi	70	83
Sri Lanka (1924)	3 European 2 Burghers 1 Tamil 3 Muslim 2 Indian	37	30
Zimbabwe (1980–5)	20 Whites/Coloured/Asian seats	100	20
Over-representation of defined ethnic/national regions			
Denmark	2 Faroe Islands (which has 0.7% of Dmk pop.)	179	1.1
Finland	1 Aaland Islands	200	
Tanzania	5 extra Zanzibar	274	
UK (before 2005)	72 Scotland (which has 9.6% of UK pop.)	659	11

Country	Type of mechanism	Size of legislature	%
Colonial/minority regime allocations			
India (Punjab)	1932 Communal Award 90 Muslim 48 Hindu 33 Sikh 2 Christians 1 Anglo-Indian 1 European	175	100
South Africa	Tricameral (1983) 144 White 80 Coloured 40 Indian (Coloured seats reserved in White house until 1956)	264	100
Race-conscious districting			
Ukraine	Race-conscious for minorities	450	–
USA	African-American, Latino	435	–

Such arrangements are found on every continent. Table 5 includes four cases from the Pacific/Oceania region, four from the Middle East, six from Asia, seven in Eastern/Central Europe, five in Western Europe/North America and six in Africa. Indeed, the only clearly under-represented regions in the list are the Americas, with only two cases in Latin America and only the USA in North America. Neither are special mechanisms the sole province of 'enlightened' liberal democracies. Of 32 national states or related territories listed in Table 5, 18 were ranked by Freedom House as 'free' at the time of data collection, 12 were ranked as 'partly free' and three were 'not free'.

Reserved seats in national legislatures can be classified under four headings: (1) the identity of the minority groups for whom seats are reserved; (2) the mechanism for reserving seats; (3) the electoral system used; and (4) the number of seats reserved.

Identity of groups

There is some degree of overlap between bases of identity but four main themes dominate the minority group identities in the countries which utilize special electoral provisions. One-third of the cases reserve seats on the basis of 'race' or ethnicity, which need not necessarily be based on language. Colombia, Fiji, New Zealand, Taiwan and Venezuela reserve seats for 'indigenous' minorities, although only in Fiji and New Zealand do such MPs represent a significant electoral block. India, Mauritius, Samoa, Sri Lanka and Zimbabwe, have all at some time

reserved seats for the descendants of European or Asian colonists or migrants who possess economic power despite being small in numbers. The recognition of language and national identity is predominantly a Central and Eastern European phenomenon – e.g. Bosnia, Croatia, Kosovo, Macedonia, Poland, Romania, Slovenia and Ukraine. But, apart from Croatia and Kosovo, such reserved seats are little more than lone voices in large majority parliaments. Religious identity characterizes the basis of reserved seats in the Middle East and South Asia, while geographical communal representation is most often found when island territories are detached from nation-state's main land mass (e.g. Rotuma, Fiji; Aaland, Finland; Banaba, Kiribati and Zanzibar, Tanzania).

Type of mechanism

Communal representation is ensured or encouraged in a number of different ways. First, seats can be reserved for a group and those seats filled by appointees of the recognized group or elected by voters from a communal roll. Some type of seat reservation occurs in the majority of cases and is a characteristic of power-sharing arrangements after domestic conflict. As noted earlier, in New Zealand there is a communal roll for Maoris but voters can choose whether to be on it or not, as was the case in Belgium for language groups in European Parliament elections in 1979. Second, the electoral law can mandate ethnically mixed lists to some degree. This is effectively the case in Lebanon, Mauritius and Singapore, although

Table 6: Bases of identity for reserved seats

Race/ethnicity	Language/nation	Religion	Islands/geography
Colombia	Belgium	Bhutan	Denmark
Cyprus	Bosnia	Iran	Fiji
Ethiopia	Croatia	Jordan	Finland
Fiji	Denmark	Lebanon	Jordan
India	Germany	Pakistan	Kiribati
Mauritius	Kosovo	Palestine	Niger
New Zealand	Macedonia	Sri Lanka	Tanzania
Rwanda	New Zealand	Tanzania	UK
Samoa	Poland	Tibet	
Singapore	Slovenia		
Sri Lanka	UK		
South Africa	Ukraine		
Taiwan			
USA			
Venezuela			
Zimbabwe			

in the latter two cases the insertion of minority candidates is more at the margins and more easily flouted.

Third, there can be special exemptions for specified minority parties to the regular electoral law. In some List PR systems, the threshold for winning seats is suspended if the party is judged to be a representative of the recognized ethnic minority (e.g. Denmark, Poland). Fourth, districts in plurality single-member district (SMD) systems can be gerrymandered to ensure or facilitate the election of a minority representative. Apart from Ukraine, the USA appears to be the only case that legally recognizes such a technique, although it is clear that – informally – districts have been, and are, gerrymandered to encourage the election of minority community representatives in First Past the Post elections in both the developed and developing world. Finally, some geographical regions are over-represented as a consequence of history or modern political considerations which seek to reassure remote islands and fringes that they have an adequate voice in national affairs (e.g. Scotland within the UK House of Commons until 2005). Again, this usually stems from an informal political pact resistant to short-term partisan changes in government.

Electoral systems and communal seats

A number of the cases in Table 5 that reinforce inclusion by using communal rolls within List PR systems are extreme cases of divided societies seeking to stabilize themselves. These communal seats are products of explicit peace settlements to install power-sharing regimes in the aftermath of bloody civil wars; e.g. Bosnia, Cyprus, Kosovo and Lebanon. Generally, PR systems are less likely to need to utilize 'back-door' mechanisms to ensure minority representation. There are reserved SMD seats in the PR systems of New Zealand and Niger, but in New Zealand it has been argued that the reserved seats for Maoris are counter-productive and, if anything, are no longer needed under the PR arrangements. This has not dampened enrolment on the Maori roll and the increase to an all-time high of seven reserved seats.

Nevertheless, the bulk of the examples identified in this report have reserved single-member district seats within FPTP systems (e.g. India, Iran, Kiribati, Pakistan, Samoa) or require minorities to fill at least one of the multi-member seats in Single Non-Transferable Vote (SNTV) or Block Vote systems (e.g. Jordan, Palestine), or have separate communal seats in a Multi-Member District (MMD) Alternative Vote (AV) system (Fiji). Each case is of a majoritarian electoral system, which is unable to guarantee adequate minority group representation.

As a rule of thumb, the number of seats allocated to communal groups matches their numerical strength and power to threaten majority interests. If they are small and weak, they may be given one or two seats in the national assembly but little real influence. This is case in the majority of examples listed in Table 5. Nevertheless, if the communal groups are large (as in Fiji, India or Lebanon) or have destabilization potential (as in Bosnia, Kosovo and Rwanda), seat allocations are more significant.

The moulding effects of electoral systems

Beyond the mere fact of who gets elected, electoral systems help to structure the boundaries of acceptable political discourse by giving incentives to party leaders to couch their appeals to the electorate in distinct ways. In divided societies, where language, race, religion or ethnicity represents a fundamental political cleavage, some electoral systems can reward candidates and parties who act in a cooperative, accommodatory manner; while others reward those who appeal only to their own ethnic group. This 'spin' that the electoral system gives to the system is dependent on the specific cleavages and divisions within any given society. In these ways, electoral systems influence not just the numbers of minorities elected but also how majority parties seek to appeal to, or marginalize, minority voters, and how inclusive and multi-ethnic candidate lists will be. One electoral system may encourage the forging of alliances between parties, which in turn will affect the broader political climate, while another may exaggerate conflict. Furthermore, if the results an electoral system gives rise to are not perceived to be 'fair' by significant minority communities of interest, it may encourage such alienated groups to work outside the democratic boundaries, using confrontational or even violent tactics. So how can electoral systems affect the climate in post-conflict situations and help engender a sustainable peace? Can a well-crafted electoral system minimize hostilities in a potentially dangerous situation of majority–minority polarization?

Electoral systems have become an integral part of ensuring minority rights in divided societies as they are the easiest way to ensure the foundational legislative inclusion which forms the bedrock of power-sharing settlements. In 1967, the St Lucian Nobel Laureate Sir Arthur Lewis issued a damning indictment of the inappropriateness of Westminster majoritarian democracy for the embryonic post-colonial states of Africa.[19] Since then, institutional design in plural societies, resting on the reality of negotiated settlements, has often involved some degree of *de jure* power-sharing between majorities and minorities in the allocation of state power. Over the last decade or so, explicit power-sharing has become the *modus operandi* of democratic peace settlements, the most vivid examples being South Africa's 1994–9 interim Constitution, Bosnia's Dayton Accords, the Fijian Constitution of the late 1990s, the Northern Irish Good Friday Agreement, Sierra Leone and Liberia's late 1990s and early 2000s Governments of National Unity, and the Transitional Administrative Law of Iraq in 2004–5 and the Sudanese Naivasha Accord of 2005. Afghanistan, without significant and entrenched power-sharing provisions, is the contemporary exception to the constitutional trend.

However, even where there appears to be a reticence to impose *de jure* power-sharing at the highest levels of government, there nevertheless seems to be a growing acceptance that a high degree of *de facto* recognition and incorporation of ethnic segments is a normative good, if not essential element of any post-conflict government. Afghanistan, for instance, has a Constitution that is highly majoritarian, but the fact remains that President Karzai found ethnic balancing unavoidable in his cabinet: Hazaras, Pashtuns, Tajiks and Uzbeks all needed to be reassured that they had a voice in the very core of national decision-making.

Although not without its critics, the dominant power-sharing model is the *consociational* model championed by Arend Lijphart.[20] Consociationalism seeks to avoid the destabilizing by-products of winner-take-all majoritarian democracy by guaranteeing the leaders of all significant groups in society a direct stake in political decision-making. Finding the option of authoritarian control unsatisfying,[21] consociationalism prioritizes cooperation and the sharing of power between political elites. That is, when group leaders are deliberately empowered to govern together, the group loyalties that formerly stoked violent conflict are channelled into resource allocation instead. Consociationalism's end goal is stability based on post-election inter-group accommodation.

Lijphart describes four institutional tools for this purpose: the primary institutions of *executive power-sharing* and *group autonomy*, and the secondary institutions of *proportionality* and *mutual veto*.[22] Executive power-sharing refers to a 'grand coalition' government in the executive, typically parliamentary, whereby the leaders of all major groups are ensured representation in the cabinet. *Group autonomy* equates to federalism and devolves decision-making authority over issues of central concern to a society's respective groups, as in cultural affairs and education. *Proportionality* allocates equitably public resources like government seats, civil service positions and public funds. The *mutual veto* allows each group to protect its vital interests by investing each of them with the means to reject prejudicial political decisions. The proportionality principle is also key to legislative elections and Lijphart argues that consociationalism needs to rest not merely on proportional representation but specifically List PR (as opposed to STV or MMP), which will give the degree of segmental elite control (over legislation and their own followers) needed to make the elite-pact of consociation manifest. Consociation can also rest upon pre-defined communal or fixed group representation (as in Lebanon or the Swiss National Council), although Lijphart makes clear

his preference that communal groups define themselves in competitive elections through List PR.

An alternative to power-sharing at the executive level is the concept of *integrative majoritarianism*, where ethnic elites are given incentives to appeal outside their primary and narrowly defined constituencies. The key to such political integration is that, in the long run, internal incentives are more powerful than external constraints. As noted by Sisk, 'the aim is to engineer a *centripetal* spin to the political system by providing electoral incentives for broad-based moderation by political leaders and disincentives for extremist outbidding'.[23]

For Donald Horowitz, the architect of the theory, a combination of integrative institutions and accommodation-inducing policies will engender such centripetalism. Chief among these is a preference based, vote-pooling electoral system, the Alternative Vote – as used in Australia and Fiji. He combines this legislative system with a directly elected president, chosen either by a national election on the basis of the Alternative Vote, or through a super-majority requirement, where the winning candidate must not merely win a national majority, but also surmount a threshold in all regions of the country. For example, in Nigeria in 1979, a winning presidential candidate was required to win a national plurality of the votes and at least 25 per cent of the votes in 13 of the 19 states. In 1989, any successful candidate had to win a plurality of the national votes, and not less than one-third of the votes in at least two-thirds of the states.[24] In conjunction with these institutional arrangements, like Lijphart, Horowitz argues for socio-economic policies which recognize and advantage non-ethnic communities of interests and reduce overall socio-economic inequalities.

In contrast to List PR, the Alternative Vote is far less likely to ensure that political power is shared between majority and minority groups, or even that minorities are elected to parliament. That is not to say that accommodation cannot take place under such institutional provisions, but such accommodation is dependent on the social and demographic environment the institutions operate within. For the Alternative Vote to give parties incentives to behave in an ethnically conciliatory manner, constituencies must be heterogeneous, with no one group holding an absolute majority of the votes. Similarly, in order to elect a president beholden to inclusive nation-building rather than ethnically divisive exclusion, no one group can be in the absolute majority if the voting rule is preferential.

Electoral system consequences in theory and practice

There is some dispute over expectations as to how various electoral systems will mould elite behaviours and cam-paigning styles. Based on broad data sets, Cohen argues that PR is more effective than FPTP as an instrument of ethnic conflict management,[25] while Norris finds no clear relationship between ethnic minority support for the state and the electoral system used.[26] The mantra that elections are embedded institutions and will be flavoured by the political scene that they work within is often recited. Nevertheless, it is reasonable to argue that, all else being equal, the following pressures are likely to exist:

(1) Because List PR systems encourage parties to maximize votes won both in areas where they are strong and areas where they are weak (because every vote is aggregated at a larger level) there exists an incentive to appeal to 'other' voters who may not be part of your core ethnic or ideological base. Thus List PR systems might encourage moderation in ethnic chauvinism and inclusiveness of minorities in campaign appeals. This may be particularly strong if majority parties need minority votes to make it over a given threshold or to have enough seats to form a government. These incentives would dissipate if the party/majority group did not need extra votes and appealing for such votes would lose them members of their core constituency who were opposed to accommodatory overtures to minorities.

(2) Preference voting in multi-member districts (STV in Ireland, Malta and Northern Ireland) and preference voting in single-member districts (AV in Australia and Fiji) can encourage the creation of multi-ethnic parties, advantage the moderate wings of ethnically based parties and allow minority voters to influence which type of majority MP is elected. For these pressures to kick in within single-member district systems like AV, no single group must have a clear majority in the given district. For 'moderating' incentives to work under STV, there must be significant doubt about who is likely to be successful and the extremist wings of polarized parties should not tacitly ally themselves (and trade lower preferences) in the interests of unifying against a common enemy (e.g. the moderates).

(3) Plurality-majority systems (FPTP, BV and TRS) are predisposed to exclude minorities from power, even if the minority's concentration allows them to win some single-member seats. There are countless cases of minorities clustered in a given geographical area who can win a small number of representatives, but who rarely form part of governing coalitions and cannot mount much of an opposition to majority rule within the legislature. Plurality-majority systems (without extra provisions to ensure multi-ethnic parties) are also

likely to accentuate majority–minority polarization and campaigns based on 'us against them' and ethnic chauvinism. The most efficient way of winning more votes than the next candidate (if you are the largest group in a district) is to make sure all your group members support you, and the easiest mobilization strategy revolves around appeals to identity and preservation of group interests. If no single group can expect a clear majority in a district, one group may seek alliances with other groups, but such geographic intermingling is rare and alliances, while useful for one district, may alienate core voters in others.

(4) Hybrid systems, using both lists and single-member districts, are likely to combine the broadly inclusive incentives of national List PR with the more parochial group-based pressures of campaigning under FPTP. However, if the system is one of MMP, where the list seats compensate for any disproportionality coming out of the districts, then the incentive for a party to maximize their votes across the entire nation (even where they are weak) is enhanced. If the system detaches the districts and the lists (as under the Parallel systems of Japan and Russia) then those broadening incentives to appeal outside of your core group are minimized.

(5) Electoral success under SNTV (as used in Afghanistan, Jordan and Vanuatu) revolves around a successful candidate nomination strategy and disciplining 'your' voters to equally distribute their votes between your candidates. While the system does provide opportunities for minorities to make it into parliament, it gives fewer incentives to appeal for the votes of other groups. In fragmented new democracies with inchoate party systems (as in the three examples above) the campaign strategies may be more confused, with individuals being dominant rather than established political machines.

Where have electoral systems promoted cooperation between communities and encouraged multi-ethnic parties?

Recent attempts to re-establish democracy in post-conflict situations highlight a number of electoral systems that have aided minority inclusion and multi-ethnic accommodation in a variety of contexts. South Africa's first three democratic elections (1994, 1999 and 2004) were all conducted under List PR, with half the National Assembly

(200 members) being chosen from nine provincial lists and the other half being elected from a single national list. In effect, the country used one nation-wide constituency (with 400 members) for the conversion of votes into seats, and no threshold for representation was imposed.

The PR system, as an integral part of other power-sharing mechanisms in the new Constitution, was crucial to creating the atmosphere of inclusiveness and reconciliation that precipitated the decline of the worst political violence. Nevertheless, when negotiations began in earnest in 1991, there was no particular reason to believe that South Africa would adopt PR. The whites-only parliament had always been elected by an FPTP system, while the ANC, now in a powerful bargaining position, expected to be clearly advantaged if FPTP were maintained. As only five districts, out of over 700 in South Africa, had white majorities, because of the vagaries of FPTP voting the ANC, with 50–60 per cent of the popular vote, expected they would easily win 70–80 per cent of the parliamentary seats. But the ANC did not opt for PR because they realized that the disparities of an FPTP electoral system would be fundamentally destabilizing in the long run for minority and majority interests. List PR also avoided the politically charged controversy of having to draw constituency boundaries and, furthermore, it fitted in with the executive power-sharing ethos, which both the ANC and Nationalists saw as a key tenet of the interim Constitution. Today, all major political parties support the use of PR, although there are differences over which specific variant to use.

It is probable that, even with their geographic pockets of electoral support, the Freedom Front (nine seats in the first National Assembly 1994–9), Democratic Party (seven seats), Pan-Africanist Congress of Azania (five seats) and African Christian Democratic Party (two seats) would have failed to win a single parliamentary seat if the elections had been held under a single-member district FPTP electoral system. While these parties together only represented 6 per cent of the first democratic Assembly, their importance inside the structures of government far outweighed their numerical strength.

As noted earlier, the choice of electoral system has also had an impact upon the composition of parliament along the lines of ethnicity. The South African National Assembly, invested in May 1994, contained over 80 former members of the whites-only parliament, but that was where the similarities between the old and the new ended. In direct contrast to South Africa's troubled history, black sat with white, communist with conservative, Zulu with Xhosa and Muslim with Christian. To a significant extent, the diversity of the new National Assembly was a product of the use of List PR. The national, and unalterable, can-

didate lists allowed parties to present ethnically heterogeneous groups of candidates, which, it was hoped, would have cross-cutting appeal. The resulting National Assembly was 52 per cent black (including Ndebele-, Pedi-, Shangaan-, Sotho-, Swazi-, Tswana-, Venda-, Xhosa- and Zulu-speaking representatives), 32 per cent white (English- and Afrikaans-speaking), 8 per cent Indian and 7 per cent coloured. This compared to an electorate that was estimated to be 73 per cent black, 15 per cent white, 9 per cent coloured and 3 per cent Indian. In 1999 the proportion of black and coloured MPs rose to 58 per cent and 10 per cent respectively, while whites made up 26 per cent and Indians 5 per cent. There is a widespread belief in South Africa that if FPTP had been introduced there would have been far fewer women, Indians and whites, with more black and male MPs.[27]

The positive, conflict-mitigating, effects of PR have also been noted in the South Pacific. After serious independence rumblings by the indigenous (Kanak) minority in New Caledonia, the 1998 Noumea Accords introduced power-sharing in the executive based on List PR for the legislature. Grofman and Fraenkel note that this took 'the heat off inter-ethnic issues, enabled the emergence of smaller parties and, in 2004, paved the way to the triumph of centrist parties which have shifted the political agenda away from the politics of ethnicity'.[28] The proportional MMP system in New Zealand has encouraged a much higher degree of inter-ethnic campaigning among the significant party players and increased both the numbers of minorities elected and their integration into parties that were formerly dominated by the white majority.[29]

Nevertheless, there have been cases where majoritarian systems have been used as an aid to encouraging multi-ethnic parties and inter-ethnic accommodation. In India, the Congress Party long played an umbrella role for Hindus and Muslims (if not all of India's myriad minority groups) to unite under a national banner of the state, leading to a long period of elite accommodation that was only weakened with the emergence of the Hindu Nationalist BJP as a political force in the 1990s. Lijphart notes that 'the Congress Party's repeated manufactured majorities have not come at the expense of India's many minorities due to its special status as the party of consensus, which has been deliberately protective of the various religious and linguistic minorities'.[30] Congress was able to maintain its philosophy in face of the FPTP system because of the geographical concentration of minorities, along with the reserved seats for Scheduled Tribes and Scheduled Castes.

In Malaysia, the incentive to win a majority of single-member districts in a heterogeneous polity has encouraged the ruling Barisan Nasional Party to put forward ethnically mixed slates of Chinese and Indian as well as Malay candidates. Singapore utilizes both FPTP and communal BV constituencies (with votes for party lists) to guarantee some degree of diversity in their legislature. Horowitz argues that the confessional Block Vote system used in Lebanon 'gives politicians very good reasons to cooperate across group lines … They must poll votes (that is, exchange support) with the candidates of other groups running in different reserved seats in the same constituency.'[31] Nevertheless, the apparent success of the power-sharing of the Taif Accords in Lebanon has not insulated the electoral system from serious review and proposed reform in 2006.[32]

Where have electoral systems exacerbated ethnic polarization?

Similarly, both proportional and majoritarian systems, when combined with other institutions and circumstances, have tended to exacerbate ethnic tensions and communal segmentation. A number of experts have argued that the segmented type of List PR has accentuated divisions and retarded post-conflict integration in Bosnia.[33] It is true that the Dayton Accords, signed in November 1995, finally brought a type of closure to the civil war that had raged throughout the territory of the former Yugoslavia since 1992, costing over 100,000 lives and the violent expulsion of over half of the Bosnian population from their homes. But the hopes for peace born in Dayton, Ohio, came at the cost of political structures that separated, segmented and ultimately made all politics in Bosnia about ethnic identity and political-physical separation. No space was left for the evolution of moderate multi-ethnic parties, which might sow the seeds of a return to shared nationhood in the Balkans.

The Dayton Accords divided Bosnia into two entities, the Federation (Bosniacs and Croats) comprising 51 per cent of the land, and the Republika Srpska comprising the rest. The national parliament has an upper house with five members from each of the three ethnic groups, while the lower house has 28 members elected from the Federation and 14 from the Republika Srpska. There is a three-person national Presidency, but Serbs elect the Serb member, Croats elect the Croat and Bosniacs the Bosniac. Each community has an effective legislative veto over any matter they choose to designate 'destructive of a vital interest'. There is balancing at almost every level of government, but it is rooted in ethnic identity and segmentation – elections are, by design, ethnic censuses in Bosnia. As noted earlier, while the system does give some reassurance to minority Croat and Serb populations, it totally excludes the representation of smaller

communities, such as the Roma or those who are of multi-ethnic identities.

This vulgar, identity-freezing, form of consociation may well have been necessary to get signatures on paper in Dayton and to stem the blood-letting in Bosnia. But the preoccupation with three segments has produced bleak prospects for longer-term integration and democratic consolidation. Indeed, the electoral system and executive power-sharing gave little incentive to parties to moderate their ethnically based appeals or work together once elected. In the first seven years, the UN's High Representative had to assume a level of decision-making far beyond what was envisioned to fill the vacuum left by recalcitrant politicians. Unsurprisingly, elections in 1996 and 1999 were characterized by the sight of all major parties crafting appeals on the basis of hostile and polarizing notions of ethnic community and difference. The elections of 2002 actually saw a swing to even *more* extreme nationalist parties in both the Bosniac and Serb entities. The International Crisis Group (Crisis Group) proposed that Bosnian voters be given three votes, one for each 'ethnic list' but, as Bogaards notes, this would create the strange situation of using ethnic lists 'as the means to overcome ethnic voting'.[34]

In Iraq in January 2005 it was not proportional representation *per se* that excluded Sunnis from representation and severely destabilized an already fragile situation, but the type of List PR combined with the demographic and political reality of a post-Hussein Iraq. The national list system used for the Constituent Assembly meant that Sunnis were certain to be seriously under-represented if voters in Sunni neighbourhoods stayed away from the polls, either through fear or as part of a boycott. To date, Iraq has struggled to rectify the polarization that resulted from this Sunni marginalization, but the outcome could have been quite different with one slight adaptation to the List PR system. If the electoral districts had been based on the provinces rather than the entire country, the Sunnis would have received a 'fair' share of the legislature regardless of the turn-out in their home provinces. For the legislative elections of December 2005, the switch to a provincial-based PR system was made and Sunnis gained an almost proportionate share of the legislature.

While PR has clearly not been appropriate in every circumstance, more often than not plurality-majority systems are cited as dangers to inter-ethnic harmony. Many of the most egregious failures of FPTP can be found in Africa. By 1994, the long-time dictator of Malawi, Dr Hastings Kamuzu Banda, had finally given in to domestic and international pressure and allowed multi-party elections to be scheduled. The opposition politicians, along with British and European donor countries, perceived divisions in Malawi to be rooted in a simplistic notion of

Banda versus the rest, the dictator versus the democrats, the old versus the new. They did not see identity politics as necessarily a divisive issue because, over centuries, language groups had become somewhat inter-mixed geographically and inter-married. Thus all sides were content to carry over the structure of Westminster majoritarian institutions, which had been inherited from British colonial rule, along with a strong presidency. However, a creeping and ominous new form of identity politics had been overlooked – that of regionalism, which cut across traditional ties of language and culture. Centuries of indigenous conflict, colonialism and missionary activity, along with 30 years of Banda's autocratic rule, had advantaged the centre of the country and created second-class citizens of the southerners, while marginalizing the educated northerners to the third class.

In the first election of 1994 (in a pattern repeated in 1999) a full 99 per cent of the vote went to regionally rooted parties. The United Democratic Front cobbled together a majority in the legislature and took the presidency (with just under 50 per cent of the vote) but 75 per cent of their total vote came from the southern region. Banda's Malawi Congress Party took 74 per cent of their vote from the centre and came in second, with a third of the national vote; while 69 per cent of the third-placed Alliance for Democracy's vote came from the north.[35] History had crafted a political system based on the politics of regional affiliation, while the electoral system parlayed that into blunt polarization and the exclusion from power of the 'losing' two regions. Today, Malawi wrestles with the trauma of institutional failure and political fragmentation, not least because its political institutions do nothing to moderate the geographical cleavages that define Malawian society. Kenya, Lesotho, Nigeria, Zambia, and Zimbabwe, to varying degrees, have all seen their political sphere defined and polarized ethnically by the FPTP system they inherited from colonial rule.

Where have the positive incentives of electoral systems been overwhelmed by other pressures?

Innovative election systems introduced with the very best of intentions are not always adequate to bring peace and stability. Fiji's 1997 Constitution is a good example of well-intentioned constitutional levers being applied in a way that weakened any positive electoral system pressures and contributed to the swift breakdown of the democratic order. The troubled Pacific island's design process of the mid 1990s was the academics' ideal type. A small three-

person committee travelled around the world soliciting the advice of the leading constitutional design specialists on what rules might best serve their divided nation – a nation in which the indigenous Polynesians/Melanesians (a fluctuating majority-minority) have long been adamant about their monopoly of government power, even as the Indo-Fijians (descended from nineteenth-century transported plantation workers) surpassed them in absolute numbers in the 1980s. Two coups and the removal of the first ever Indian-led government precipitated the constitutional rewrite, which was aimed at reassuring both groups in this highly segmented ethnically bipolar state.

The Commission recommended that Fiji should move away from its communal voting system (where Indigenous and Indo-Fijians elected their representatives separately) to one using open seats, where candidates would have to appeal to a multi-ethnic electorate. They proposed the Alternative Vote form of preference voting, with the rationale that this would force candidates of one ethnicity to appeal for the lower preference votes of the other community. These were all reasonable suggestions in and of themselves, but when the parliament ultimately adopted a new Constitution in 1997, they retained two-thirds of the seats as communal ones, thus destroying any incentive for multi-ethnic bridge-building in these races. Second, they chose to leave the new preference voting seats as single-member district ones (and not multi-member), which meant that, because of their small size and the territorial concentration of indigenous and Indo-Fijians, there were very few districts that had an adequate multi-ethnic mix to give an incentive for one group to appeal to the lower-order votes of another. The incentive was minimized even further by the Electoral Commission's decision to allow a straight party ticket choice on the ballot, which left even less reason to look outside of one's ethnic group when voting. In 1999, 90 per cent of voters took this option.

Third, and superimposed on top of the Commission's structure, the Fijian legislature added a grand coalition executive with all parties winning over 10 per cent of the vote being offered seats in the cabinet. But government decisions were to still to be taken by majority and thus there was no veto for minorities on legislative issues – even if they directly impacted the rights and needs of a given minority. In the elections of 1999, an Indian-led party formed the majority, with the backing of two moderate indigenous parties. The new government, led by the Indian Prime Minister Mahendra Chaudhry, proved to be intolerable to large sections of the indigenous Fijian community, who tacitly supported a coup led by George Speight, an indigenous Fijian, a year later. New elections held in 2001 restored the indigenous Polynesian-Melanesians to political dominance and democracy was successfully subverted in favour of ethnic hegemony.

Another 'bi-polar' case of two groups of roughly equal size defined and divided by ethnic identity is Guyana. There, 40 years of a national List PR system, which one would have expected to breed multi-ethnic alliances and party slates, has done nothing to break the rigid political and social segregation between Afro-Guyanese and Indo-Guyanese. Similarly, the preference voting of STV in Northern Ireland, a system again designed to craft incentives for inter-ethnic vote swapping and moderation, has done little to produce such behaviours. If anything, the polarized Democratic Unionist Party (DUP) and Sinn Fein benefited from transfers between anti-agreement Nationalists and Unionists in the last Assembly elections of 2003.

A List PR electoral system was used in Angola in 1991, but the aftermath of those 'peace elections' was disastrous. After a 15-year bloody civil war costing at least 1.5 million lives, international mediators brokered a settlement between the ruling MPLA party of Eduardo dos Santos and UNITA's Jonas Savimbi. The peace settlement did give some hope to the numerically smaller UNITA and a national List PR system was used to ensure fair majority–minority representation in the legislature, but a presidential winner-takes-all system was established, which gave little incentive to the losers to commit themselves to the frustration of legislative opposition politics. In the elections of September 1992, dos Santos won 49 per cent to Savimbi's 40 per cent. When Savimbi lost the only prize worth having, it was inevitable that he would restart the civil war. A failed transition to democracy here resulted in the deaths of hundreds of thousands.

Related issues that impact electoral system choice

There are three administrative and legal issues which impact minority access to representation and are conditioned by the electoral system used.

Which mechanisms can best facilitate minority women's participation? [36]

A variety of gender-inclusive mechanisms can be used to ensure the election of women to legislative office (e.g. reserved seats, quotas within parliament or for party candidate selection, and other affirmative action inducements or requirements) and, because of the smaller size of minority parties and caucuses, such mechanisms can have even greater impact on the numbers of minority women elected than women from the majority group. There is a growing trend to mandate that, when parties constitute their ordered candidate slates within List PR systems, they not only include a certain number of women but also position them high enough on their lists to stand a rea-

sonable chance of being elected. When minority parties only win a handful of seats, or majority parties have competing needs to balance in the crafting of their lists, then a strong law that requires the alternation of men and women on lists enhances the chances of women from minority communities to be elected. Under single-member district systems, minority parties are unlikely to have a surplus of 'safe seats' to give out to women candidates (unlike in the United Kingdom, where the ruling Labour Party was able to place a number of women in its 'safe seats', although few of these were women from minority communities). When a certain number of seats are reserved in parliament for women, they are rarely minority women. Under the SNTV system used in Afghanistan, the ethnic diversity of the nation was reflected in the 68 women MPs elected. This was a product of the geographic concentration of the Hazara, Tajik and Uzbek communities and the law which mandated that one or two women be elected from each of the country's 35 provinces.

Illiteracy, voting procedure and ballot design[37]

Systems that require multiple votes (BV or MMP) or preference voting (AV or STV) can be problematic for illiterate voters and any voter unfamiliar with the system (which could be the entire electorate in a new democracy). Minorities, and minority women in particular, are often more likely to be illiterate, or not speak the majority language, than the norm. This places an onus on the electoral administration to design ballots that are simple, intuitive and accessible to literate and non-literate alike, and for parties and civil society actors to educate voters on how best to strategically use their multiple votes to achieve their desired outcomes. When the ballot is more straightforward (such as closed List PR or FPTP), ballots with party/candidate symbols and colours may suffice (as in South Africa or Yemen). In the 2005 Afghanistan SNTV election, voters in Kabul were faced with a ballot paper with nearly 400 candidate photos and symbols from which they had a single vote to elect 33 MPs. Invalid ballots made up 4.5 per cent of the total in Kabul and they were as high as 11.1 per cent in the northern province of Takhar, where voters had to elect nine MPs from 97 candidates. The key is to avoid a system or voting procedure that discriminates against one section of society, be they illiterates, minorities or any other group.

Constituency boundary design[38]

In single-member district systems (and majoritarian multi-member systems like the Block Vote or Party Block Vote), district lines can fairly easily be manipulated to advantage one group, and usually disadvantage the minor-

ity. Such gerrymandering has occurred with regularity in countries where re-districting is politically controlled, such as the United States, while the mal-aportionment of seats (where one region receives more than its fair share) helped sustain the Kenya African National Union (KANU) of Daniel Arap Moi in power until 2002. It is much more difficult to skew election results with boundary movements under List PR, STV or MMP. Indeed, when the number of MPs to be elected from a district is more than five and the system is proportional for all practical purposes, gerrymandering becomes a moot issue.

Conclusions

The evidence given in this report that speaks to electoral system impact on minority representation and political influence strongly encourages us to evolve a *theory of design* based on socio-political, cultural, historical and demographic context. The key variables to be included are: (1) minority group size; (2) degree of geographical separation or concentration; (3) pre-existence of ethnically homogeneous or multi-ethnic parties; and (4) who votes (which is a function of turn-out, citizenship and the franchise).

If we presume the franchise is open and there are no legal obstacles to minority voting, campaigning and candidacy, then three questions should be posed on the route to assessing the most minority-friendly electoral system:

- Do minority groups chiefly vote for parties that articulate a 'minority platform' and are their representatives in parliament predominantly members of such parties, or do minority voters spread their votes across large and small parties with multi-ethnic appeal and can MPs from minority groups be found in a variety of parliamentary caucuses?
- Are voters from the minority concentrated in certain geographical districts and provinces, or are they scattered and intermingled with majority voters and members of other minority groups?
- Regardless of their numbers, do minority voters constitute a 'tipping point' in that their votes can make the difference between non-minority parties winning national government or their candidates winning locally (i.e. in a state where Group A = 45 per cent, Group B = 45 per cent and Group C = 10 per cent, then minority group C would have 'tipping point' potential. Conversely, where A = 60 per cent, B = 30 per cent and C = 10 per cent, group C would no longer have that leverage).

While it is foolhardy to offer too-specific answers to which system would be most appropriate for any given

grouping of cases based on their answers to the above questions it is reasonable to advise that: (1) minorities that have 'tipping point' leverage in constituencies, along with sufficient concentration to win some district representation outright, may be best served by single-member systems like FPTP, TRS or AV, which give them both descriptive representation, geographically accountable MPs and a chance to influence races in areas where they do not form a numerical majority. (2) Where minorities do not have such leverage (because they are too small, or too geographically dispersed), then PR systems (either List or MMP with district elements but overall proportionality) are probably more advantageous. (3) Where minorities are large enough to win a fifth or sixth of a regional vote but not sufficiently concentrated to take a proportionate share of single-member districts, then the option of STV might be entertained. (4) When the party system and voting behaviour is multi-ethnic and parties are not rooted in chauvinist notions of identity, the 'best' systems are going to be ones that promote and consolidate the existing alliances and avoid incentives to ethnic mobilization. However, in every case electoral system designers must look beyond mere numbers when it comes to the inclusion of minorities in the decision of the state. Vibrant participation means much more than small numbers of token minority members in a parliament. It is also a truism that electoral systems are limited instruments of change and protection. They can ensure that minority voices are heard and encourage positive campaigns and modes of politicking, but they sit at the centre of a much broader web of political institutions which, in sum, will determine the fate of minorities in the public sphere.

Recommendations

To all involved in design of new electoral systems:

1. Any new design or redesign of any electoral system should be based on the following principles:
   - ensuring the fair representation of each minority group
   - ensuring that different groups will cooperate and that appeals to nationalism will not be unduly rewarded.

2. Designers of electoral systems must have a clear understanding of the situation of all minorities (ethnic/national, religious and linguistic) in the country before beginning the redesign. This should include the numbers of the minorities; their geographical spread, levels of literacy (with particular emphasis on minority women) and languages spoken.

3. Designers of electoral systems should also be aware of the relevant rules of minority rights, including:
   - the right of all minorities to exist and be recognized
   - the rights of individuals to choose their identity/identities and not suffer any detriment for doing so
   - the rights of all members of society to freely practise their language, culture and religion, by themselves or in community with others, including in public and at elections
   - the rights of all to participate in decisions that affect them, without any form of discrimination.

4. Electoral systems should be designed to be appropriate to the particular needs of the society and all minorities within it:
   - List PR can meet the needs of many minorities
   - single-member constituencies can benefit minorities where their votes can be the 'tipping point'.

5. No electoral system should force electors and the elected into pre-determined identities.

6. Special measures may be necessary to ensure a fair representation of minority women.

7. Electoral systems should ensure the rights of all to practise their language and religion. Special measures may be needed where minorities have high levels of illiteracy.

8. All existing electoral systems should be reviewed for measures that have the effect of discriminating against particular minorities and their representatives (e.g. high national thresholds) and these measures amended.

9. In all situations, but particularly in post-conflict societies, or in societies with high levels of inter-ethnic or religious tension, electoral systems should be carefully designed to ensure cooperation across communities, and to require elected officials to have cross-community appeal. Particular care should be taken to ensure that no pre-determined identities are forced on electors and elected in these conditions. The needs of smaller minorities should be particularly taken into account.

Relevant international instruments

There is a limited number of statutes that speak directly to minorities and the design of election systems, but a considerable number of instruments that speak to the rights of minorities to be represented and included in decision-making. The most specific document is the *OSCE Guidelines to Assist National Minority Participation in the Electoral Process* (Warsaw), which was based in large part on the *Lund Recommendations on the Effective Participation of National Minorities in Public Life.*

United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Adopted by the UN General Assembly, Resolution 47/135 of 18 December 1992)

Article 1
1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.

Article 2
[…]
2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
4. Persons belonging to minorities have the right to establish and maintain their own associations.
5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

Article 4
[…]
5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

International Covenant on Civil and Political Rights (Adopted by the UN General Assembly; Resolution 2200A (XXI) of 16 December 1966)

Article 25
Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives.
(b) To vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.
(c) To have access, on general terms of equality, to public service in his country.

Article 26
All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

International Convention on the Elimination of All Forms of Racial Discrimination (Adopted by the UN General Assembly, Resolution 2106 (XX) of 21 December 1965)

Article 5
In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:
[…]
(c) Political rights, in particular the right to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.

Framework Convention for the Protection of National Minorities (1995)

Article 3
1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.
2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.

Article 15
The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

Notes

1   Although they rarely pay a similar degree of attention to gender inclusiveness.

2   There have been very few legal cases brought so far by minorities challenging electoral systems. In *Aziz v. Cyprus* in 2004, the European Court found a violation of human rights of a Turkish Cypriot who was denied any chance to vote in the assembly of the Republic Cyprus (Greek dominated). This was due to the Republic still following a system of ethnic chambers in its parliament, but having put the Turkish chamber into suspension since the Turkish invasion of 1974. This shows that any ethnic representation must never have the effect of denying some groups or individuals fair representation. Two cases are currently going through the European Court of Human Rights, one, *Yumak and Sadak v. Turkey* is brought by two Kurdish politicians to challenge the Turkish electoral threshold of 10 per cent and its effect of excluding Kurdish parties from parliament. The other case *Finci v. Bosnia and Herzegovina* is brought by a Jewish politician challenging the restriction on those who can stand for election to the Bosnian Presidency and House of Peoples (upper house).

3   See Baldwin, C., *Minority Rights in Kosovo under International Rule,* London, MRG, 2006, p. 20.

4   Pitkin, H., *The Concept of Representation,* Berkeley, University of California Press, 1967.

5   Horowitz, D., 'Electoral systems: a primer for decision makers', *Journal of Democracy,* vol. 14, no. 4, pp. 119–20.

6   See Reynolds, A., *Electoral Systems and Democratization in Southern Africa,* Oxford, Oxford University Press, 1999.

7   Kaspin, D., 'The politics of ethnicity in Malawi's democratic transition', *Journal of Modern African Studies,* vol. 33, 1995, pp. 595–620.

8   The FCNM, Article 3(1) states:
    "Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice."

9   See Reynolds, A., Saltzman, J. and Stigant, S., 'The greatest test: consociationalism and conflict management in the Sudan', forthcoming.

10 Lijphart, A., 'Self-determination versus pre-determination of ethnic minorities in power sharing systems', in W. Kymlicka (ed.), *The Rights of Minority Cultures,* Oxford, Oxford University Press, 1995, p. 284.

11 Ghai, Y., *Public Participation and Minorities,* London, MRG, 2003, p. 5.

12 See Juberias, F., 'Post-Communist electoral systems and national minorities', in J. Stein (ed.), *The Politics of National Minority Participation in Post-Communist Europe.* Armonk, M.E. Sharpe, 2000, pp. 31–64.

13 See Baldwin, *op. cit.,* p. 19.

14 See www.aceproject.org for detailed discussions of all these areas.

15 See Reynolds, A., Reilly, B. and Ellis, A., *The New International IDEA Handbook of Electoral System Design*, Stockholm, IDEA, 2005.

16 Roberts, N., Boston, J., Mcleay, E. and Levine, S. (eds), *From Campaign to Coalition: New Zealand's First General Election Under Proportional Representation*, Palmerston North, Dunmore, 1997.

17 See Fraenkel, J. and Grofman, B., 'Introduction – political culture, representation and electoral systems in the Pacific

Islands', *Commonwealth and Comparative Politics,* vol. 43, no. 3, 2005, p. 264.

18 This discussion is drawn from Reynolds, A., 'Reserved seats in national legislatures', *Legislative Studies Quarterly,* vol. 25, no. 3.

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20 Lijphart, A., *Democracy in Plural Societies,* New Haven, CT, Yale University Press, 1977; see also his *Power-sharing in South Africa,* Berkeley, Institute for International Studies, University of California, 1985.

21 Lustick, I., 'Stability in deeply divided societies: consociationalism versus control', *World Politics,* vol. 31, 1979, pp. 325–44.

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24 *Ibid.,* p. 55.

25 See Cohen, F., 'Proportional versus majoritarian ethnic conflict management in democracies', *Comparative Political Studies,* vol. 30, no. 5, 1997, pp. 607–30.

26 Norris, P., 'Ballots not bullets: testing consociational theories of ethnic conflict, electoral systems and democratization', in A. Reynolds (ed.), *The Architecture of Democracy,* Oxford, Oxford University Press, pp. 206–47.

27 For more on Southern Africa see Reynolds, A., *Electoral Systems and Democratization in Southern Africa,* Oxford, Oxford University Press, 1999.

28 See Fraenkel, J. and Grofman, B., 'Does the Alternative Vote foster moderation in ethnically divided societies? The case of Fiji', *Comparative Political Studies,* vol. 39, 2006, pp. 623–51.

29 See Roberts, N., Boston, J., Mcleay, E. and Levine, S. (eds), *From Campaign to Coalition: New Zealand's First General Election Under Proportional Representation*, Palmerston North, Dunmore, 1997.

30 Lijphart, A., 'The puzzle of Indian democracy: a consociational interpretation', *American Political Science Review,* vol. 90, no. 2, 1996, pp. 263.

31 Horowitz, *op. cit.,* p. 118.

32 See the recommendations of the Boutros Commission (an independent commission set up to propose changes to the electoral law in the wake of the Rafik Hariri assassination in 2005).

33 See Bogaards, M., 'Electoral systems and the management of ethnic conflict in the Balkans', in A. Mungiu-Pippidi and I. Krastev, *Nationalism after Communism: Lessons Learned,* Budapest, CPS Books, 2004; Scholdan, B., 'Democratization and electoral engineering in post-ethnic conflict societies', *Javnost,* vol. 7, no. 1, 2000; Juberias, *op. cit.*; Bose, S., *Bosnia after Dayton: Nationalist Partition and International Intervention,* London, Hurst and Co., 2002.

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35 See Kaspin, D., 'The politics of ethnicity in Malawi's democratic transition', *Journal of Modern African Studies,* vol. 33, 1995, 614–15.

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37 For more information on the impact of ballot design see
    Reynolds, A. and Steenbergen, M., 'How the world votes: the
    political consequences of ballot design, innovation and
    manipulation', *Electoral Studies,* vol. 25, no. 4, 2006. For

    images of over 100 ballots used around the world go to:
    http://www.unc.edu/~asreynol/ballots.html
38 For detailed information on boundary design see
    http://www.aceproject.org/ace-en/topics/bd/index.html

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Electoral systems and the protection and participation of minorities

The protection of minorities and their inclusion in the political process is essential to both avoiding and resolving conflicts. But minorities are often excluded from electoral reform, constitution drafting and the creation of new governments.

By considering the electoral systems behind different conflict situations worldwide, this report shows how the participation of minorities in the legislative process at the stage of electoral reform is a key tool for peace-building and future conflict prevention. Protection of minority rights is best achieved and articulated through a combination of majority sensitivity and minority inclusion.

The report focuses on electoral systems, the way votes are translated into seats, and its impact on the representation of minority communities. It outlines the menu of electoral system options and their consequences; the process of electoral system design and reform; and discusses how the system chosen affects not just the numbers of minority members elected but also how the system can mould elite behaviours and levels of inclusion and accommodation.