

CONSTITUTIONAL DESIGN FOR DIVIDED SOCIETIES

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Over the past half-century, democratic constitutional design has undergone a sea change. After the Second World War, newly independent countries tended simply to copy the basic constitutional rules of their former colonial masters, without seriously considering alternatives. Today, constitution writers choose more deliberately among a wide array of constitutional models, with various advantages and disadvantages. While at first glance this appears to be a beneficial development, it has actually been a mixed blessing: Since they now have to deal with more alternatives than they can readily handle, constitution writers risk making ill-advised decisions. In my opinion, scholarly experts can be more helpful to constitution writers by formulating specific recommendations and guidelines than by overwhelming those who must make the decision with a barrage of possibilities and options.

This essay presents a set of such recommendations, focusing in particular on the constitutional needs of countries with deep ethnic and other cleavages. In such deeply divided societies the interests and demands of communal groups can be accommodated only by the establishment of power sharing, and my recommendations will indicate as precisely as possible which particular power-sharing rules and institutions are optimal and why. (Such rules and institutions may be useful in less intense forms in many other societies as well.)

Most experts on divided societies and constitutional engineering broadly agree that deep societal divisions pose a grave problem for democracy, and that it is therefore generally more difficult to establish and maintain democratic government in divided than in homogeneous

countries. The experts also agree that the problem of ethnic and other deep divisions is greater in countries that are not yet democratic or fully democratic than in well-established democracies, and that such divisions present a major obstacle to democratization in the twenty-first century. On these two points, scholarly agreement appears to be universal.

A third point of broad, if not absolute, agreement is that the successful establishment of democratic government in divided societies requires two key elements: power sharing and group autonomy. Power sharing denotes the participation of representatives of all significant communal groups in political decision making, especially at the executive level; group autonomy means that these groups have authority to run their own internal affairs, especially in the areas of education and culture. These two characteristics are the primary attributes of the kind of democratic system that is often referred to as power-sharing democracy or, to use a technical political-science term, “consociational” democracy.¹ A host of scholars have analyzed the central role of these two features and are sympathetic to their adoption by divided societies.² But agreement extends far beyond the consociational school. A good example is Ted Robert Gurr, who in *Minorities at Risk: A Global View of Ethnopolitical Conflicts* clearly does not take his inspiration from consociational theory (in fact, he barely mentions it), but based on massive empirical analysis reaches the conclusion that the interests and demands of communal groups can usually be accommodated “by some combination of the policies and institutions of *autonomy and power sharing*.”³

The consensus on the importance of power sharing has recently been exemplified by commentators’ reactions to the creation of the Governing Council in Iraq: The Council has been criticized on a variety of grounds, but no one has questioned its broadly representative composition. The strength of the power-sharing model has also been confirmed by its frequent practical applications. Long before scholars began analyzing the phenomenon of power-sharing democracy in the 1960s, politicians and constitution writers had designed power-sharing solutions for the problems of their divided societies (for example, in Austria, Canada, Colombia, Cyprus, India, Lebanon, Malaysia, the Netherlands, and Switzerland). Political scientists merely discovered what political practitioners had repeatedly—and independently of both academic experts and one another—invented years earlier.

Critics of Power Sharing

The power-sharing model has received a great deal of criticism since it became a topic of scholarly discourse three decades ago. Some critics have argued that power-sharing democracy is not ideally democratic

or effective; others have focused on methodological and measurement issues.⁴ But it is important to note that very few critics have presented serious alternatives to the power-sharing model. One exception can be found in the early critique by Brian Barry, who in the case of Northern Ireland recommended “cooperation without cooptation”—straightforward majority rule in which both majority and minority would simply promise to behave moderately.⁵ Barry’s proposal would have meant that Northern Ireland’s Protestant majority, however moderate, would be in power permanently, and that the Catholic minority would always play the role of the “loyal” opposition. Applied to the case of the Iraqi Governing Council, Barry’s alternative to power sharing would call for a Council composed mainly or exclusively of moderate members of the Shi’ite majority, with the excluded Sunnis and Kurds in opposition. This is a primitive solution to ethnic tensions and extremism, and it is naïve to expect minorities condemned to permanent opposition to remain loyal, moderate, and constructive. Barry’s suggestion therefore cannot be—and, in practice, has not been—a serious alternative to power sharing.

The only other approach that has attracted considerable attention is Donald L. Horowitz’s proposal to design various electoral mechanisms (especially the use of the “alternative vote” or “instant runoff”) that would encourage the election of moderate representatives.⁶ It resembles Barry’s proposal in that it aims for moderation rather than broad representation in the legislature and the executive, except that Horowitz tries to devise a method to induce the moderation that Barry simply hopes for. If applied to the Iraqi Governing Council, Horowitz’s model would generate a body consisting mainly of members of the Shi’ite majority, with the proviso that most of these representatives would be chosen in such a way that they would be sympathetic to the interests of the Sunni and Kurdish minorities. It is hard to imagine that, in the long run, the two minorities would be satisfied with this kind of moderate Shi’ite representation, instead of representation by members of their own communities. And it is equally hard to imagine that Kurdish and Sunni members of a broadly representative constituent assembly would ever agree to a constitution that would set up such a system.

Horowitz’s alternative-vote proposal suffers from several other weaknesses, but it is not necessary to analyze them in this article.⁷ The main point that is relevant here is that it has found almost no support from either academic experts or constitution writers. Its sole, and only partial, practical application to legislative elections in an ethnically divided society was the short-lived and ill-fated Fijian constitutional system, which tried to combine the alternative vote with power-sharing; it was adopted in 1999 and collapsed in 2000.⁸ With all due respect to the originality of his ideas and the enthusiasm with which

he has defended them, Horowitz's arguments do not seem to have sparked a great deal of assent or emulation.⁹

“One Size Fits All”?

In sum, power sharing has proven to be the only democratic model that appears to have much chance of being adopted in divided societies, which in turn makes it unhelpful to ask constitution writers to contemplate alternatives to it. More than enough potential confusion and distraction are already inherent in the consideration of the many alternatives *within* power sharing. Contrary to Horowitz's claim that power-sharing democracy is a crude “one size fits all” model,¹⁰ the power-sharing systems adopted prior to 1960 (cited earlier), as well as more recent cases (such as Belgium, Bosnia, Czechoslovakia, Northern Ireland, and South Africa), show enormous variation. For example, broad representation in the executive has been achieved by a constitutional requirement that it be composed of equal numbers of the two major ethnolinguistic groups (Belgium); by granting all parties with a minimum of 5 percent of the legislative seats the right to be represented in the cabinet (South Africa, 1994–99); by the equal representation of the two main parties in the cabinet and an alternation between the two parties in the presidency (Colombia, 1958–64); and by permanently earmarking the presidency for one group and the prime ministership for another (Lebanon).

All of these options are not equally advantageous, however, and do not work equally well in practice, because the relative success of a power-sharing system is contingent upon the specific mechanisms devised to yield the broad representation that constitutes its core. In fact, the biggest failures of power-sharing systems, as in Cyprus in 1963 and Lebanon in 1975, must be attributed not to the lack of sufficient power sharing but to constitution writers' choice of unsatisfactory rules and institutions.

These failures highlight the way in which scholarly experts can help constitution writers by developing recommendations regarding power-sharing rules and institutions. In this sense, Horowitz's “one size fits all” charge should serve as an inspiration to try to specify the optimal form of power sharing. While the power-sharing model should be adapted according to the particular features of the country at hand, it is not true that *everything* depends on these individual characteristics. In the following sections I outline nine areas of constitutional choice and provide my recommendations in each area. These constitute a “one size” power-sharing model that offers the best fit for most divided societies regardless of their individual circumstances and characteristics.

1) *The legislative electoral system.* The most important choice facing constitution writers is that of a legislative electoral system, for which

the three broad categories are proportional representation (PR), majoritarian systems, and intermediate systems. For divided societies, ensuring the election of a broadly representative legislature should be the crucial consideration, and PR is undoubtedly the optimal way of doing so.

Within the category of majoritarian systems, a good case could be made for Horowitz's alternative-vote proposal, which I agree is superior to both the plurality method and the two-ballot majority runoff.¹¹ Nevertheless, there is a scholarly consensus against majoritarian systems in divided societies. As Larry Diamond explains:

If any generalization about institutional design is sustainable . . . it is that majoritarian systems are ill-advised for countries with deep ethnic, regional, religious, or other emotional and polarizing divisions. Where cleavage groups are sharply defined and group identities (and intergroup insecurities and suspicions) deeply felt, the overriding imperative is to avoid broad and indefinite exclusion from power of any significant group.¹²

The intermediate category can be subdivided further into semi-proportional systems, "mixed" systems, and finally, majoritarian systems that offer guaranteed representation to particular minorities. Semi-proportional systems—like the cumulative and limited vote (which have been primarily used at the state and local levels in the United States) and the single nontransferable vote (used in Japan until 1993)¹³—may be able to yield minority representation, but never as accurately and consistently as PR. Unlike these rare semi-proportional systems, mixed systems have become quite popular since the early 1990s.¹⁴ In some of the mixed systems (such as Germany's and New Zealand's) the PR component overrides the plurality component, and these should therefore be regarded not as mixed but as PR systems. To the extent that the PR component is not, or is only partly, compensatory (as in Japan, Hungary, and Italy), the results will necessarily be less than fully proportional—and minority representation less accurate and secure. Plurality combined with guaranteed representation for specified minorities (as in India and Lebanon) necessarily entails the potentially invidious determination of which groups are entitled to guaranteed representation and which are not. In contrast, the beauty of PR is that in addition to producing proportionality and minority representation, it treats all groups—ethnic, racial, religious, or even noncommunal groups—in a completely equal and evenhanded fashion. Why deviate from full PR at all?

2) Guidelines within PR. Once the choice is narrowed down to PR, constitution writers need to settle on a particular type within that system. PR is still a very broad category, which spans a vast spectrum of complex possibilities and alternatives. How can the options be narrowed further? I recommend that highest priority be given to the

selection of a PR system that is simple to understand and operate—a criterion that is especially important for new democracies. From that simplicity criterion, several desiderata can be derived: a high, but not necessarily perfect, degree of proportionality; multimember districts that are not too large, in order to avoid creating too much distance between voters and their representatives; list PR, in which parties present lists of candidates to the voters, instead of the rarely used single transferable vote, in which voters have to rank order individual candidates; and closed or almost closed lists, in which voters mainly choose parties instead of individual candidates within the list. List PR with closed lists can encourage the formation and maintenance of strong and cohesive political parties.

One attractive model along these lines is the list-PR system used in Denmark, which has 17 districts that elect an average of eight representatives each from partly open lists. The districts are small enough for minority parties with more than 8 percent of the vote to stand a good chance of being elected.¹⁵ In addition to the 135 representatives elected in these districts, there are 40 national compensatory seats that are apportioned to parties (with a minimum of 2 percent of the national vote) in a way that aims to maximize overall national proportionality.¹⁶ The Danish model is advantageous for divided societies, because the compensatory seats plus the low 2 percent threshold give small minorities that are not geographically concentrated a reasonable chance to be represented in the national legislature. While I favor the idea of maximizing proportionality, however, this system does to some extent detract from the goal of keeping the electoral system as simple and transparent as possible. Moreover, national compensatory seats obviously make little sense in those divided societies where nationwide parties have not yet developed.

3) *Parliamentary or presidential government.* The next important decision facing constitution writers is whether to set up a parliamentary, presidential, or semi-presidential form of government. In countries with deep ethnic and other cleavages, the choice should be based on the different systems' relative potential for power sharing in the executive. As the cabinet in a parliamentary system is a collegial decision-making body—as opposed to the presidential one-person executive with a purely advisory cabinet—it offers the optimal setting for forming a broad power-sharing executive. A second advantage of parliamentary systems is that there is no need for presidential elections, which are necessarily majoritarian in nature. As Juan Linz states in his well-known critique of presidential government, “perhaps the most important implication of presidentialism is that it introduces a strong element of zero-sum game into democratic politics with rules that tend toward a ‘winner-take-all’ outcome.”¹⁷ Presidential election campaigns also encourage the poli-

tics of personality and overshadow the politics of competing parties and party programs. In representative democracy, parties provide the vital link between voters and the government, and in divided societies they are crucial in voicing the interests of communal groups. Seymour Martin Lipset has recently emphasized this point again by calling political parties “indispensable” in democracies and by recalling E.E. Schattschneider’s famous pronouncement that “modern democracy is unthinkable save in terms of parties.”¹⁸

Two further problems of presidentialism emphasized by Linz are frequent executive-legislative stalemates and the rigidity of presidential terms of office. Stalemates are likely to occur because president and legislature can both claim the democratic legitimacy of being popularly elected, but the president and the majority of the legislature may belong to different parties or may have divergent preferences even if they belong to the same party. The rigidity inherent in presidentialism is that presidents are elected for fixed periods that often cannot be extended because of term limits, and that cannot easily be shortened even if the president proves to be incompetent, becomes seriously ill, or is beset by scandals of various kinds. Parliamentary systems, with their provisions for votes of confidence, snap elections, and so on, do not suffer from this problem.

Semi-presidential systems represent only a slight improvement over pure presidentialism. Although there can be considerable power sharing among president, prime minister, and cabinet, the zero-sum nature of presidential elections remains. Semi-presidential systems actually make it possible for the president to be even more powerful than in most pure presidential systems. In France, the best-known example of semi-presidentialism, the president usually exercises predominant power; the 1962–74 and 1981–86 periods have even been called “hyperpresidential” phases.¹⁹ The stalemate problem is partly solved in semi-presidential systems by making it possible for the system to shift from a mainly presidential to a mainly parliamentary mode if the president loses the support of his party or governing coalition in the legislature. In the Latin American presidential democracies, constitutional reformers have often advocated semi-presidential instead of parliamentary government, but only for reasons of convenience: A change to parliamentarism seems too big a step in countries with strong presidentialist traditions. While such traditional and sentimental constraints may have to be taken into account in constitutional negotiations, parliamentary government should be the general guideline for constitution writers in divided societies.

There is a strong scholarly consensus in favor of parliamentary government. In the extensive literature on this subject, the relatively few critics have questioned only parts of the pro-parliamentary consensus. Pointing to the case of U.S. presidentialism, for instance, they have noted that the stalemate problem has not been as serious as Linz and

others have alleged—without, however, challenging the validity of the other charges against presidential government.²⁰

4) Power sharing in the executive. The collegial cabinets in parliamentary systems facilitate the formation of power-sharing executives, but they do not by themselves guarantee that power sharing will be instituted. Belgium and South Africa exemplify the two principal methods of doing so. In Belgium, the constitution stipulates that the cabinet must comprise equal numbers of Dutch-speakers and French-speakers. The disadvantage of this approach is that it requires specifying the groups entitled to a share in power, and hence the same discriminatory choices inherent in electoral systems with guaranteed representation for particular minorities. In South Africa there was so much disagreement and controversy about racial and ethnic classifications that these could not be used as a basis for arranging executive power sharing in the 1994 interim constitution. Instead, power sharing was mandated in terms of political parties: Any party, ethnic or not, with a minimum of 5 percent of the seats in parliament was granted the right to participate in the cabinet on a proportional basis.²¹ For similar situations in other countries, the South African solution provides an attractive model. But when there are no fundamental disagreements about specifying the ethnic groups entitled to a share of cabinet power, the Belgian model has two important advantages. First, it allows for power sharing without mandating a grand coalition of all significant parties and therefore without eliminating significant partisan opposition in parliament. Second, it allows for slight deviation from strictly proportional power sharing by giving some overrepresentation to the smaller groups, which may be desirable in countries where an ethnic majority faces one or more ethnic minority groups.

5) Cabinet stability. Constitution writers may worry about one potential problem of parliamentary systems: The fact that cabinets depend on majority support in parliament and can be dismissed by parliamentary votes of no-confidence may lead to cabinet instability—and, as a result, regime instability. The weight of this problem should not be overestimated; the vast majority of stable democracies have parliamentary rather than presidential or semi-presidential forms of government.²² Moreover, the position of cabinets vis-à-vis legislatures can be strengthened by constitutional provisions designed to this effect. One such provision is the constructive vote of no confidence, adopted in the 1949 constitution of West Germany, which stipulates that the prime minister (chancellor) can be dismissed by parliament only if a new prime minister is elected simultaneously. This eliminates the risk of a cabinet being voted out of office by a “negative” legislative majority that is unable to form an alternative cabinet. Spain and Papua New Guinea have adopted similar requirements

for a constructive vote of no confidence. The disadvantage of this provision is that it may create an executive that cannot be dismissed by parliament but does not have a parliamentary majority to pass its legislative program—the same kind of stalemate that plagues presidential systems. A suggested solution to this potential problem was included in the 1958 constitution of the French Fifth Republic in the form of a provision that the cabinet has the right to make its legislative proposals matters of confidence, and these proposals are adopted automatically unless an absolute majority of the legislature votes to dismiss the cabinet. No constitution has yet tried to combine the German and French rules, but such a combination could undoubtedly give strong protection to cabinets and their legislative effectiveness—without depriving the parliamentary majority of its fundamental right to dismiss the cabinet and replace it with a new one in which parliament has greater confidence.

6) *Selecting the head of state.* In parliamentary systems, the prime minister usually serves only as head of government, while a constitutional monarch or a mainly ceremonial president occupies the position of head of state. Assuming that no monarch is available, constitution writers need to decide how the president should be chosen. My advice is twofold: to make sure that the presidency will be a primarily ceremonial office with very limited political power, and not to elect the president by popular vote. Popular election provides democratic legitimacy and, especially in combination with more than minimal powers specified in the constitution, can tempt presidents to become active political participants—potentially transforming the parliamentary system into a semi-presidential one. The preferable alternative is election by parliament.

A particularly attractive model was the constitutional amendment proposed as part of changing the Australian parliamentary system from a monarchy to a republic, which specified that the new president would be appointed on the joint nomination of the prime minister and the leader of the opposition, and confirmed by a two-thirds majority of a joint session of the two houses of parliament. The idea behind the two-thirds rule was to encourage the selection of a president who would be nonpartisan and nonpolitical. (Australian voters defeated the entire proposal in a 1999 referendum mainly because a majority of the pro-republicans strongly—and unwisely—preferred the popular election of the president.) In my opinion, the best solution is the South African system of not having a separate head of state at all: There the president is in fact mainly a prime minister, subject to parliamentary confidence, who simultaneously serves as head of state.

7) *Federalism and decentralization.* For divided societies with geographically concentrated communal groups, a federal system is undoubtedly an excellent way to provide autonomy for these groups.

My specific recommendation regards the second (federal) legislative chamber that is usually provided for in federal systems. This is often a politically powerful chamber in which less populous units of the federation are overrepresented (consider, for example, the United States Senate, which gives two seats to tiny Wyoming as well as gigantic California). For parliamentary systems, two legislative chambers with equal, or substantially equal, powers and different compositions is not a workable arrangement: It makes too difficult the forming of cabinets that have the confidence of both chambers, as the 1975 Australian constitutional crisis showed: The opposition-controlled Senate refused to pass the budget in an attempt to force the cabinet's resignation, although the cabinet continued to have the solid backing of the House of Representatives. Moreover, a high degree of smaller-unit overrepresentation in the federal chamber violates the democratic principle of "one person, one vote." In this respect, the German and Indian federal models are more attractive than the American, Swiss, and Australian ones.

Generally, it is advisable that the federation be relatively decentralized and that its component units (states or provinces) be relatively small—both to increase the prospects that each unit will be relatively homogeneous and to avoid dominance by large states on the federal level. Beyond this, a great many decisions need to be made regarding details that will vary from country to country (such as exactly where the state boundaries should be drawn). Experts have no clear advice to offer on how much decentralization is desirable within the federation, and there is no consensus among them as to whether the American, Canadian, Indian, Australian, German, Swiss, or Austrian model is most worthy of being emulated.

8) *Nonterritorial autonomy.* In divided societies where the communal groups are not geographically concentrated, autonomy can also be arranged on a nonterritorial basis. Where there are significant religious divisions, for example, the different religious groups are often intent on maintaining control of their own schools. A solution that has worked well in India, Belgium, and the Netherlands is to provide educational autonomy by giving equal state financial support to all schools, public and private, as long as basic educational standards are met. While this goes against the principle of separating church and state, it allows for the state to be completely neutral in matters of education.

9) *Power sharing beyond the cabinet and parliament.* In divided societies, broad representation of all communal groups is essential not only in cabinets and parliaments, but also in the civil service, judiciary, police, and military. This aim can be achieved by instituting ethnic or religious quotas, but these do not necessarily have to be rigid. For example, instead of mandating that a particular group be given exactly 20

percent representation, a more flexible rule could specify a target of 15 to 25 percent. I have found, however, that such quotas are often unnecessary; it is sufficient to have an explicit constitutional provision in favor of the general objective of broad representation and to rely on the power-sharing cabinet and the proportionally constituted parliament for the practical implementation of this goal.

Other Issues

As far as several other potentially contentious issues are concerned, my advice would be to start out with the modal patterns found in the world's established democracies, such as a two-thirds majority requirement for amending the constitution (with possibly a higher threshold for amending minority rights and autonomy), a size of the lower house of the legislature that is approximately the cube root of the country's population size²³ (which means that a country with about 25 million inhabitants, such as Iraq, "should" have a lower house of about 140 representatives), and legislative terms of four years.

While approval by referendum can provide the necessary democratic legitimacy for a newly drafted constitution, I recommend a constitutional provision to limit the number of referenda. One main form of referendum entails the right to draft legislation and constitutional amendments by popular initiative and to force a direct popular vote on such propositions. This is a blunt majoritarian instrument that may well be used against minorities. On the other hand, the Swiss example has shown that a referendum called by a small minority of voters to challenge a law passed by the majority of the elected representatives may have the desirable effect of boosting power sharing. Even if the effort fails, it forces the majority to pay the cost of a referendum campaign; hence the potential calling of a referendum by a minority is a strong stimulus for the majority to be heedful of minority views. Nevertheless, my recommendation is for extreme caution with regard to referenda, and the fact that frequent referenda occur in only three democracies—the United States, Switzerland, and, especially since about 1980, Italy—underscores this guideline.

Constitution writers will have to resolve many other issues that I have not mentioned, and on which I do not have specific recommendations: for example, the protection of civil rights, whether to set up a special constitutional court, and how to make a constitutional or supreme court a forceful protector of the constitution and of civil rights without making it too interventionist and intrusive. And as constitution writers face the difficult and time-consuming task of resolving these issues, it is all the more important that experts not burden or distract them with lengthy discussions on the relative advantages and disadvantages of flawed alternatives like presidentialism and non-PR systems.

I am not arguing that constitution writers should adopt all my recommendations without *any* examination of various alternatives. I recognize that the interests and agendas of particular parties and politicians may make them consider other alternatives, that a country's history and traditions will influence those who must draft its basic law, and that professional advice is almost always—and very wisely—sought from more than one constitutional expert. Even so, I would contend that my recommendations are not merely based on my own preferences, but on a strong scholarly consensus and solid empirical evidence, and that at the very least they should form a starting point in constitutional negotiations.

NOTES

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1. The secondary characteristics are proportionality, especially in legislative elections (in order to ensure a broadly representative legislature—similar to the aim of effecting a broadly constituted executive) and a minority veto on the most vital issues that affect the rights and autonomy of minorities.

2. Some of these scholars are Dirk Berg-Schlosser, William T. Bluhm, Laurence J. Boule, Hans Daalder, Edward Dew, Robert H. Dix, Alan Dowty, Jonathan Fraenkel, Hermann Giliomee, Theodor Hanf, Jonathan Hartlyn, Martin O. Heisler, Luc Huyse, Thomas A. Koelble, Gerhard Lehbruch, Franz Lehner, W. Arthur Lewis, Val R. Lorwin, Diane K. Mauzy, John McGarry, Kenneth D. McRae, Antoine N. Messarra, R.S. Milne, S.J.R. Noel, Eric A. Nordlinger, Brendan O'Leary, G. Bingham Powell, Jr., Andrew Reynolds, F. van Zyl Slabbert, Jürg Steiner, Albert J. Venter, Karl von Vorys, David Welsh, and Steven B. Wolinetz. Their most important writings on the subject (if published before the mid-1980s) can be found in the bibliography of Arend Lijphart, *Power-Sharing in South Africa* (Berkeley, Calif.: Institute of International Studies, University of California, 1985), 137–71.

3. Ted Robert Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflicts* (Washington, D.C.: U.S. Institute of Peace Press, 1993), 292, italics added.

4. I have responded to these criticisms at length elsewhere. See especially Lijphart, "The Wave of Power-Sharing Democracy," in Andrew Reynolds, ed., *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy* (Oxford: Oxford University Press, 2002), 40–47; and Lijphart, *Power-Sharing in South Africa*, 83–117.

5. Brian Barry, "The Consociational Model and Its Dangers," *European Journal of Political Research* 3 (December 1975): 406.

6. Donald L. Horowitz, *A Democratic South Africa? Constitutional Engineer-*

ing in a *Divided Society* (Berkeley, Calif.: University of California Press, 1991), 188–203; and “Electoral Systems: A Primer for Decision Makers,” *Journal of Democracy* 14 (October 2003): 122–23. In alternative-vote systems, voters are asked to rank order the candidates. If a candidate receives an absolute majority of first preferences, he or she is elected; if not, the weakest candidate is eliminated, and the ballots are redistributed according to second preferences. This process continues until one of the candidates receives a majority of the votes.

7. For a detailed critique, see Lijphart, “The Alternative Vote: A Realistic Alternative for South Africa?” *Politikon* 18 (June 1991): 9–101; and Lijphart, “Multiethnic Democracy,” in Seymour Martin Lipset, ed., *The Encyclopedia of Democracy* (Washington, D.C.: Congressional Quarterly, 1995), 863–64.

8. The alternative vote was also used for the 1982 and 1988 presidential elections in Sri Lanka and for the 2000 presidential elections in the Republika Srpska in Bosnia. Nigeria has used a similar system favored by Horowitz (requiring a plurality plus at least 25 percent of the votes in at least two-thirds of the states for victory) for its presidential elections. The third and sixth guidelines that I describe in the present essay recommend a parliamentary system without a popularly elected president—and therefore no direct presidential elections at all.

9. Benjamin Reilly has come to Horowitz’s defense, but only with significant qualifications; for instance, Reilly dissents from Horowitz’s advocacy of the alternative vote for the key case of South Africa. See Reilly, *Democracy in Divided Societies: Electoral Engineering for Conflict Management* (Cambridge: Cambridge University Press, 2001). Andreas Wimmer advocates the alternative vote for Iraq in “Democracy and Ethno-Religious Conflict in Iraq,” *Survival* 45 (Winter 2003–2004): 111–34.

10. Donald L. Horowitz, “Constitutional Design: Proposals versus Processes,” in Andrew Reynolds, ed., *The Architecture of Democracy*, 25.

11. In contrast with plurality, the alternative vote (instant runoff) ensures that the winning candidate has been elected by a majority of the voters, and it does so more accurately than the majority-runoff method and without the need for two rounds of voting.

12. Larry Diamond, *Developing Democracy: Toward Consolidation* (Baltimore: Johns Hopkins University Press, 1999), 104.

13. All three of these systems use multimember election districts. The cumulative vote resembles multi-member district plurality in which each voter has as many votes as there are seats in a district, but, unlike plurality, the voter is allowed to cumulate his or her vote on one or a few of the candidates. In limited-vote systems, voters have fewer votes than the number of district seats. The single nontransferable vote is a special case of the limited vote in which the number of votes cast by each voter is reduced to one.

14. See Matthew Soberg Shugart and Martin P. Wattenberg, eds., *Mixed-Member Electoral Systems: The Best of Both Worlds?* (Oxford: Oxford University Press, 2001).

15. This estimate is based on the $T=75\%(M+1)$ equation—in which T is the effective threshold and M the number of representatives elected in a district—suggested by Rein Taagepera; see Arend Lijphart, “Electoral Systems,” in Seymour Martin Lipset, ed., *Encyclopedia of Democracy*, 417. There is considerable variation around the average of 8 representatives per district, but 9 of the 17 districts are very close to this average, with between 6 and 9 seats. The open-list rules are very complex and, in my opinion, make the lists too open. In addition to the 175 seats described here, Greenland and the Faeroe Islands elect two representatives each. I

should also point out that my recommendation of the Danish model entails a bit of a paradox: It is a system that is very suitable for ethnically and religiously divided countries, although Denmark itself happens to be one of the most homogeneous countries in the world.

16. Parties below the 2 percent threshold may still benefit from the compensatory seats if certain other requirements are met, such as winning at least one district seat.

17. Juan J. Linz, "Presidential or Parliamentary Democracy: Does It Make a Difference?" in Juan J. Linz and Arturo Valenzuela, eds., *The Failure of Presidential Democracy* (Baltimore: Johns Hopkins University Press, 1994), 18.

18. Seymour Martin Lipset, "The Indispensability of Political Parties," *Journal of Democracy* 11 (January 2000): 48–55; E.E. Schattschneider, *Party Government* (New York: Rinehart, 1942), 1.

19. John T.S. Keeler and Martin A. Schain, "Institutions, Political Poker, and Regime Evolution in France," in Kurt von Mettenheim, ed., *Presidential Institutions and Democratic Politics: Comparing Regional and National Contexts* (Baltimore: Johns Hopkins University Press, 1997), 95–97. Horowitz favors a president elected by the alternative vote or a similar vote-pooling method, but in other respects his president does not differ from presidents in pure presidential systems; see his *A Democratic South Africa?*, 205–14.

20. Scholars have also indicated methods to minimize the problem of presidential-legislative deadlock—for instance, by holding presidential and legislative elections concurrently and electing the president by plurality instead of the more usual majority-runoff method. Such measures may indeed be able to ameliorate the problem to some extent, but cannot solve it entirely. See Matthew Soberg Shugart and John M. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge: Cambridge University Press, 1992); and Mark P. Jones, *Electoral Laws and the Survival of Presidential Democracies* (Notre Dame: University of Notre Dame Press, 1995).

21. The 1998 Good Friday Agreement provides for a similar power-sharing executive for Northern Ireland.

22. In my comparative study of the world's stable democracies, defined as countries that were continuously democratic from 1977 to 1996 (and had populations greater than 250,000), 30 of the 36 stable democracies had parliamentary systems. See Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press, 1999).

23. This pattern was discovered by Rein Taagepera; see his "The Size of National Assemblies," *Social Science Research* 1 (December 1972): 385–40.