

The most relevant conclusion we can draw is that among mature democratic countries, where the conditions for democracy are generally favorable, differences in rights and liberties cannot be attributed to constitutional systems. But if not constitutional systems, then what?

The answer will be found, I believe, in differences in national histories, political cultures, and perceptions of internal and strategic threats to survival. If this is the case, then in the end a democratic country cannot depend on its constitutional systems for the preservation of its liberties. It can depend only on the beliefs and cultures shared by its political, legal, and cultural elites and by the citizens to whom these elites are responsive.

Democratic Fairness

How does the American constitutional system compare with those of other mature democracies in the fairness with which it treats different citizens? As we all know, the question of fairness or justice has been a source of endless debate among the best minds since ancient times. Indeed, differences in views about justice seem to be built into the human condition. I, however, want to bypass these perennial controversies and focus instead on one aspect of fairness that bears directly on the question at hand.

If I may now use the term constitutional system in its broader sense to include electoral arrangements,

we can arbitrarily reduce the alternatives to two. In one, which I'll call a proportional system, as a result of proportional representation the percentage of seats won by a party in the legislature will roughly mirror the percentage of votes cast for candidates of that party. In the other, which I'll call a majoritarian system,⁸ candidates receiving the most votes in a particular district win that district's single seat, and the other candidates, therefore, win no seats at all. In a proportional system, all minority parties that gain votes above some threshold, such as 5 percent, will be represented in the legislature. In a majoritarian system, if the candidate of one party were to win a plurality (relative majority) of votes in every district, then that party would win *all* the seats. Although such an extreme outcome is only a theoretical possibility, in majoritarian systems the party with a majority of votes does ordinarily win a disproportionately large number of seats; the second largest party gains a disproportionately small number of seats; and all third parties gain few if any seats.

In an earlier chapter I pointed out that proportional representation is likely to produce a multiparty system and coalition governments; first-past-the-post is likely to produce two dominant parties; and in a parliamentary system with two dominant parties, the prime minister and cabinet are likely to be drawn from a single party with a majority of seats, as is typically the case in Britain.

In the debate over the relative desirability of proportionality versus majoritarianism,⁹ virtually no one

questions that proportionality is fairer to citizens than majoritarianism. Proportionality doesn't necessarily mean, however, that the principle of majority rule entirely stops operating. In the legislature, for example, elected representatives will ordinarily make their decisions by majority rule. But because the governing coalition will generally include representatives from minority parties, governing majorities are likely to be more inclusive than in a majoritarian system. Thus, a proportional system comes closer than a majoritarian system to providing equal representation—an equal say—for all.

Advocates of majoritarianism may concede that proportionality is fairer; but they might argue that a majoritarian system offers two advantages that considerably outweigh its unfairness. For one thing, its defenders often say, proportionality tends to produce governing coalitions that are more unstable and, therefore, more *ineffective* than governments in majoritarian systems. Does the experience of the large number of mature democratic countries with proportional system confirm that their governments are less effective? In a moment I'll turn to evidence bearing on this question. But just suppose we were to find that proportional systems are, in general, no less effective than governments in countries with majoritarian systems. On what grounds could we then reject proportionality?

We might still reject proportionality if we conclude that having two dominant parties rather than the multiplicity of parties typical of proportional systems helps to make governments more *accountable* to voters. Our

supposition might run something like this: Two-party majoritarian systems help voters hold governments more accountable because they are better at simplifying and clarifying the alternatives open to voters. Consequently, during campaigns and elections, voters can fix responsibility for the decisions and policies that the government has recently adopted. What is more, because voters in proportional systems face a multiplicity of parties and possible governing coalitions, they may find it difficult to guess what their vote will actually mean. Forming a majority coalition in a multiparty parliament can be a tricky business. If a voter's party wants to be included in the governing coalition, what compromises will it be compelled to make in order to find a place? And what policies will the coalition finally manage to agree on and carry through? In contrast, because voters in majoritarian systems ordinarily have only two realistic choices, they can make more informed guesses about the direction the government is likely to take under one major party or the other.¹⁰

A justification along these lines would provide strong support for majoritarian systems. But as appealing as it is, the majoritarian vision isn't easily transformed into reality. For one thing, in the small number of countries with nominally majoritarian systems, as Powell points out, we find a "persistent refusal of voters to deliver majority support for a single party or even a preelection coalition." In forty-five elections from 1969 through 1994 in six "predominantly majoritarian" countries, "only in Australia in 1975 and in

France in 1981 did a party or preelection coalition win a clear voter majority." In short, just as happens in American presidential elections, majoritarianism often fails to produce a government that reflects the choices of a majority of voters. Second, the distortion between seats and votes in majoritarian systems sometimes creates a majority of seats for a party that has failed to win even a plurality of votes and thus has actually come in second. In these cases, the minority party among voters becomes the majority party in the legislature. Third, even in majoritarian systems, "in practice, purely two-party politics is a rare phenomenon and often not robust when it appears." That is, a third party—like the Liberal Democrats in Britain—may prevent either of the two major parties from gaining a majority of votes, even though one of them may gain a majority of seats.¹¹

Encouraging Consensus

Even if proportionality is fairer than majoritarianism, many Americans will say that the price of fairness is too high. Any country in which multiple parties compete for office, they assume, will surely be divided and contentious and suffer from government by unstable and ineffective coalitions. How valid is this common American view?

In direct contradiction to that view, Arend Lijphart, the scholar who pioneered the comparative analy-

sis of proportionality and majoritarianism in democratic countries, refers to proportional systems as "consensus governments."¹² And rightly so, for experience shows that even if proportionality cannot always overcome deep political, social, cultural, or economic cleavages (as in Israel, for example), a proportional system can sometimes help to maintain internal peace, provide opportunities for compromise among opponents, and produce a broad consensus in favor of not only government policies but the country's political arrangements as well.

Let me offer three examples. In the Netherlands,¹³ religious and ideological differences led to a profound division of the country into four basic groups: Protestants, Catholics, Liberals, and Socialists. The four groups became fairly distinctive subcultures pretty much walled off from one another by their own institutions, from newspapers and radio to schools, trade unions, hospitals, marriages, residences, and more. After proportional representation was introduced early in the twentieth century, each of the groups also supported its own separate political party. Not surprisingly, in the late nineteenth and early twentieth centuries these basic cleavages among the four subcultures led to severe conflicts over education, the franchise, and the rights of labor. By 1910 the disputes had become so intense that leaders of the four groups became alarmed for the future of the country. Spurred by their concern, from 1913 to 1917 they not only managed to negotiate acceptable compromises, but

they also agreed that the political parties representing the four groups would all be represented in the cabinet. In short, they created a consensus government. Despite the persisting cleavages among the four subcultures, a highly institutionalized system of full inclusion endured for half a century, when demographic changes and a decline in the intensity of the differences reduced the need for complete inclusion of all four parties in every cabinet. Even so, and down to the present day, Dutch governments have continued to emphasize inclusion and consensus rather than majoritarian control of the government.

Or consider Switzerland with its four national languages—German, French, Italian, and the tiny Romansh-speaking population; its two major religions, Protestantism and Catholicism, which were the source of sanguinary conflict until the middle of the nineteenth century; and its two dozen or so cantons, many of which are internally rather homogeneous in language and religion. If you were to reflect on the possibilities of conflict among these subcultures you might conclude that, like the Balkans, Switzerland must be forever bubbling over with intense disputes and might even be on the verge of national disintegration. But the pragmatism, common sense, and national attachments of the Swiss enabled them in 1959 to create a proportional system in which representatives of the four major parties representing the different subcultures are usually all included in the executive branch—the federal council or *Bundesrat*.

It is a reasonable conclusion that majoritarian systems in Switzerland and in the Netherlands would have made the search for governments based on a broad consensus among different subcultures not only extraordinarily difficult but probably downright impossible.

A very different situation exists in Sweden. A highly homogeneous people (until the recent influx of immigrants, at any rate), Swedes have a long and settled tradition of consensus politics. Although the origins of the Swedish parliament go back some centuries, democratization arrived comparatively late. Not until 1917 was the power to choose the prime minister shifted from the king to the parliament. In that sense, Swedish democracy dates back to 1917. Proportional representation had already been introduced in parliamentary elections, however, at the beginning of the twentieth century. Yet neither proportional representation nor democratization diminished the long-standing Swedish tradition of consensus. As a Swedish political scientist has written:

In the Swedish political tradition . . . "accountability" is seldom mentioned as a value. Instead, legitimacy is promoted by another strategy. By sharing power with the parties in opposition and including them in the rule of the country, the government is supposed to be regarded as representative for the people as a whole and consequently one that all can feel loyal to. To "reach consensus," to "find a common policy," to "capture the will of the people" have been the declared motives of Swedish politicians. *Representativeness* is the central norm of political culture.¹⁴

From an American perspective, the result can be unbelievable. In stark contrast to Holland and Switzerland, Swedish cabinets have frequently been drawn from a party or coalition that has actually *lacked* a majority of seats in parliament. In the past century, "minority governments have been by far the most common. The average parliamentary support enjoyed by governments between 1920 and 1994 has been 41.5 percent." You might well wonder how minority governments could ever get anything accomplished—or, for that matter, remain very long in office. The answer seems to be that in order to gain a broad consensus both in the parliament and in the country at large, even minority governments negotiate with representatives of parties *outside* the government. In short, even minority governments govern by consensus.

If you wonder why the Dutch, the Swiss, and the Swedes prefer proportionality to majoritarianism, the answer is fairly clear: not only does it seem to them much fairer but it also helps to achieve and maintain a broad consensus for government policies.

What is more, proportionality can strengthen consensus not just for policies but for democracy as well. The reason appears to be that proportionality results in fewer losers. To clarify this point let me overstate it: In a majoritarian system the only winners in elections are the citizens who happen to be in the majority; all the other citizens, being in the defeated minority, are losers. By contrast, in proportional systems with consensus governments, everyone—well, almost every-

one—can win, not everything they hoped for perhaps but enough to leave them basically satisfied with their government.

Lest you suppose that these judgments are nothing more than interesting speculations, let me cite some persuasive supporting evidence.¹⁵

In a 1990 survey of citizens' views in eleven European democracies, respondents were asked how satisfied they were with "the way democracy works" in their country. They also reported how they voted in their country's last national election. Knowing the outcome of that election in each country, the authors of the study classified the respondents as winners or losers. The eleven countries were then arranged from the most majoritarian, Britain, to the most consensual, the Netherlands. The results, which the authors of the study describe as "robust," were pretty clear: In the more consensual countries, losers were almost as satisfied as the winners with the way democracy worked in their country. By contrast, in the more majoritarian countries, losers were much more likely to be dissatisfied.

To describe the results another way, suppose that in one country 70 percent of the winners but only 40 percent of the losers are satisfied with the working of democracy, a difference of 30 percent. In another country, say, 70 percent of the winners and 65 percent of the losers are satisfied, a difference of only 5 percent. In the study of eleven European democracies that I just mentioned, this difference in satisfaction with the way

democracy worked decreased steadily from large differences in the most majoritarian countries like Britain—around 25 percent—to almost negligible differences in the most consensual countries like the Netherlands, where it was less than 5 percent.¹⁶ Moreover, these results held up even when variations in such influences as economic performance, socioeconomic status, and political interest were taken into account.¹⁷

In short, if you live in a majoritarian country and your party comes in second or worse, you're likely to be dissatisfied with the way democracy works in your country. But if you live in a democratic country with a more consensual system and your party comes in second, or third, or maybe even fourth, you're likely to feel satisfied with the way democracy works because you know your views will still be represented in the government.

This is all fine, you might say, but can a consensus system produce effective governments—governments that can solve the problems that concern citizens? Might not majoritarian governments perform more effectively? In particular, hasn't our American constitutional system been just as effective as many consensus governments and perhaps even more effective than most in getting things done that citizens want? I'll turn to this question in a moment.

But before I do so, I want to call your attention to one salient aspect of our constitutional system: *The American constitutional system is not majoritarian.*