Approximating Deliberative Equality in Democratic Institutions

Degree: Doctor of Philosophy

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Objective

This research will investigate how Dryzek and Niemeyer's ideal of deliberative equality can be approximated through current institutional designs.

Key Question

What institutional structures and procedures should be used to best approximate Dryzek and Niemeyer's ideal of deliberative equality?

Sub-Questions

What is a pragmatic approach to deliberative equality?

How can deliberative equality be measured in existing democratic institutions?

Do two-party or multiparty systems provide a stronger basis for deliberative equality?

Do internal or external executives have an impact on deliberative equality?

Which current practised institutional designs best support v equality?

Rationale and Significance

Political equality is a cornerstone of democratic legitimacy and has been conceived of in various ways. Deliberative theorists propose a concept of political equality known as deliberative equality. Deliberative equality is often considered to stand in opposition to aggregative equality: in the latter, individuals are treated equally, but in the former preferences, worldviews, sides of a conflict or discourses are treated equally, regardless of how many people subscribe to them.

Dryzek and Niemeyer propose a concept of political equality called discourse equality in their paper "Discursive Representation" (2008), which is constructed from the foundations of deliberative democracy. Discourse equality is a robust concept that looks at the intersection of representation, inclusiveness, equality of input and equality of impact on policy outcomes. This particular conception of deliberative equality clearly outlines what equal representation of different sides of a conflict would look like (here defined as different social discourses). In addition, it provides a strong argument that

deliberative equality is less likely to underrepresent constituents by acknowledging that individuals can hold multiple views on various issues, and ensuring that each worldview or discourse is represented.

However, Dryzek and Niemeyer's exploration of discourse equality, like many explorations of deliberative democratic concepts, is focussed on theory and ideals and does not sufficiently explore how such ideals may be approximated in a practical way in current institutional designs. Similarly, many explorations of institutional design, such as those by Giovanni Sartori, Lijphart and George Tsebelis are primarily concerned with stability and efficiency and do not conduct a thorough examination of deliberative democratic concepts. This research aims to address the possibilities for practical assessment and implementation of the deliberative democratic concept of discourse equality through commonly practised institutional designs.

This research is increasingly relevant for two reasons: an increasing public cynicism in political institutions, including the perception that political elites are becoming more out of touch with the public; and an increase in interest in minor parties in what have been dominant two-party systems, combined with the lack of substantive or proportional representation of minor parties in these systems.

What is deliberative equality?

Dryzek and Niemeyer propose discourse equality as a type of political equality based upon deliberative democratic values, in contrast to aggregative equality. Discourse equality upholds the inclusiveness and consensus seeking of deliberative democracy and promotes reasoned discussion in the political process, whereas aggregative equality looks at ways to produce decisions from fixed individual preferences. Dryzek and Niemeyer also argue discourse equality better represents individuals by treating them as intersections of political discourses rather than focussing only on an individual's priority preferences. While Dryzek and Niemeyer focus on discourses, they provide a clear argument that can apply to other deliberative theorists' conceptions: Elster's "wants" (1999, pg. 11), Miller's "preferences" (2003, pg. 182), Christiano's "interests" (1999, pg. 259), or Mansbridge's "sides of a controversy" (2009, pg. 35). For simplification, this research use the term "discourses" to refer to the bundle of concepts that are considered in deliberative equality.

Discourse equality stems from the background of deliberate democracy, especially in the framework introduced by Jürgen Habermas (1999) and his concept of discourse ethics. Habermas proposes that there are no objective moral truths, but rather intersubjective ones. Intersubjective moral values arise through rational discourse that reaches a consensus. From this basis he suggests that moral-political decision-making should follow a process where all affected individuals engage in a rational discourse in an open and honest manner in order to reach a consensus. Habermas defends each aspect of this process. Discourse is important for Habermas because it encourages multiple perspectives and reduces the potential for bias – he regards non-discourse oriented decision-making as 'monological' and inevitably lacking broader engagement. Rational

discourse is required because although subjective starting points are important he sees discourse oriented around reason as more legitimately persuasive. Openness and honesty in discourse are required of participants so that they have a willingness to present their arguments without distortion and allow other participants, who are open to entertaining different ideas, to come to reasonable conclusions. Each participant should also aim to reach a consensus rather than to engage holding a strictly partisan view. Deliberative consensus is preferred to an aggregation of preferences – an opinion-poll model of democracy – because rational persuasion promotes challenging and exploring one's own beliefs in a potentially transformative and collaborative manner.

As well as Habermas, other deliberative democrats, such as Joshua Cohen, Jane Mansbridge, Mark Warren, Hillary Pearse, Nadia Urbanati, Cass Sunstein, and Bernard Manin, state that deliberation in this manner is the ideal way to engage in political decision-making. Warren (2008), Cohen (1999), Dryzek and Niemeyer (2008) and others propose that deliberation can occur between citizen representatives in supplementary institutions such as citizens' juries and assemblies. Manin (1997) proposes that deliberation within and between political parties legitimises representative democratic institutions, while Nadia Urbanati (2006) proposes that deliberation between representatives and constituents legitimises the role of representatives. Urbanati also goes one step further and suggests that political discourse is enabled by focal points such as representatives, and that direct democracy would have insufficient discourse on its own.

As well as deliberation, political theorists such as Robert Dahl in *On Political Equality* (2006) conclude that inclusiveness is a critical element of political equality. Deliberative engagement requires that all affected parties are involved in deliberation so that no significant viewpoints are excluded. (Dryzek & Niemeyer, 2008, pg. 482) Dahl worries that some democratic systems give power to the majority in a fashion that excludes minority voices so that they may be ignored, suppressed or oppressed. (2006, Ch. 2.1) Inclusion in political discourses is not limited to deliberation and consensus, but also to agenda setting; Dahl notes that it is not inclusive if only one group is choosing which discourses can be deliberated upon. (2006, Ch 2.1)

Dryzek and Niemeyer build on this foundation with their concept of discourse equality. They propose that an individual contains multiple political discourses, and an individual can only be fully represented when all their discourses have a place in deliberation.

Where aggregative equality works on the assumption that citizens each have fixed preferences that must be translated into collective decisions in a fair manner through an electoral system which preserves these preferences, discourse equality works on the assumption that preferences can be changed through deliberative reasoning and that different sides of a political conflict must be equally represented in dialogue. Discourse equality is a particular approach to deliberative equality that seeks out different discourses as the subjects of representation.

For Dryzek and Niemeyer discourse equality is a more compelling interpretation of political equality than aggregative, "one person, one vote" conceptions of equality because it better represents individuals and allows for individuals to have more equal

impact on legislative outcomes by having their impact proportioned by discourses rather than those that hold them.

Are the ideals of discourse equality practical?

Discourse equality is a deliberative democratic concept that may be ideal in theory but only able to be approximated in practise. There are two ideals that may be difficult to achieve: reaching consensus through deliberation and distinguishing different discourses from each other.

Habermas and Manin recognise that deliberation is an ideal, and involves ideal behaviours from all participants. However, these ideal behaviours are not regularly practised: there are numerous examples of both exploitation of procedures and refusal to negotiate in good faith in, for example, Australian, US and UK democracies.

An overwhelming number of deliberative democrats note that consensus outcomes are unlikely, for four main reasons: less-than-ideal behaviour, less-than-ideal institutions, principled or fundamental disagreements, and timeframes.

Representatives in modern democratic assemblies are currently free to engage in deliberation and consensus seeking, and often do so, but strategic political behaviour oriented towards power or election winning regularly undermines or replaces sincere deliberative behaviour – a sincere approach to deliberation cannot be enforced. Partisan politics is an expected part of contemporary politics and less conducive to open and honest deliberation. This is reinforced by institutional designs that are adversarial, or that promote two-party systems that reduce the opportunity for deliberative equality, or in countries where one party has dominated for a long period of time. Even given perfect representatives in well-designed institutions, there may be fundamental disagreements of principle that prevent consensus, especially on matters of moral values rather than empirical evidence. Finally, consensus-seeking may be achievable given sufficient time, but institutions recognise that collective decisions do not have an unlimited time for debate on many issues, especially issues of priority, and consensus may not be possible given the timeframe. In these cases, an aggregative solution such as a vote that follows a deliberative forum may be necessary.

The second ideal that Dryzek and Niemeyer raise in their paper "Discursive Representation" (2008), are that discourses exist 'out in the world', ready to be divided into neat categories through a sufficiently comprehensive methodology that allows them to be individually represented. This conception poses three problems. First is whether the methodology that distinguishes two discourses is sufficiently independent of those devising it that it can be impartial. If a methodology places discourses into a conceptual framework, it needs to be robust enough that does not beg the question regarding which discourses are relevant. This may or may not be a practical problem but if an impartial procedure is perceived as opaque then it may not be palatable for a transparent democracy. This methodology would take the determination of relevant discourses out of the hands of voters and into the hands of specialists, which is antithetical to democracy as Dahl perceives it. (Dahl, 2006, Ch 2.1)

Second is that a representative who ideally embodies a particular discourse may not clearly embody other discourses; they may, for example, have a clear and reasoned position regarding the environment, but less of a concrete discourse regarding fiscal responsibility. Dryzek and Niemeyer themselves note this, and suggest that a representative who embodies a variety of discourses may be preferable. (2008, pg. 488) Should representation change in response to each policy area that is introduced, a strong representative could perhaps be found for each discourse, and Dryzek and Niemeyer suggest this as a complementary measure to traditional democratic institutions. (2008, pp. 487 – 488) However, Dryzek and Niemeyer also note that discourses can interrelate, which implies that single-discourse representatives could be too narrowly focussed to represent the intersections of discourses that individuals hold. (2008, pg. 488)

Third is whether discourses do not overlap in ways that make them difficult to clearly distinguish. Dryzek and Niemeyer rely on a methodology being capable of finding the 'edges' of discourses to delineate separate representatives for each. (2008, pg. 486) However, this has the potential to separate two individuals who believe they share sufficiently similar discourses, or merge two individuals who believe that they do not; the official methodology used to delineate discourses may differ from intuitive or personal judgements on discourse delineation, especially when individuals are capable of subscribing to two competing discourses (Dryzek & Niemeyer, 2008, pg. 489). This leads to the potential of underrepresentation, where an individual is dissatisfied that his or her discourse was 'merged' with what they believe to be distinct, leaving them without a representative who advocates for their discourse, or for overrepresentation, where 'distinct' discourses are seen by some as too similar. This approach has been critiqued, by Dryzek and Niemeyer themselves, as replacing democratic transparency with social science. (James, 2004, pg. 65)

Dryzek and Niemeyer propose an alternative to the rigorous analytical approach that they prefer: "Opinion surveys could also inform the identification of relevant discourses, although their lack of interpretive depth may mean that they have to be supplemented by other sorts of analysis." (2008, p. 487) Already opinion polls are, for better or worse, drivers of public policy, and their binding equivalents, elections, offer the public the ability to respond to policy positions.

This approach may seem to lack the 'other sorts of analysis' that Dryzek and Niemeyer wish to supplement an opinion poll, but elections include a dimension beyond voting: they often allow representatives (or potential representatives) and constituents to engage in dialogue with each other, either through direct communication, through the media, debates, interviews, or through joining a political party.

Practical approximations of the ideal of discourse equality

Even though the ideal of discourse equality as Dryzek and Niemeyer conceive it may be impossible to achieve, it may be possible to implement an approximation using existing practices within democratic institutional design. These practises include replacing deliberative consensus with negotiated majority outcomes, as well as using self-organising political parties as a rough guide to political discourses rather than 'top-down' sociological delineation.

In the absence of deliberation and consensus, Warren and Mansbridge suggest that negotiation and compromise are behaviours that trend towards this ideal because they involve reasonably taking into account the discourses of others. (2014, pg. 93) Manin also suggests that negotiation is the next best option if deliberation is unrealistic. Negotiation for Manin involves compromise between representatives in order to achieve long-term principled outcomes. Manin also describes a 'lesser' type of interaction which he calls 'haggling', where representatives aim for short-term gains, potentially at the expense of their principles and especially in return for electoral or popular gain. (1997, pg. 199) Jane Mansbridge, in her paper "Deliberative and Non-deliberative Negotiations", outlines a more comprehensive scale of negotiations from most deliberative, good-faith deliberation to strategic bargaining, with several practical, semi-deliberative stages in between which she considers sufficiently deliberative. (Mansbridge, 2009) Negotiation rather than ideal deliberation may be an acceptable form of deliberative engagement. Ideal deliberation requires a situation where there are no power relationships, which is generally conceived as impossible to achieve. (Mansbridge, 2009, pg. 9) The more pragmatic approach considered is to give each deliberative representative equal power; this means that if less than ideal behaviour is encountered, as is likely, then a negotiation between equals reaching a workable agreement may be the closest possible implementation of the ideal of deliberation reaching rational consensus. (Mansbridge, 2009, pg. 35) Jane Mansbridge in particular advocates that certain types of negotiation are distinctly deliberative and should be strongly considered as a cornerstone of practical deliberative democracy.

The pragmatic approach to discourse delineation is to assume that discourse delineation is self-organising. This approach assumes that people who believe they share sufficiently similar discourses organise together and advocate together, and that people who believe they have distinct discourses will deliberate, negotiate or bargain from places of disagreement. Cass Sunstein indicates that deliberation requires disagreement and that disagreement is the fundamental indicator of different political units. (Sunstein, 2004, pg. 94) This approach does not attempt to qualify the content of any particular discourse, but treats individuals who act *en bloc* as sharing a discourse on the matter at hand. This also leaves individuals free to reconfigure their relationships issue by issue. Lijphart also notes that there is a correlation between the number of political parties and the number of prevalent discourses in a political community. (Lijphart, 2012, pg. 77)

This approach can be applied to political parties, who share discourses when they act as a unified bloc with strong party discipline, and reorganise when there are disagreements on discourse, such as when members cross the floor, where there are issues that reduce party discipline, or when factions disagree. To some extent, the formation and engagement of political parties is a measure of the presence of significant discourses.

Manin notes that inter- and intra-party deliberation and negotiation legitimises representation, and it also serves a second function: to produce non-monological discourses in democratic institutions. (Manin, 1997, pp. 205, 216) Discourses that have been negotiated through party individuals or party factions are more likely to have engaged with other positions and have produced arguments the required reasonable justification than arguments that have had no prior vetting, something that increases

deliberative aspects (Elster, 1997, pg. 11). However, while Manin suggests the intra-party deliberation should be sufficiently legitimising, Dryzek and Niemeyer would likely disagree: intra-party deliberation would not engage with a relevant range of discourses, which is especially pertinent if competing parties are publicly advocating these alternative positions.

The pragmatic approximation of discourse equality could be sought by approaching equality of self-organising discourses through negotiation, compromise and agenda setting.

Problem and Significance

This research will provide a way to assess political equality and the occurrence of deliberative equality in particular in political institutions, and provides the necessary first step to evaluate questions of discourse diversity in political systems, such as investigating whether the general agreement between both major Australian political parties on asylum seeker treatment is partially due to the structure of Australian political institutions.

Gap between theory and practical assessment

Deliberative democratic scholarship focus predominantly in two areas: the justification of deliberative principles and ideals, or practice through supplementary deliberative institutions. Major scholarship on institutional design, in contrast, focus on efficiency and stability, including the ease or difficulty of the passage of legislation, a system of checks and balances to constrain against an undemocratic concentration of power, and the longevity and continuation of government. Despite the strong emphasis on deliberative principles as a well-justified basis for a strong, legitimate and equal democracy, less work has been produced that attempts to practically assess the occurrence and possibility of improve of deliberative ideals – or practical approximations given the difficulties these ideals propose – in existing institutional design paradigms. Given that deliberative ideals are supported as recommendations to improve existing democratic infrastructure, this research is necessary to assess how existing democratic institutions measure up and how existing institutions may be transformed.

Because of the scope that deliberative democratic principles and discourse equality cover, there are many examples suggested as deficits in political equality by proponents of deliberative ideals, including underrepresentation, lack of diversity, and 'rubber-stamp' political processes.

Underrepresentation occurs when the proportion of votes for a political party is far greater than the proportion of seats that that political party obtains from the election. Disproportionate results do not fit with deliberative principles of inclusiveness or equality.

Disproportionate results are often the result of the electoral system implemented – for example, it is well-established that "first-past-the-post" voting is more likely to produce two-party systems than mixed-member proportional voting. In the US this type of

system, among other factors, has produced a system that is overwhelmingly dominated by only two parties and which, as is the case as a result of the 2016 election, can be completely dominated by a single party. Domination by only a few parties is a potential deficit from a deliberative perspective because it excludes a wide variety of political discourses from participating in the process.

Dominance of institutional processes by a single majority party (or closely aligned coalition) produces a 'rubber-stamp' process where there is a lack of participation by other parties and voices and therefore deliberative discourse. This could potentially occur even if the Greens, for example, obtained a 10% seat share that matched their 10% vote share – if a single party forms a majority which they are not a part of, their participation in producing legislation is limited. This is exacerbated in states that have strong two-party systems, such as the Republican Congress and Presidency in the US after the 2016 election, or in systems where there is a single chamber (or a bicameral system where one chamber has no veto power). In these systems it is possible for a single party to exclude other parties and voices from institutional processes that produce legislation.

While a potential remedy for the first two concerns is to adopt an electoral system that produces more proportional results, the final concern is more complex and involves inspecting other features of the democratic institutions including parliamentary processes, government formation, and executive-legislative relations. Electoral processes have received much scrutiny, assessment and proposals for improvement and implementation in regards to inclusiveness and deliberative ideals, but the latter areas have received little to no deliberative focus. This research attempts to explore these areas in order to assess how they can relate to the deliberative ideals of discourse equality.

Occurrence of and focus on discourse equality

Discourse equality is a substantial measure of the quality of political equality in a democratic state, and it is significant to investigate its occurrence to have a comprehensive picture of political equality.

Political theorists and political scientists have proposed changes from less representative to more representative democratic institutions in part to better implement the principle of political equality. Examples include criticism of the US, UK and Australian two- or two-and-a-half party systems to be replaced with multiparty systems. The rationale for this change includes a more representative democratic assembly that is more isomorphic to the varied values and interests of the public, as well as more representative of the votes cast in elections, whereby some parties gain a small but significant portion of electoral votes (for example, 10%) but achieve far less representation in democratic assemblies. For example, the Greens in Australia have achieved an average of 10% of Federal votes when all electorates are accounted for, but achieve less than 1% of the seats in the House of Representatives. Similar situations exist in the UK, and there has been a dominant two-party system for the last century.

The principle behind these proposals includes empowering more citizens' voices in an environment where their preferences and political discourses are seen to be absent or reduced in political institutions. This implies a deficit in input equality where citizens are unrepresented or disempowered in political institutions. The proposal to move towards multi-party systems aims to increase the number of citizens adequately represented in democratic assemblies and increase input equality.

However, this illustrates that investigations into political equality are often focussed on ensuring that voters' preferences are proportionally represented in democratic institutions, but this does not ensure that these representatives are empowered to negotiate, compromise or set the agenda. Where too few discourses are included in democratic institutions, or when discourses are present but not empowered to engage in discourse representation through acts such as negotiation, discourse equality is lacking, even in its less-than-ideal form. For example, a 10% presence of a minor party in the UK's Lower House would not necessarily produce a situation where this minor party had the ability to have an impact on policy.

Examples of a deficit of discourse inequality include occurrences where a political party or independent have a presence in a democratic institution but do not have the power to negotiate or agenda-set. In the 2013 election Adam Bandt won a seat in the House of Representatives, but the composition of the House placed him in a position where he was not empowered to negotiate. The Senate also had occurrences of representatives with no realistic negotiation or agenda-setting powers from 1985 until 1993, and again in 2005 and 2011; in 2005 when Howard's government held a Senate majority there were more unempowered representative blocs than empowered blocs. These are indicators of a deficit of discourse equality in Australian political institutions, where a level of input equality delivered representatives to the Senate or the House, but did not empower them as discourse representatives.

The 2016 US elections also indicate the importance of discourse equality; the results of the 2016 elections have a single party holding a majority in both houses of Congress as well as the presidency, which means that the discourses of a single party will have overwhelming influence on policy outcomes while other voices can be largely excluded.

Research shows that an emphasis on a single discourse tends to produce greater polarisation and push policy outcomes to the extremes of these discourses – even if all individual members of the discourse group have more moderate views. (Sunstein, 2003, pg. 81) The inclusion of multiple empowered discourses in democratic policy-making is therefore an important part of representation to ensure that as many citizens as possible are represented, as well as for moderating extreme views and avoiding polarisation.

Ideal versus pragmatic approaches to discourse equality

From a deliberative perspective, designs tend to aim for ideal human behaviours; for example, deliberation includes an open and honest approach to consensus-seeking and reasoned argumentation, but this cannot sufficiently be relied upon. Public opinion of

contemporary politics in Australia, the UK and the US includes a significant belief that self-interest and a focus on political power rather than value-driven policy is prevalent.

Deliberative democratic institutional design includes citizens' juries and chambers, and a chamber of discourse representatives selected rather than elected. These designs not only require ideal human participation to function well, but they are often supplementary to larger, more traditional democratic institutions such as a House of Representatives. Where they are not supplementary they vary from the norms of democratic principles such as popular electoral power and input equality which are seen as both conceptually palatable, more transparent and more directly engaging in producing popular sovereignty.

This research is important because it will use the tools of systematic institutional design to assess a pragmatic perspective of deliberative behaviours that are sought-after by deliberative democrats, which provides for a more practical pathway – one that does not rely on members behaving ideally at all times or veering from democratic norms – to produce deliberative democratic results.

Importantly, the results of this research could provide a basis to more specifically and closely assess whether diversity in discourse representation is due to institutional or other, potentially cultural or social, factors. Comparison of treatment of specific issues in particular case studies, such as, for example, the issue of immigration in Australia, could be compared to the theoretical possibility for discourse diversity outlined by the conclusions of this research. This will enable future research to determine if discourse diversity is largely an institutional factor, or if inclusiveness of discourses is predominantly situated outside the influence of institutions.

Innovating discourse equality

The analysis of the occurrence of discourse equality in institutions will also provide a basis for future innovation in institutional design that includes an emphasis on including deliberative democratic approaches such as discourse equality. Debate and change regarding implementation of proportional representation in future democratic institutions generally focus on input equality rather than focussing on how different discourses can impact policy. This research is important because it will propose areas where discourse equality will allow representatives to have roughly equal impact on policy through institutional design.

Conceptual Framework

This research will investigate a practical approximation of discourse equality in democratic institutions. To complete this investigation, a review of discourse equality, a review of its practical limitations and approximations, and a method of measuring these practical approximations within democratic institutions.

Defining Discourse Equality

This research will focus on discourse equality largely as theorised by Dryzek and Niemeyer. This research will begin by reviewing their paper on discourse equality, "Discursive Representation", and identifying the features required for the presence of discourse equality, namely (a) a sufficiently diverse number of discourses, (b) representatives who stand for defined discourses, (c) an equal or no-power relationship between these representatives, (d) good faith rational deliberation between participants, (e) a consensus-seeking decision-making process, and (f) equal ability to present discourses at an early stage of agenda-setting.

These features will be placed into further context by a review of similar concepts in broader deliberative democratic theory, including the works of Warren, Sunstein, Cohen, Habermas and others.

Producing a practical approximation of discourse equality

Theorists such as Warren and Mansbridge note that the ideals of deliberative democracy, including those ideas present in discourse equality, are often unachievable in practice. Consensus results are often unachievable because there are rational reasons to hold strong disagreements, people may not act in good faith, or there may be limited time. Discourse identification and delineation may be perceived as undemocratic because it requires sociological specialists to select representatives. Relationships between representatives cannot realistically be devoid of power relationships.

However, Mansbridge and others propose procedures and concepts that approach the deliberative ideals and argue that these approximations can be sufficiently deliberative. Drawing from their work, this research will work with the following acceptable approximations and methods of assessing them:

Deliberative Ideal	Deliberative Approximation	Method of assessing
(a) Number of discourses (b) number of representatives	Political parties and factions	• Identify number of parties and number of effective parties • Identify basic degree of party factionalisation • Assess party discipline through percentage of floor crossings
(c) equal power relationships (d) deliberation (e) consensus outcomes	Ability for parties, factions or blocs to negotiate to workable agreements	• Apply Banzhaf Power Index or Shaply-Shubik Power Index to each stage of legislative passage • Identify veto-players
(f) agenda setting	Legislative initiative	• Identify number of parties in cabinets • Constitutional process and convention regarding legislative initiative

		• Measure occurrence of veto players at initial legislative stages

(a) Number of discourses and (b) selection of representatives

Discourse equality requires that an institution or assembly is inclusive of a sufficient range of discourses to represent the major worldviews and argumentative positions of the political community. While Dryzek and Niemeyer propose a sociological method to determine this (2008, pg. 486), there are practical objections that a sociological approach is undemocratic. (James, 2004, pg. 65) Electoral systems that are inclusive of a range of voices is a possible approximation.

A model of discourse equality requires that the institution is generally inclusive of discourses. One method to achieve this would be to use Dryzek and Niemeyer's proposed methodology to sample the population for discourses and then evaluate whether those discourses were occurring in democratic assemblies. The number of discourses therefore might fluctuate over time. In evaluating whether a system is sufficiently robust to include fluctuations in the number and types of discourses, it must be capable of including a sufficient number, even if that number is not always met.

Dryzek and Niemeyer do not nominate a number of discourses that indicate a healthy inclusion of discourses. They do suggest that "[t]he number of discourses that need representing on any issue is generally much smaller than the number of representatives in general-purpose legislatures, so it ought to be possible to constitute a small issue-specific deliberating group that contains representatives of all relevant discourses." (Dryzek and Niemeyer, 208, pg. 485) However, they do not go on to say how small. On specific issues, they identify seven environmental discourses, and four criminal justice discourses. (Dryzek and Niemeyer, 2008, pg. 487) The number of discourses therefore depends upon the policy area being investigated.

However, there are objections to Dryzek and Niemeyer's sociological process, suggesting that it replaces democratic processes of authorisation, accountability, transparency and participation with a top-down social science process determined by experts with sociological models whose constructions and outcomes are not clearly understood by the public (James, 2004, pg. 65). Dryzek and Niemeyer admit to this concern themselves and suggest alternatives such as opinion polls (Dryzek and Niemeyer, 2008, pg. 468) as more transparent and easily understandable. Because Dryzek and Niemeyer agree that an opinion poll is sufficiently democratic and representative (though maybe not producing an ideal cross-section of discourses), and that a selection process is required for representatives, this research will use electoral systems as an approximation of this principle. An electoral system can produce a diverse range of representatives who disagree with each on discourses, thus providing a range of discourses in a democratic assembly.

To assess the success of an electoral system at producing a range of discourses, this research will use a range of concepts to identify the approximate number of discourses:

the effective number of parties, including the number of factions or strong coalitions, the number of negotiating blocs, and a measure of party discipline.

Lijphart identifies seven prevalent "issue dimensions" in his review of thirty-six democracies (Lijphart, 2012, p. 76). An issue dimension is an area of political conflict where at least two, but maybe more, different discourses engage with each other. Environmental issues form part of what Lijphart reports as a "postmaterial" issue dimension; the intersection of discourses and issue dimensions indicates that each issue dimension can have multiple discourses.

Lijphart raises that the number of 'effective' political parties is generally one more than the number of issue dimensions that are significant in a democracy – for example, a two-party state has one significant issue dimension (usually socio-economic), while a five-party state will have four significant issue dimensions. (Lijphart, 2012, pp. 76-77) While parties can contain intersections between issue dimensions, he notes that a multiparty system can handle a greater number of issue dimensions than a two-party system. (Lijphart, 2012, pp. 76-77) An issue dimension indicates the

Lijphart counts the number of 'effective' parties using a mathematical model proposed by Laakso and Taagepera that assigns the numbers of parties in a way which takes into account their relative sizes; he also includes his own amendments to take factionalisation and strong, enduring coalitions, such as the Liberal-National coalition, into account, by counting each in a way as one and a half parties. (Lijphart, 2012, pg. 66) With this formula Australia has a two and half parties in the Lower House, and four parties in the Senate.

The number of parties, however defined, can suggest something about the number of discourses, but it cannot definitively determine how many are present. For example, while four parties may indicate that there are three issue dimensions, it does not indicate how many different discourses are present in each dimension. The presence of an issue dimension indicates political conflict and suggests at least two different discourses, but four parties may or may not embody a distinct discourse each. Two parties may share a discourse, and other parties may have no discourse related to a particular issue dimension.

Sunstein (2003, pg. 90) makes the point that two deliberators who agree with each other cannot be said to embody two distinct discourses. Therefore, Sunstein conceives of unified blocs as roughly constituting one representative entity, counting the number of representatives by the number of people who considerably disagree. This indicates that political parties with strong party discipline act in democratic assemblies as a unified representative, though they may, at earlier stages of deliberation, be counted as separate, disagreeing factions.

Party discipline indicates the degree of shared discourses between members – a party with less discipline may be indicative of a more diverse range of discourses within that party, which would indicate a larger range of discourses present in the democratic assembly.

Given that there is no fixed, defined number of discourses that need to be present, as they may fluctuate depending upon issue and time, and given that there is not necessarily a

way to ensure that parties encapsulate a certain number of discourses, the most useful approach might be to follow some simple heuristics. An institution that is flexible enough to admit new discourses, which implies that there should not be a difficult barrier of entry for newer, typically smaller, parties, will be seen as sufficiently diverse, even if it does not carry a large number of parties. The number of discourses for any political community will vary across time and circumstance, and while Dryzek and Niemeyer note that the number need only be 'small' for each issue (2008, pg. 485). It may be prudent to suggest a number that is 'manageable' – that, for example, is sufficiently easy to navigate in terms of negotiation. Negotiation with fifty blocs may be incredibly difficult and reduce the deliberative nature of negotiations, whereas negotiation between two may not be inclusive of enough discourses.

An approximation of sociological discourse selection could therefore be an electoral system that generally produces a manageable number of distinct discourse blocs without a high barrier for entry.

(c) An equal or no-power relationship between discourse representatives (d) rational deliberation and (e) rational consensus

Rational deliberation leading to consensus between equal participants is an ideal of discourse equality, however there are practical limitations to the possibility of ideal deliberation, equality between participants and consensus. Equally empowered negotiating blocs can approximate the basis of this ideal, and negotiating power can be measured in various stages of legislative passage with the Shapley-Shubik or Banzhaf power indices (Laasko & Taagepera, 1981, pp. 107 – 120). This can be complemented by George Tsebelis' concept of veto-players in *Veto Players* (2002).

Rational deliberation requires ongoing good-faith engagement and ideal behaviour by representatives, but deliberative democrats note that there is no way to guarantee that representatives will sincerely or continually act in good faith (Shapiro, 2003, pg. 135). Rational deliberation requires an engagement with the reasoning of other participants in an attempt to fully understand alternative positions and honestly approach solutions on the merits of reasoned arguments. A lack of power-relationships between participants allows participants to consider and be persuaded by the rational basis of an argument rather than their relative position for the purposes of political strategy.

A situation without power relationships is perhaps theoretically impossible (Mansbridge, 2009, pg. 9). Because of this, a situation with evenly distributed power between participants is the closest approximation. (Warren & Mansbridge, 2014, pg. 91) A situation where participants have equal power means that no one participant has more coercive power than another, and therefore outcomes are made from a position of equality.

Although it is impossible to guarantee a good-faith, deliberative approach to substantially engaging with the arguments of others, Mansbridge notes that negotiated outcomes involve considering the arguments of others as well, and provide a good approximation of rational deliberation. Mansbridge notes gradients of negotiation, from integrated negotiation that aims to sincerely consider the values of participants, to negotiations

focussed on long-term gains, to short-term bargaining between adversaries focussed on immediate political gains. Although integrated negotiations are a closer approximation than short-term bargaining, Mansbridge considers all types as effective. (Mansbridge, 2009, pp. 11 – 35)

Rational consensus is an ideal of deliberative democracy and discourse equality where participants unanimous or overwhelmingly agree on an outcome for the same reasons. However, there are many reasons why participants may be unable to reach a consensus agreement of this sort: they may have differing principles that convince each of them they are right, they may not be acting on good faith, or they may not have enough time to persuade all the participants. Mansbridge offers a 'workable agreement' as an approximation, where participants agree but for potentially different reasons. Deliberative democrat Robert Goodin (2003, pg. 71) among others, suggests that unanimity may be difficult to achieve but that a supermajority or even a simple majority may be legitimate if the preceding process was sufficiently deliberative.

The Shapley-Shubik and Banzhaf power indices provide a way to measure the relative negotiating power of participants. Each index finds a way to determine the number of times a participant, voting bloc or political party can form part of a minimal winning coalition out of all possible winning coalitions. A voting bloc that appears in a greater number of minimal winning coalitions holds more negotiating power. (Laasko & Taagepera, 1981, pp. 107 – 120) However, these indices only look at the number of votes per voting bloc and the voting threshold to pass legislation, but do not look at other factors such as ideological position, individual negotiating skill, or history, which may play a role in the likelihood of two voting blocs working with each other. Because of this, a potential coalition member with a high score may be involved with less negotiations than a potential member with a lower score, because there may be non-mathematical factors that affect their ability to negotiate to an agreement.

George Tsebelis' concept of a veto player is that of an essential participant or bloc whose consent is necessary to pass legislation – in this manner they can be considered a participant who forms a part of every possible minimal winning coalition. (2002, pp. 12-15) Veto-players can exist at multiple stages of legislative passage; for example, the US President can veto legislation after it has passed through the legislative branch. Tsebelis theorises that different numbers and structures of veto players can affect the type of legislation passed (for example, more or less centrist or moderate legislation) as well as the likelihood of deadlock. (2002, pp. 14-15) Tsebelis takes ideological positions into account when predicting legislative outcomes.

Because of the diversity and difficulty regarding the likelihood of two participants negotiating, this research will focus primarily on three types of participants: (i) participants who are veto-players and whose consent is *necessary* to pass legislation, (ii) participants who are possible minimal winning coalition members, so that the consent of some but all possible minimal winning coalition members are required, and (iii) participants who are neither and whose consent is not required. Categorising these participants can occur at different stages of the legislative process.

(f) agenda setting

Equality in agenda-setting is an important aspect of discourse equality because a monopoly on this process can allow one perspective to dominate the discussion. Agenda-setting can occur through legislative drafting and introduction, or in response to public awareness or demand. This research will focus on the procedural and structural elements, including formal procedures and conventional procedures. Formal procedures include procedures written in constitutions and house rules that dictate who can introduce legislation, while an investigation of conventional procedures will look at the common pattern of legislative introduction and the significant factors that shape this pattern. An emphasis will be placed on the relationship between minimal winning coalition members, veto-players and the occurrence of collaborative or exclusive legislative drafting, as well as whether legislative introduction is shared or monopolised.

Institutional procedures and conventions can limit agenda setting. In some institutions, legislation can only be introduced by certain actors: for example, while the US Congress can introduce legislation, the President requires a member of Congress to introduce it on his or her behalf. In contrast, the executive of the European Union, the European Commission, can introduce legislation, but the European Parliament cannot.

Convention can also limit the ability to introduce legislation; while formally any member in the Australian Parliament can introduce legislation, the government monopolises this by controlling both floor-time for debate and time with the office that assists in placing bills into acceptable legislative language.

For a bill to have a fair chance of success, the bloc that introduces the bill must have some negotiating power, either by being a veto-player or being part of a minimal winning coalition. A bloc that has neither has little chance of negotiating a bill into law unless idealistic behaviour, where the bill is solely treated on its merits, is exhibited.

Case studies

Given the institutional features drawn from the works above, a variety of institutions that reflect different combinations of these features will be reviewed to assess how combinations of institutional features affect discourse equality.

The selection of institutions will attempt to compare systems that have generally culturally similarly histories of democracy, which have endured in a stable fashion for an extended period of time, and which together exhibit a cross-section of features. The case studies will therefore be drawn primarily from liberal democracies from Western Europe or British colonies. This selection mostly comprises former British colonies that have gained legislative and executive independence from Britain but embody many of the democratic traditions and much democratic culture as the United Kingdom. Not only are they Western liberal democracies with many common central aspects, but their institutional features different in significant ways, giving a clear cross section.

Institutional Comparison

This research will complete an institutional comparison of several countries in order to observe what institutional features best promote or practise deliberative equality.

Significant features of institutional design are necessary to provide a way to compare different democratic institutions such as, for example, the Australian Federal Parliament and the US Congress.

These features of institutional design will be drawn from Alan J. Ward's *Parliamentary Government in Australia* (2012), Giovanni Sartori's *Comparative Constitutional Engineering* (1997), and Lijphart's *Patterns of Democracy* (2012).

These authors all suggest similar significant features that comprise democratic institutions: electoral system, relationship between the executive and legislative branches, party systems, and stages of legislative passage, including coalition formation, government formation, unicameral and bicameral structures, and executive stages of legislative confirmation.

As well as formally recognised chambers where legislation must progress through a discrete step, such as the US House of Representatives and the US Senate, there are other discrete stages that a bill must go through, such as the assent of the US President.

Tsebelis in *Veto Players* (2002) proposes a framework focusses on the practical stages of legislative consent, rather than the formal structure of, for example, bicameralism or unicameralism, with his conception of veto-players. Because this research is also interested in minimal winning coalitions, it is useful to account for discrete stages that include either veto players or minimal winning coalitions.

While a legislative chamber or an executive veto position are institutionally recognised stages, there are other stages to consider that are significant. These include the stage of legislative introduction, sub-stages within legislative chambers such as the negotiations between factions in a party room or coalition members in a coalition, or super-stages such as the relationship between two chambers or the legislative and executive branch.

Party rooms: where a party has internal factions or negotiations, the party room can be considered an important step in producing an outcome that affects the passage of legislation. This is especially significant where the party is the majority party. For example, there are congressional caucuses such as the Republican Study Committee, Republican Main Street Partnership, the Tuesday Group, Freedom Caucus and Liberty Caucus that exist within the majority Republican Party in the US House of Representatives. For a vote to pass, it must have the vote of members of these factions.

Lijphart notes that executive power is sometimes concentrated in a party cabinet, and sometimes more evenly distributed across the party and its potential factions. Alan J. Ward discusses that Australia has been concentrating more and more power to cabinet and Prime Minister and away from parties as a whole – while parties might have factions that cabinets wish to appease, this is not necessarily conducted through a vote that resembles a parliamentary procedure but at the discretion of cabinet. As such, factions are an emergent rather than institutional feature.

Executives: here a single party occupies a significant step in the process of introducing or progressing legislation. The US President has the power to veto legislation that has made it through both houses of Congress and can therefore act as a veto-player. In Australia, the executive sits in with the legislation, so the executive (which is also the party room) precede the two formal chambers of Australian politics. A party-room may also have an executive who can veto legislative ideas.

Coalitions: where multiple parties agree to work together in a continuing fashion, they may negotiate with each other before presenting proposals to a formal chamber. This can function similarly to a party-room, but due to the nature of the negotiations the parties involved may not progress legislative proposals based upon votes, but through agreement of both parties, regardless of the differing membership sizes.

Institutional Relations: where both houses of a democratic institution, such as the US House of Representatives and Senate, are required in order to pass a bill that may be treated as a single stage that includes two veto-players, these being the majorities that sit in either chamber. Where both houses of Congress are held by the same party (as they are after the 2016 US election) they act as a unified bloc and there is only one veto-player. Tsebelis notes that the executive can be included in this consideration as well: where there is a unified Congress but an opposing President (as in Obama's second term), the executive and the Congress are negotiating entities, while when all three stages are controlled by the same party (as it stands after 2016), there is only one veto player. (Halberg, 2010, p. 23)

As well as these features of political institutions, Slomczynski and Zyczkowski (2006) illustrate the important role that voting thresholds can play in determining the relative impact of representatives on legislative outcomes. An investigation into voting thresholds in an important aspect of investigating the impact that insitutional design can have on discourse equality.

Sartori also emphasises the importance of gridlock resolution features in a functioning democracy, such as veto-overrides, presidential powers, and the dissolution of parliaments.

In order to cover a range of institutional structures and combinations, the following cases will be selected:

Two-party system with internal executive: the United Kingdom.

The UK system is institutionally a bicameral system, encompassing the House of Commons and the House of Lords. However, the House of Lords, while having the power to scrutinise and delay legislation, have no power to completely veto it. This does not make the House of Lords insignificant, but because of the limitations of this chamber it is useful to treat the House of Lords less as a legislative chamber and more as an advisory committee – less a bicameral system of two empowered chambers and more a 'sesquicameral' system of one-and-a-half empowered houses.

Two-party system with external executive: the United States.

The US does not exhibit many of the features of the Westminster system. Both its shared history and its distinctive design make it a useful point of comparison with other systems. It has a strong Senate and the possibility of an executive that differs in party alliance to the democratic assemblies.

Multiparty systems with internal executives – unicameral: New Zealand, Sweden, Ireland

New Zealand's multiparty system usually leads to minority governments rather than coalitions, while Sweden tends towards coalitions rather than minority governments. Ireland has had examples of both, but minority governments have typically been short-lived.

Multiparty systems with internal executives – bicameral: Germany, Italy, Belgium

The German system has not exhibited the same stability as the other systems noted here, but it has remained generally stable since post-WWII and carries many of its pre-WWII features with it. It provides a clear example of a bicameral multiparty system and a useful comparison to the Canadian bicameral system. It is important to note that neither Canada nor Germany have popularly elected upper houses.

Italy has an upper house that follows similar electoral rules to its lower house, but has a higher voting age, often producing different results.

Belgium's Senate has had its power reduced in the past few decades, so it, too, qualifies as a sesqui-cameral system

Multiparty systems with external executives: France and Portugal, Switzerland

This category is less well-defined that many of the previous categories – France and Portugal both have 'semi-presidential' systems where both the president and the prime minister have some level of executive power, which can change dependent upon whether they are both elected from the same party. Where they are not, they follow more closely the model of an external executive, but if both president and prime minister are from the same party they follow more closely the model of an internal executive. France has a bicameral structure, though the Senat is not comprised of elected officials via popular vote, while Portugal is a unicameral system.

Switzerland is a special case where the executive is a multimember body. In addition, Switzerland has a supermajority coalition and executive party allocation that has endured primarily through historical convention and Swiss democratic culture.

Hybrid party systems with internal executive: Australia and Canada.

Canada follows a similar model to the UK, except that it has a stronger Senate that can veto laws. The Senate often functions in a non-partisan manner due to the lifetime appointment of its members, though in some instances Senators have been known to follow partisan lines.

Australia has a two-party Westminster-styled lower house, but a strong Senate that can block legislation and an emerging multi-party system.

This range of case studies will give a strong overview of some of the most prominent institutional structures to investigate which structures best support an approximation of discourse equality. These comparisons include bicameralism versus unicameralism (e.g. NZ, Sweden and Ireland compared to the US, Germany and France), internal versus external executives (e.g. the UK, NZ, and Sweden compared to France, the US and Switzerland) as well as a comparison of party systems (US and UK compared to Switzerland and Belgium).

Conclusion

Institutional comparisons have avoided engaging with deliberative democratic ideas in a thorough manner, such as assessing deliberative equality, while deliberative theory has avoided engaging in large institutional comparisons rather than case studies. This research will observe the occurrence of practical procedures and structures that promote or practise approximations of deliberative ideals such as negotiation and shared agenda-setting. This research will be valuable because it will provide a way to measure the number of discourses, voices, interests, preferences or sides of a conflict that can be present in a democratic institution, and provide a theoretical baseline for future investigations to determine if the diversity or lack of diversity in political discourses on issues such as immigration or the environment are constrained by the structure of the institution or other factors.

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Chapter Outline

Chapter 1

Introduction and Literature Review

This chapter will introduce the reader to the problems highlighted by Dryzek and Niemeyer – that input equality is insufficient to produce political equality and that discourse equality addresses significant deficits in political equality. It will cover four main areas:

What is discourse equality?

This section will introduce the reader to the concept of discourse equality as raised by Dryzek and Niemeyer, and how it relates to crucial concepts in deliberative democracy as raised by Jürgen Habermas and Nadia Urbinati, as well as how it relates to conceptions of political equality as raised by Robert Dahl.

Why is discourse equality important?

This section reviews literature that links discourse equality to political legitimacy in democracies, especially focussing on Robert Dahl and Bernard Manin. It will also focus on contemporary issues in politics that may relate to a deficit in discourse equality, including:

- a focus on the lack of empowered discourse in democratic institutions, for example, the Greens' member Adam Bandt, independents in the Senate, and minor parties in multiparty systems
- the potential 'narrowing' of discourse in the recent US election – for example, the 'lesser of two evils' concept between Hillary Clinton and Donald Trump
- the focus on stability and efficiency in the Italian constitutional referendum of 2016, where the proposal will produce less voices but a simpler passage of legislation

How have deliberative democratic assessments of democratic institutions covered discourse equality?

This section will focus on deliberative democratic proposals and assessments, including Dryzek and Niemeyer, Cohen, Uhr, Urbinati and others. It will focus on the idea that deliberative assessments and proposals focus on supplementary institutions and ideal behaviours, rather than a larger institutional view that includes checks and balances against less-ideal behaviours.

How have institutional design assessments of democratic institutions covered discourse equality?

This section will focus on both the emphasis on electoral systems and on stability and efficiency that Sartori, Tsebelis, Ward, Lijphart and others focus upon in their institutional reviews. While there is a focus on political equality, the quality of democracy, and representation, this is generally not conducted from a deliberative democratic perspective and does not address discourse equality.

In general, deliberative democratic theorists work with ideal behaviours and less systematic reviews, while systematic reviews generally do not focus on deliberative democratic values, though they do have a pragmatic look at institutions.

Chapter 2

Concepts and Methods

This chapter will focus on the significant concepts of discourse equality, especially a pragmatic version of discourse equality, and propose a method to assess democratic institutions for the presence or occurrence of discourse equality.

The first part of this chapter will outline the central concepts of discourse equality, including the behaviours of discourse representatives from an ideal and from a pragmatic perspective. It will draw out the equality between representatives who can deliberate, negotiate, introduce and progress legislation is indicate of discourse equality.

It will also investigate how self-organising discourses can be viewed as generally disciplined blocs, including factions, parties and independents, and how reorganisation between these blocs is suggesting of these blocs being representative of multiple discourses.

Finally the first part will introduce concepts such as veto-players and minimal winning majorities that indicate the ability for discourse representatives to negotiate.

The second part of this chapter will review how the number of discourses is important to discourse equality, but that a system of self-organising discourses cannot be readily assessed for a specific number given that these vary between cultures, locations, and times.

The third part of this chapter will outline significant institutional features that will be used in assessing democratic institutions for discourse equality. These include the number of chambers, party system, veto-points and other stages of legislative progression, executive-legislative relations, voting thresholds and gridlock resolution mechanisms.

Chapter 3

Party Systems

There are two major party systems that are considered in political literature: the two-party system and the multiparty system. The differences between the two are explored by Lijphart in *Patterns of Democracy*, where he compares the stability and outcomes of majoritarian and consensus democracies. This research will evaluate these party systems within a single stage of legislative passage. It will investigate parties within legislative chambers, but also factions that exist within a single party (the party room being considered similar to a 'chamber' in which factions engage with each other similarly to the way in which parties engage in a traditional chamber) or parties within a coalition (here the coalition is the chamber while the coalition members take the role of parties).

There are four main configurations: a stage with one veto-player, a stage with multiple veto-players, a stage with multiple minimal winning coalitions, and the Swiss model.

One veto player: Where one party holds a clear majority, they are able to pass legislation without requiring the votes of the minority, and so the minority has less power to negotiate. This is often the case in a two-party majoritarian system. The Australian and US House of Representatives both exhibit this. It is also the case where a strong majority coalition occurs in a legislative chamber. Although the coalition consists of more than one party, strong coalition members tends to negotiate with each other before presenting legislation to the chamber, so that they have a unified approach once legislation reaches the chamber. This means that a chamber with a multiparty system in which strong coalitions occur have the same veto-player configuration as two-party systems. The current German and Australian parliaments have a majority that works in this fashion.

Multiple veto players: Multiple veto players are less likely to form in legislative chambers. Both parties being veto-players is unlikely because it would requires 50/50 split in representatives would produce this outcome. However, when considering the parties in a coalition the number of members is not always a determinant in the outcome as there is less likely to be an internal vote and more likely to be a negotiation between equals, as each party relies on the other to uphold the coalition. In this case, both parties are veto-players. The members of the current German coalition work in this fashion.

It is also possible that multiple veto players exist in a coalition of multiple members who prefer unanimity on the form of a bill before it is introduced. Here the number of veto players would match the number of coalition members.

Multiple minimal winning coalitions: A system where multiple parties exist but do not form a majority coalition creates an environment where a number of minimal winning majority members can exist depending on the size of each party and the threshold required. While there may be a greater prevalence for minimal winning majority members, a minor party or an independent may or may not be part of a minimal winning majority dependent upon the number and sizes of other parties in the chamber. The New Zealand multi-member proportional parliament (from 1996) has regularly found itself in this position, with minority governments and all blocs possible minimal winning majority

members. The Australian Senate has rarely had a majority bloc, but until recently has regularly had independents that could not participate in minimal winning majorities.

The Swiss model: The Swiss model is a more unusual model – it has regularly produced an oversized coalition that forms a majority. This produces a virtual split in the parties: coalition members find themselves negotiating with each other within the coalition, while non-coalition members are not veto-players or part of a minimal winning coalition. Despite having a large number of parties and a strong tradition of working together, some parties do not have the ability to impact policy outcomes. Members of the governing coalition use a mix of unanimity, majority of blocs or relative independence contingent upon content and circumstance, and does not neatly fit into any of the previous models.

The actual process is a combination that is difficult to precisely qualify, because there are conventions rather than rules. The aims of different parties generally tend to take all three into account: (a) that a majority of coalition members sufficiently happy with the proposal, (b) that all parties have the opportunity to introduce legislation with a fair chance of success, and (c) that no coalition member is sufficiently unhappy with the legislation. Using convention allows the Swiss system to move between the three as necessary.

The Swiss model indicates that veto players and minimal winning majorities are baselines for 'cynical' behaviour, but flexible guidelines for more ideal behaviour, especially in circumstances with less formal procedures. Rather than an up-or-down vote, this model can be considered to have three levels: approval, moderate disapproval, and strong disapproval. Strong disapproval results in a veto, while moderate disapproval checks to see if a majority of blocs disapprove. This system has the capacity for cynical behaviour to move parties straight to strong disapproval. Consider, for example, the US Senate, where Republicans used the filibuster – a convention theoretically introduce to be used sparingly for strong disapproval – as a routine veto. A cynical player in the Swiss system might consistently veto, perhaps paving the way for more rigorous rules to be laid down.

Expected conclusion:

Systems with majorities, either as single parties or as coalitions, generally exhibit the least amount of minimal winning majority members – usually one or two, who compromise the government majority. Minority governments in either multiparty or two party systems increase the number of potential negotiating partners, especially in multiparty systems.

The exception is the Swiss model, which has a supermajoritarian coalition which allows for a larger amount of negotiating partners than a typical majority-held chamber.

Chapter 4

Executive-Legislative Relations

The design of executive-legislative relations can have an effect on the occurrence of negotiating partners. Executives can be external to legislative bodies, or be drawn internally from them; they can be empowered to pass or veto legislation, or have a less significant role. The design of an executive can also have a secondary effect: external executives can produce less party discipline and fewer parties in a multiparty system.

Internal executives: An internal executive usually occurs in parliamentary systems where a majority is required to form the executive within the legislative chamber – for example, both the Australian two-party system and the German multi-party system (though both have a symbolic executive who holds reserve powers). In this situation, the executive can be considered to be a separate stage whose actions precede the formal legislative chambers, either as factional parties or coalition members, or a combination of both. Because an internal executive requires a relatively unified majority, type of executive is more likely to have a formal chamber with only one veto player.

A second feature of an internal executive is a monopoly on legislation by the governing party. In an internal executive system, the government executive and legislative branches overlap and policy direction is dominated by cabinet who prepare, introduce and vote on policy.

Internal executives can be veto players where they hold a majority – presence in both majority coalitions or outright majorities. Only the New Zealand system has consistently demonstrated a minority government internal executive, though Italy has also had multiple occurrences. A majority presence means that the legislative agenda is dominated by the party that can immediately veto legislation in the chamber where it is most commonly introduced.

External executives: An external executive does not necessarily require a majority in the legislative chamber. This has three potential effects: first, the legislative chamber may operate without any stable majority party or coalition, second, the executive may have an important veto-role in rejecting legislation, and third, the executive may participate in a non-voting stage that can introduce legislation.

The US President exemplifies the concept of an executive veto – when legislation passes through both formal legislative chambers, the President has the option of rejecting this legislation. The Australian House of Representatives could be seen as an executive chamber, where typically the executive party holds a majority that provides it with de facto veto power over any legislation that is introduced in the Senate.

The executive may propose legislation even where it does not sit in the legislature, such as the presidential executive in France and the US President, where legislation can be proposed to the legislature, though this does not imply that it will be successful. The European Union has an external executive, the European Commission, that has a monopoly on introducing legislation, but has no voting power whatsoever.

There are not many examples of an external executive with a multiparty system where the legislative is not dominated by a strong coalition. However, the Australian Senate gives a suggestion as to how this might appear – there is no clear majority or majority coalition in the Australian Senate, and the executive resides in a separate chamber.

Expected Conclusion

External executives offer the chance to have a multiparty system with a maximum number of minimal winning majority members by not requiring a majority or majority coalition to form the executive; in practise, however, this rarely happens, while some internal executives routinely have minority governments. External executives also provide the potential for veto-player capacity. External executives may decrease party discipline, but also reduce the number of parties, though these are indirect effects.

Chapter 5

Voting Thresholds

This chapter explores the affect that voting thresholds have on creating veto players or minimal winning majority members.

Most democratic chambers that require a vote to pass legislation require a simple majority of 50% of the members, plus one. This is in contrast to the variety of systems that are used to elect representatives, which can range from plurality (first-past-the-post) to various types of preferential or proportional voting. One of the major factors is that legislation usually requires a yes-no vote, whereas there can be more than two options for representatives. However, there is some variety in voting requirements, including larger thresholds for certain types of legislation, such as supermajorities. Different thresholds can affect the occurrence of veto players and minimal winning coalition members.

Simple majority: A simple majority is 50% of the representatives plus 1. In a system with an internal executive sits in this chamber, a simple majority is often required to form government, which tends to produce one veto player, either a single party of a strong coalition. This is not the only possible outcome, as Alan J. Ward notes that a weak coalition or a tacit coalitions can provide support for an executive's confidence and supply without agreeing to support all legislative endeavours – this has been the norm in New Zealand since 1996. In New Zealand, a simple majority threshold produces multiple minimal winning majority members.

In a chamber with an external executive but a two-party system a simple majority produces a single veto player, unless there is an exact 50-50 split, which is not only unlikely, but in some democratic chambers, impossible.

Supermajority: A supermajority is typically two-thirds or three-fifths of the total votes (of all members present, all members voting, all members elected or all seats available). A supermajority is typically reserved for legislative changes that affect the principles or design of democratic institutions, such as constitutional change, or in the US, overriding a presidential veto.

In a two-party system, a supermajority makes it more likely that there will be no one party that can pass legislation on its own, producing two impact representatives in the

chamber. For example, there has not been a supermajority held by one party in the US Senate since 1967, and no party has ever held a two-thirds majority in the Australian legislature.

A multiparty system with a supermajority can produce more or less impact representatives depending upon the composition of the assembly. In some circumstances the requirement of a higher threshold involves a greater number of smaller parties and independents to reach the threshold, while in other circumstances smaller parties may not produce an outcome where they can bring a combination of parties over the voting threshold. For example, a two-thirds majority would reduce the number of impact representatives in the current Australian Senate from 9 down to 2, excluding the smaller parties and independents.

Unanimity: unanimous decisions require all members to assent. If even one bloc or member of a bloc dissents, then then legislation stalls. Unanimity means that all members are forced to be involved in decision-making, but it also turns each member into a veto player rather than a minimal winning majority member. As noted in Chapter 8 this has a greater tendency to cause gridlock.

Changing thresholds: another way to approach voting thresholds is to have multiple thresholds that apply in different circumstances; for example, overriding a presidential veto takes a two-thirds majority, ending debate in the US Senate requires a three-fifths majority, and an ordinary legislative vote requires a simple majority. This approach could be used to approximate the Swiss model of inter-party cooperation mentioned earlier by having a different thresholds. Sartori proposes a threshold that is based upon the size of the governing party to ensure that multiple parties can have input.

Expected Conclusion

In a two-party system a supermajority requires both parties to reach a consensus and increases the number of veto players. However, in a two-and-a-half or multi-party system the outcome is less certain; in some cases it may improve the number of empowered representatives, and in some cases it may reduce them or place some parties in a position of greater power.

Chapter 6

Institutionally Defined Voting Blocs

This chapter explores the idea of voting blocs being institutionally defined and how this impacts minimal winning majorities of parties. The most common type of delineation is segmentation by region: the German Länder, or the US Electoral College are all examples of regional segmentation. This chapter will also explore whether segmentation could apply to discourse boundaries.

Geographical divisions: In this type of institutional segmentation geographical boundaries are used as divisions between blocs. The arguments for this are usually applied to federal

systems, such as the German provinces, or the states of the United States. These borders are stable and historically drawn, and often include different population sizes as well as different demographics such as ethnicity, rural-urban ratio, and socio-economic status, which can potentially reflect differing discourses, though this is not guaranteed.

There is some potential in attempting to use geographically defined blocs to encourage discourse equality. If discourses follow vague geographical boundaries – say, an urban-rural divide - then different discourses will be emphasised in each bloc and geographical division will create blocs of generally differing discourses. But if discourses tend to be more geographically spread, then each bloc may appear as a miniature version of the whole, and add little extra. For example, if the Australian Senators are divided up by state, each state consists of a similar composition: three to four Labor Senators, four to five Liberal-National Senators, one to two Greens Senators, and one or two independents or One Nation Senators. The exception is South Australia, who have four Nick Xenophon Team Senators.

Non-geographic divisions: There are a variety of ways that elected members could be placed into separate divisions, such as ethnicity (New Zealand), language (Belgium), age (the Italian Senate), or gender (party quotas). When focussing on discourse, voting bloc divisions by party is also intuitive, but this approach is problematic.

Division by ethnicity, language, or age in order to give a broader range of discourses more equal power in policy-making is relevant in some countries where there are historically recognised divisions, but it is less supportable as a general rule.

If political parties sufficiently represent discourses and discourse representatives should have equal involvement as minimal winning coalition members, then a division along the lines of political parties seems intuitively acceptable. It does not necessarily remove the self-organising principle and force a discourse division on a community that does not already recognise one. It can produce greater equality between discourses by not relying on the outcomes of elections which may seat some members or parties who cannot be minimal winning majority members. Instead, it could cement the idea that any party that is elected will have negotiating power.

However, this system can be taken advantage of by nominal party distinctions that do not reflect distinct discourses and encourages parties to split into smaller parties to gain a higher proportion of negotiating power.

The forming of a majority government gives no incentive to split parties because it provides no distinction, because the actions of the party, through voting, are aligned. A system that does not take a 'top down' approach to division (such as ethnicity, language or age) needs to account for the behaviour of parties, not the legal division of parties, because less-than-ideal behaviours can take advantage of this.

Expected Conclusion

There is little evidence to suggest that institutionally defined voting blocs will produce more potential minimal winning coalition members unless predefined divisions, such as geographic divisions, already reflect separate discourses.

Chapter 7

Gridlock

This research has suggested that veto-players are a strong indicator of having a good negotiation position, and that discourse equality should entail equality of negotiation positions among representatives. However, Tsebelis and Sartori note that institutions with a larger number of veto-points have a greater tendency to produce less legislative results or end in gridlock. Sartori proposes an institutional design that includes a fallback procedure for gridlocked institutions in the form of a 'dual-engine' system where a presidential executive assumes more responsibility if the parliamentary system is gridlocked. Other gridlock resolution mechanisms include the double dissolution in Australia, or the withdrawal of confidence for minority governments. Alternatively, a preference for minimal winning majority members over veto-players would provide increased flexibility to avoid gridlock.

Tsebelis conceives of veto-players aiming for an ideal policy position, and that the more veto-players that exist, the less likely an overlap in palatable policy positions will occur. Where there is no palatable policy position that multiple veto-players can agree on, Tsebelis states that veto-players will prefer the status quo. Tsebelis suggests that the more veto-players an institution contains, the greater the chance that the legislative branch will encounter gridlock, and the more likely that legislation is effected through non-representative bodies such as the judicial system. For example, a US House of Representatives held by the Republicans and a Senate held by the Democrats can stall indefinitely and produce little to no legislation. In this system, laws such as abortion rights and marriage equality are more likely to be produced through the judicial branch (e.g. Roe vs. Wade) than the legislative branch.

Gridlock resolution mechanisms

Because discourse equality proposes a number of empowered representatives in positions such as veto player positions, there is a higher potential for gridlock to occur, and some type of fallback procedure would be required to both motivate negotiation and reduce gridlock.

Alternating presidentialism: Sartori notes that multiparty parliamentary systems with an internal executive are generally more representative but have a greater chance of stalling than external executives, who have a greater chance of producing legislation but a greater chance of unrepresentative and autocratic outcomes. His belief is that a parliamentary system is the preferred model except that its members require motivation to produce legislative outcomes so that they do not stall. His suggestion is alternating presidentialism: a secondary presidential executive that assumes responsibility only when gridlock occurs. This system is designed to motivate the parliamentary system to produce outcomes so that it does not become redundant, as when the executive power

moves to the presidential system, the parliament is effectively made idle for the remainder of its term.

Double dissolution: Australia has a similar motivating feature in the double dissolution; if a particular piece of legislation stalls over a particular period of time, all of parliament can be dismissed. This system is designed to prevent gridlock and motivate parliamentarians to produce outcomes in order to retain their positions.

Both of these solutions effectively end the current period of the legislative chambers – one by dissolution, and one by moving executive power to another chamber. This means that if there is a high potential for gridlock, continuity could be consistently broken by these strategies.

Withdrawal of confidence: Minority governments, such as those in New Zealand, have an indirect gridlock resolution mechanism: withdrawal of confidence. In a parliamentary system a majority vote of confidence is required to secure government, and even a minority government may have tacit support so that parliament need not be dissolved. However, in a circumstance where the gridlock occurs, it is possible for this tacit support to be withdrawn, leading to a new election. While New Zealand has been lucky enough to avoid this, Belgium endured a long period without an elected government due to difficult negotiations to form a majority of confidence.

Pre-partisan Australian politics saw no government complete a full term – the parliament was full of independents and minor parties that caused the government to dissolve when a policy could not be successfully negotiated. More recently the Australian system invoked its fallback measure and called a double dissolution election due to stalled legislation.

This trend is not without counterexamples – the Australian Senate had no majority or majority coalition after the 2011 election, when the Lower House had a minority government. However, this combination passed a record amount of bills.

While examples illustrate that it is possible to function adequately with a large number of empowered representatives, Sartori's concept of a motivator and fallback is a reasonable strategy given the possibility of gridlock.

Changing the status quo

Tsebelis notes that gridlock occurs when a veto-player prefers the status quo to the legislative proposal, and that the more veto-players exist, the higher the chance that at least one will prefer the status quo. When disagreement occurs, the status quo remains. Gridlock resolution mechanisms such as the double dissolution do not change the status quo, but change the composition of the assembly.

Gridlock could potentially be avoided if the default result of a lack of agreement was not the status quo, but legislative progression. If the status quo occurs when there is a veto, representatives who may be motivated to prefer the status quo over new legislative initiatives would often be inclined to veto. If, however, legislative progression were the result of a veto, representatives may prefer to negotiate amendments.

However, this approach allows the legislative initiator to prefer a lack of negotiations because this would allow their bill to pass unamended and without opposition. Therefore, the legislative passage as a gridlock resolution mechanism cannot be the most appealing path to progress legislation. In order to emphasise restraint, some conditions must be placed upon a potential use of this progression tactic: for example, a limited number of uses, a sacrifice, a timeframe such as a double-dissolution trigger requires, or a minimal threshold so that it cannot apply to all bills, but bills that are semi-popular.

Blocs that originated bills would have more desire to negotiate if others were not reliant upon their assent to pass amendments – i.e. that if a majority preferred an amended bill that the original bloc disagreed with that the amended bill were able to pass. A 'right of reply' would remove the legislative monopoly for each piece of legislation so that non-originators have a sufficient chance to negotiate and replace a bill before it is automatically progressed.

Veto players versus minimal winning majority members

Veto players are necessary to progress legislation, while minimal winning majority members have the potential but are not necessary. A veto player therefore must be negotiated with, while a minimal winning majority member *may* be negotiated with. This leads to some potential combinations that are more or less likely to cause gridlock:

Two veto players: if two veto players are ideologically distant, there may be little room to negotiate and there is a higher potential for gridlock. The more veto players are involved, the higher the chance of ideological distance and a breakdown in negotiations. Because of this, a system that proposes unanimous decisions is more likely to hit gridlock.

One veto player and minimal winning majority members: a situation where it takes multiple parties to make a majority and one of those parties is a veto player. If the veto player is ideologically distant from one minimal winning majority member, they may negotiate with another – and this may vary from bill to bill. A minimal winning majority member therefore reduces the likelihood of gridlock.

Only minimal winning majority members: a minority held chamber, for example, could consist of only minimal winning majority members, which means that ideologically distant blocs need not necessarily rely on each other, and blocs are free to realign depending on the issue. This has the lowest chance to create gridlock.

Our case studies can be reviewed for gridlock probability and legislative passage results.

Expected conclusion

There is a potential for gridlock in a system that heavily promotes negotiation. There are three ways to avoid this, and more than one can potentially be implemented: (a) promote a system of minimal winning majority members rather than veto players, (b) have a gridlock resolution mechanism that progresses legislation, and (c) have a gridlock resolution mechanism that replaces the assembly.

Chapter 8

Institutional Review

The previous chapters have reviewed various significant institutional features that affect pragmatic discourse equality. This chapter will review the case studies to indicate the relative discourse equality of each by assessing the general occurrence of minimal winning coalition members, veto-players, and agenda-setting procedures.

Expected conclusion

Requirements for a majority in the chamber and a multiparty system have the largest impact on the number of minimal winning majorities or veto players. The number of chambers or executive-legislative relations have less impact. The Swiss system and the New Zealand system both use conventions rather than procedures to produce their results. For systems that do not rely on conventions in this manner, where the executive sits separate to a multiparty chamber, there are more likely to be minimal winning majority members, and equality of or collaboration in legislative introduction.

Chapter 9

Conclusion

The previous chapters have reviewed how institutional features affect veto players and minimal winning majority members. This research proposes that a larger number of minimal winning majority members should produce a greater occurrence of discourse equality. This chapter summarises institutional designs that attempt to maximise the number of minimal winning majority members and agenda-setting equality.

The previous chapters have indicated that certain features promote minimal winning majority members and an environment in which they can negotiate:

- a multiparty chamber that has no majority requirement
- a gridlock resolution mechanism
- no monopoly on effective legislative introduction

This chapter will also review possible design proposals that include these features in a way that potentially maximises the incidence of minimal winning coalition combinations.