



THE **COLOR** OF REPRESENTATION

LOCAL GOVERNMENT IN ILLINOIS



TheJoyceFoundation



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EXECUTIVE SUMMARY

Lack of diversity in local government can have devastating consequences

When elected officials are not as diverse as the community they serve, the voices and interests of people of color are not adequately considered when decisions are made. National attention was brought to this problem in Ferguson, Missouri, where the mayor, police chief, municipal judge, majority of the police force, and 5 of 6 city council members were all white, despite Ferguson's population being 67% Black. Such a severe underrepresentation of Ferguson's Black community contributed to racially discriminatory policing practices, investigated in the wake of the killing of unarmed Black teen Michael Brown in August 2014.

Local governments are often understudied, but can have a huge impact on the daily lives of their citizens, especially communities of color. For example, their decisions can affect whether:

- A community is integrated
- Public resources are equally distributed throughout the city
- Public employees include people of color
- Schools disproportionately suspend and expel Black students
- Minority owned businesses can thrive
- People of color's right to vote is burdened

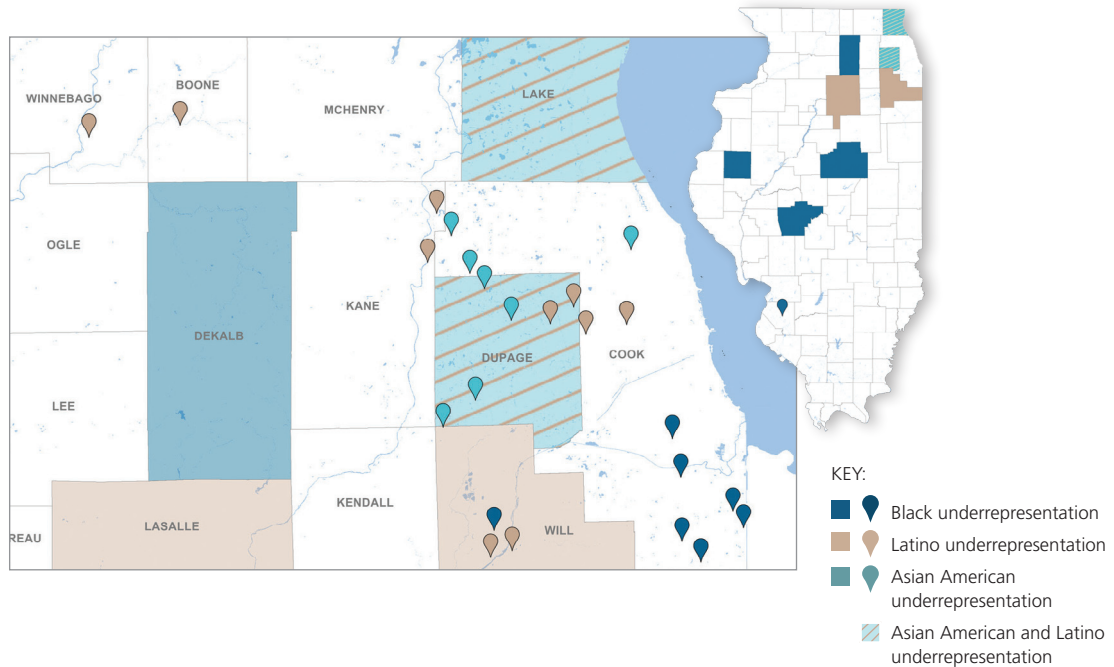
The Color of Representation is the first comprehensive investigation into minority representation in local governments in Illinois

The authors examined hundreds of county boards, city, town, and village councils, and school boards. The following are some of the places where people of color are most underrepresented:

Name	Black Citizens of Voting Age (CVAP)	Latino CVAP	Asian-American CVAP	Elected Officials of Color	Disparity (percentage of the population without representation)
City of Zion	36.3%	13.9%	2.6%	0 out of 4	53%
Glendale Heights	7.3%	16.9%	23.2%	0 out of 6	47%
Hanover Park	10.7%	16.9%	16.4%	0 out of 6	44%
Lansing Village	31.1%	8.8%	0.5%	0 out of 6	40%
Carpentersville	6.9%	28.7%	4.6%	0 out of 6	40%
Blue Island City	38.1%	31.0%	0.1%	4 out of 14	40%
Leyden Community High School District 212	2.5%	27.8%	4.5%	0 out of 7	35%
Morton Grove	1.8%	4.8%	27.5%	0 out of 6	34%
Fenton Community High School District 100	3.0%	21.9%	3.2%	0 out of 7	28%
DuPage County	4.6%	7.4%	8.7%	0 out of 18	21%

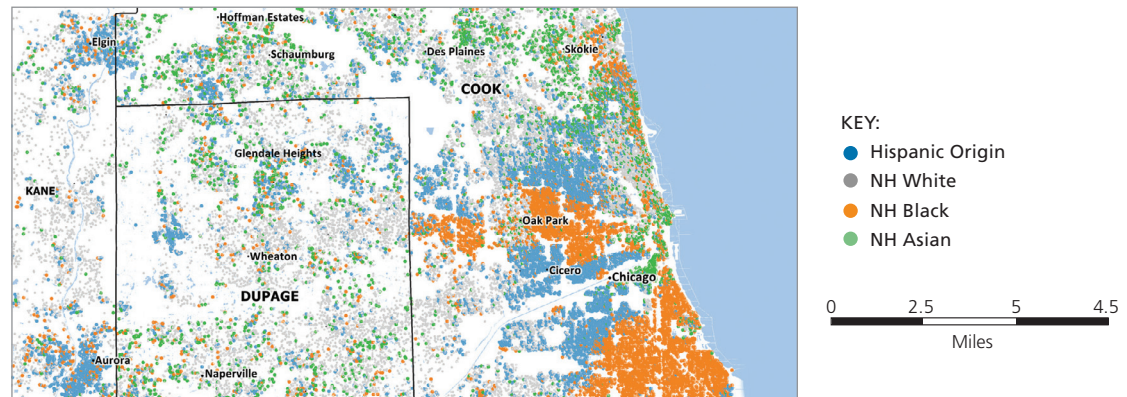
The Color of Representation identifies 38 jurisdictions with a severe underrepresentation of people of color

The following are counties, cities/towns/villages, or school board areas where the minority population is big enough to elect at least one additional member to the relevant board or council. 13 of the 38 jurisdictions could potentially be sued under the federal Voting Rights Act (Section 2).



Remedying minority vote dilution has traditionally meant creating majority-minority single member districts

Creating single member districts requires a community of color to be geographically compact, that is, segregated. However, many American communities are desegregating. 20 out of the 38 jurisdictions analyzed in this report are too integrated to draw SMDs. For example, while Chicago still exhibits a high level of residential segregation, DuPage County is much more integrated:



Fair representation voting systems are a better way to remedy minority vote dilution

Unlike SMDs, cumulative and ranked choice voting allow communities of color that are desegregated to elect candidates of their choice. In cumulative and ranked choice voting systems, representatives are elected at-large from the whole city, or from large multi-member districts, in a way that ensures that candidates are elected in proportion to their support from the population.

CUMULATIVE VOTING

CANDIDATES FOR CITY COUNCIL (3 TO BE ELECTED)	CAST NO MORE THAN 3 VOTES
Michelle Kwan	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Oscar De La Hoya	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Carl Lewis	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Apolo Ohno	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Serena Williams	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Shaun White	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

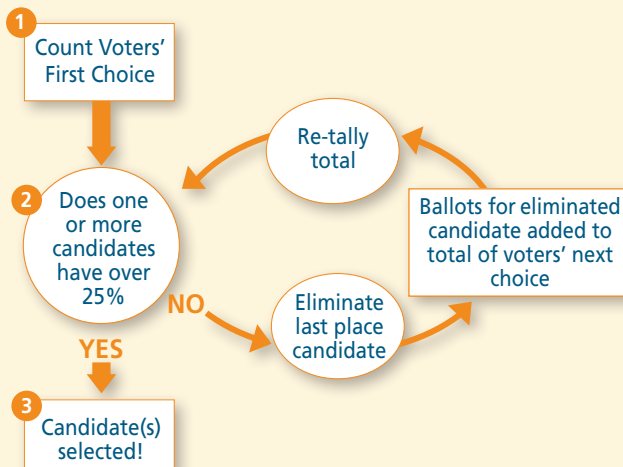
Calculating the winners:

- 1 Add up candidate totals
- 2 3 candidates with the most votes win a city council seat

RANKED CHOICE VOTING

CANDIDATES FOR CITY COUNCIL (3 TO BE ELECTED)	
Michelle Kwan	6
Oscar De La Hoya	3
Carl Lewis	2
Apolo Ohno	1
Serena Williams	4
Shaun White	5

Calculating the winners:



Advocates can take action at the local, state, and national level to improve minority representation

Local Recommendation: Communities should implement fair representation systems through community action

Though some jurisdictions could change to single member districts to improve minority representation, fair representation systems like cumulative and ranked choice voting will help to ensure that any growth (or reduction) in the minority population can be reflected in increased (or decreased) minority representation.

Local communities in home rule jurisdictions (those that can change their system of election through ballot initiative) can build local power to introduce a fair representation system. This can be done by persuading local representatives, or gathering signatures to put a proposition on the ballot requiring the change to a new election system.

State Recommendation: States should adopt Voting Rights Acts that make it easier for communities to litigate to end minority vote dilution, and implement fair representation systems as remedies

States should introduce state Voting Rights Acts like that currently used in California which is a more robust version of the federal Voting Rights Act. The state VRAs should explicitly state that minority vote dilution may be remedied by fair representation systems. This will make it easier, and cheaper, for minority communities to assert their rights through litigation.

National Recommendation: Programs should target improving minority civic engagement and candidate recruitment

Programs should be developed (at the local, state, or national level) to help register eligible citizens to vote, to improve turnout in local elections, to improve other measures of civic participation, and to recruit and train people of color to run for local office. Without comparable turnout by people of color to that of white voters, and without minority candidates on the ballot, no election system can ensure that people of color are fairly represented.

1

INTRODUCTION

“ IT IS AN ESSENTIAL PART OF DEMOCRACY THAT MINORITIES SHOULD BE... REPRESENTED. NO REAL DEMOCRACY, NOTHING BUT A FALSE SHOW OF DEMOCRACY, IS POSSIBLE WITHOUT IT. ”¹ –JOHN STUART MILL, 1862

Ferguson, Missouri has become synonymous with systemic racial inequality in the United States. Ferguson, along with St. Louis, is highly segregated, not only in housing patterns, but also in the distribution of local power.² Although Ferguson’s population is majority Black, it is run by a white mayor and a white police chief, with a police department known for brutality against Black³ youth and racist conduct by police officers. The Civil Rights Division of the U.S. Department of Justice issued a lengthy report in March, 2015 outlining the myriad instances of racially discriminatory behavior by members of the Ferguson Police Department.⁴

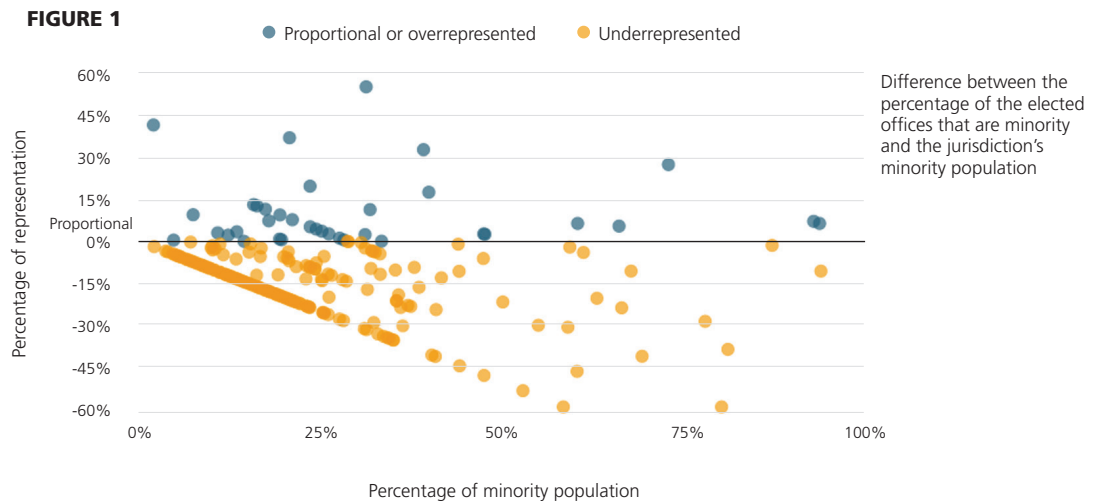
While Ferguson is over 67% Black, its city council includes only one Black member out of six seats.⁵ In addition, 78% of students in the Ferguson-Florissant School District are Black,⁶ yet only one school board member out of a total of seven is Black.⁷ City councils, school boards, and other local government systems can influence city agencies and the allocation of resources in many important ways. For example, if Ferguson’s city council looked like Ferguson itself, it could choose to ensure that the police force is racially diverse, better trained to understand racial justice issues, and held to account for racially disparate treatment and racially discriminatory conduct.

The Color of Representation identifies hundreds of communities in Illinois that underrepresent people of color. The report discusses the importance of diversity in local government and sets out recommendations for how to increase diversity by amending election systems. Given the current state of segregation/integration, it draws the conclusion that the best way to increase diversity in local government is to use fair representation systems like cumulative voting and ranked choice voting.

Illinois has a long history in which cumulative voting was used for state government elections. When cumulative voting was used, it ensured that political and racial minorities could be elected to the state legislature even before the federal Voting Rights Act introduced protections for minority representation. Given Illinois’ historical protection of minority voting rights, it makes sense for Illinois to again be a leader among the states on this issue. It was only in 1982 that Illinois stopped using cumulative voting in state legislative elections, replacing it with winner-take-all (plurality) voting. *The Color of Representation* recommends that Illinois local governments adopt fair representation systems (cumulative or ranked choice voting) to ensure racial and ethnic (as well as age, gender, and political) diversity while protecting the rights of people of color with respect to everything from policing, housing, and employment, to education and voting rights.

The Color of Representation proceeds as follows. Chapter 2 explains the importance of local government in the everyday life of community residents. Chapter 3 presents a comprehensive review of minority representation on county boards, city, town, and village councils, and school boards across Illinois. It identifies 38 jurisdictions that have a severe underrepresentation of Black, Latino, and/or Asian Americans. Chapter 4 explains the types of election systems that could be implemented to remedy the underrepresentation. Chapter 5 outlines the pathways to implementation of the ideas discussed in Chapter 4. Chapter 6 goes back to first principles to explain what representation means in modern America, and why it is crucial that we protect minority representation, in all its forms. Chapter 7 sets out recommendations based on the findings of the report and offers a brief conclusion.

A short note on terminology: “minority” is used in this report to refer to racial or ethnic groups, as that is the terminology used in Section 2 of the Voting Rights Act. The principal focus is on Black, Latino, and Asian Americans, as there is a not-insignificant amount of each population in Illinois. It does not include a specific discussion of other racial and ethnic minorities that are also protected by Section 2 of the VRA (Native Alaskans, Native Americans, and Native Hawaiians) because the size of these populations in Illinois is extremely small.



2 MINORITY REPRESENTATION IN LOCAL GOVERNMENT IS CRUCIAL

Local governments affect many important aspects of our lives

Local governments can have a huge impact on issues that affect us on a daily basis. Even more importantly, the issues that local governments have whole or partial control over include many of the most important issues on the civil rights agenda. For example, local governments may control:

- Availability and location of affordable housing
- Hiring and training of public employees (including policemen and women, firefighters, teachers, and park district employees)
- Decisions over zoning and business permits
- School discipline policies for public schools
- Enforcement priorities of local police
- Prosecutorial priorities of states attorneys
- Election administration

Local government decisions can therefore affect whether a community is integrated,¹ whether public employees include people of color,² whether police target people based on race,³ whether schools disproportionately suspend and expel Black students,⁴ whether food deserts exist,⁵ whether minority owned businesses can thrive,⁶ whether people of color's right to vote is disproportionately burdened,⁷ whether first time offenders are prosecuted for felonies under the criminal justice system,⁸ and where for-profit detention centers will be located,⁹ to name a few examples.

Local governments are often understudied, compared with federal or state governments, when it comes to civil rights protections. Local governments contribute to whether our society is a place where people can thrive economically, politically, and socially regardless of their race or ethnicity, or whether people of color will face an uphill battle just to live and work. Local government decisions have a direct impact on civil rights issues and so it is crucial that minority communities are fairly represented on these local bodies.

Unlike Congress and state legislatures, which can contain many hundreds of legislators, local school boards and city councils usually have five to fifteen members. Adding even a single minority voice to the deliberations of a small body can help the rest of the members better understand issues from the perspective of the minority community, and that member can raise issues or introduce motions for a vote, without needing to have support in a legislative committee.¹⁰ Thus, the election of one or more people of color to a local council has the potential to make a larger difference than at the state or congressional level.

Descriptive representation at the local level may increase descriptive representation at the national level¹¹

Even if an ultimate goal is to improve state or federal minority representation, local minority representation is still fundamentally important. Electing minority candidates at the local level can “build the bench” of candidates for higher office. Minority representatives at the federal level are more likely than their white peers to ascend through the political ranks by first serving as local elected officials.

The authors conducted an analysis of the background of the House members in the 114th Congress, and found that while 22% of white representatives started their political careers as local government officials, representatives of color were much more likely to have started in local government: 29% percent of Asian American representatives, 38% of Black representatives (over 1.5 times as many as white representatives), and 44% of Latino representatives (double the number of white representatives) started their political careers as local government representatives.

This disparity holds specifically for people of color: there is little difference by gender (25% of male and female representatives started in local elected office) and party (21% of white Republicans and 24% of white Democrats started in local elected office).

TABLE 1: STATISTICS ON PRIOR LOCAL OFFICE HOLDING IN THE 114TH CONGRESS

CATEGORY	PERCENT HELD LOCAL OFFICE FIRST
African American	38%
Asian American	29%
Latino	44%
White	22%
Female	25%
Male	25%
White men	22%
not “white men”	31%
Republican	22%
Democrat	29%
White Republican	21%
White Democrat	24%

Given these findings, improving local minority representation will create a pool of experienced representatives of color that are prepared to seek and hold state and national office to represent the interests of their communities. In addition, the reluctance of white voters to vote for Black candidates breaks down (even if only to some extent) after experiencing Black leadership.¹² Thus, the opportunities for local Black candidates to get elected to higher office, even if the higher offices do not represent majority-minority communities, improves.

Descriptive representation improves substantive representation at the local level

Descriptive representation for people of color at the local level has the potential to significantly improve the lives of communities of color. Elected officials of color have achieved policy successes for their communities at each of the local levels of government considered in this report. These examples demonstrate particular instances of minority elected officials responding to their constituency and the impact of their actions.

A minority commissioner can influence whether the county distributes services and administrative positions equitably. For example, in Chilton County, Alabama during the late 1980s, the County Commission decided which roads to pave and re-pave (as many county boards do). Their system was ad-hoc and resulted in the all-white board of commissioners prioritizing white neighborhoods. Once Bobby Agee, the county's first black commissioner, was elected in 1988 he succeeded in implementing a systematic and objective way to determine which roads got paved.¹³ As a result, Black communities had their roads paved and the overall process was more responsive to community needs. The county board also has the power to suggest and appoint administrative personnel. After Bobby Agee was elected, Black representatives were appointed by the County Commission to positions on the Hospital Board and Water Board.¹⁴

At the municipal level, descriptive representation for Black Americans has also improved police and social welfare policies for the Black community. Having a Black mayor correlates with an increased number of Black officers on the police force.¹⁵ A Black mayor also makes it more likely that there are police department policies that aim to improve the relationship between police and the over-policed Black communities, such as citizen accountability boards.¹⁶ Black descriptive representation also leads to social service agencies responding better to the needs of the Black community, particularly when the program managers and the representatives engage in community networking and learning.¹⁷

Finally, at the school board level, school boards that include Latino representatives are more likely to hire Latino school administrators (such as principals and superintendents), who in turn hire more Latino teachers. Qualitative¹⁸ and quantitative¹⁹ studies (including randomized experiments)²⁰ find that the academic achievement of Latinos (as well as non-Latinos) increases when a school has Latino teachers. In addition, a majority of Latino parents would prefer for their children to have more Latino teachers.²¹



CHIN KEOMUONGCHANH AND DAY DARY

CHIN KEOMUONGCHANH arrived in Elgin, Illinois, in 1979 at the age of 16. He was a refugee of the Indo-China wars and didn't speak a word of English. He studied hard, and by 1981 he could read and speak English and was offered a college scholarship to study engineering. Chin turned down the scholarship to join the Navy. "This country had given so much for my family, [joining the Navy] was my way to give back," says Chin. After 30 years of service around the world, Chin returned to live in Elgin. He was shocked that although there were many thousands of people of Lao origin in Elgin, and many more non-Lao Asian Americans, no Asian American had ever been on the Elgin City Council. He was told this was because no one had ever run. So he decided to change that.

In 2013 Chin ran for a seat on the Elgin City Council, and fell short of making it to the run-off election. The turnout was incredibly low, so even though the Asian American community only makes up 6% of the citizen voting age population in Elgin, if more people from that community had voted (and voted for him), he could have been the first Asian American on the Elgin City Council.

Chin's experience in the electoral process has given him insight and renewed enthusiasm for his community work as the Civic Engagement Program Director with the Lao American Organization of Elgin (LAOE), where he works with Day. The organization provides assistance to Lao refugees as well as preserving and promoting the Laotian culture and customs. Chin spearheaded the drive to get the community engaged: hundreds of voters were registered for the 2014 General Election. LAOE holds regular workshops on local candidacy and community leadership as well as providing health education and prevention throughout the community.

3 THE CURRENT STATE OF MINORITY REPRESENTATION IN ILLINOIS

Underrepresentation of people of color in Illinois local government

People of color are underrepresented in hundreds of local governments across Illinois. Figure 1 on page 8 shows a scatter plot of local governments with an underrepresentation (orange) and an overrepresentation (blue) of people of color.

Within the full list of underrepresented counties, towns, and school boards, there are 38 jurisdictions that this report identifies as having a severe underrepresentation of one or more racial or ethnic minority groups. These 38 jurisdictions are identified in Tables 2 to 10 on pages 14 to 19.

In order to determine which local communities in Illinois evidenced a severe underrepresentation of people of color the authors conducted research into the demographics of the communities and representative bodies for 48 counties in Illinois (those with at least a 4% combined minority population), the 121 towns with a population over 20,000, and the 231 secondary or unified school districts with a population over 10,000.

The presence of a person of color on a local government was used as a proxy for a candidate of choice of the minority community having been elected to office. Though this is not a perfect system,¹ it was chosen because it casts a potentially wider net than necessary, and this means that later follow up with people in the identified communities can either rule out the problem of minority representation or confirm its existence.

The current amount of people of color in each jurisdiction (a percent value) was compared with the amount of people of color in each jurisdiction's representative body (a percent value). A jurisdiction made the list as "severely underrepresenting people of color" if the demographics show that if the minority community voted cohesively, using an appropriate election system, they could elect an additional candidate of choice.

The results set out in this section are split up into county boards, city councils, and school boards. In addition, the results include three data tables for each jurisdiction, showing particular underrepresentation for the Black, Latino, and Asian American communities. All the tables include data for each minority group to show that in many cases, if one racial or ethnic minority group is underrepresented, then one or more additional groups are also underrepresented.

Each data table includes the number of seats on the relevant board, the number of people of color (POC) on the current board, along with the total population for the jurisdiction and the size of the minority communities in that jurisdiction by percent of the Citizen Voting Age Population (CVAP). CVAP is the relevant measure because it is the closest census metric that exists to capture eligible voters (it is not one hundred percent accurate because it does not remove the prison population from the number). The CVAP numbers used in this report are the ACS 5 year estimates for 2009-2013.²

County Boards with a severe underrepresentation of people of color

Tables 2 to 4 list the counties identified as having a severe underrepresentation of people of color. Figure 6 shows a map of the counties identified in this section, with color-coding by minority group.

TABLE 2: BLACK UNDERREPRESENTATION ON COUNTY BOARDS

County	No. of Seats	How elected	Total Minority CVAP	POC on Current Board	Total Pop	Black CVAP (excl. prisoners)	Latino CVAP	Asian American CVAP
DeKalb	24	12 districts with two members in each	14%	0	104,820	6.4%	5.6%	2.1%
McLean	20	10 districts with two members each	12%	0	169,690	7.0%	2.9%	1.7%
McDonough	21	Three districts with seven members each	9%	0	32,570	5.2%	2.5%	1.4%
Sangamon	29	29 SMDs	13%	2	268,875	10.2%	1.4%	1.3%

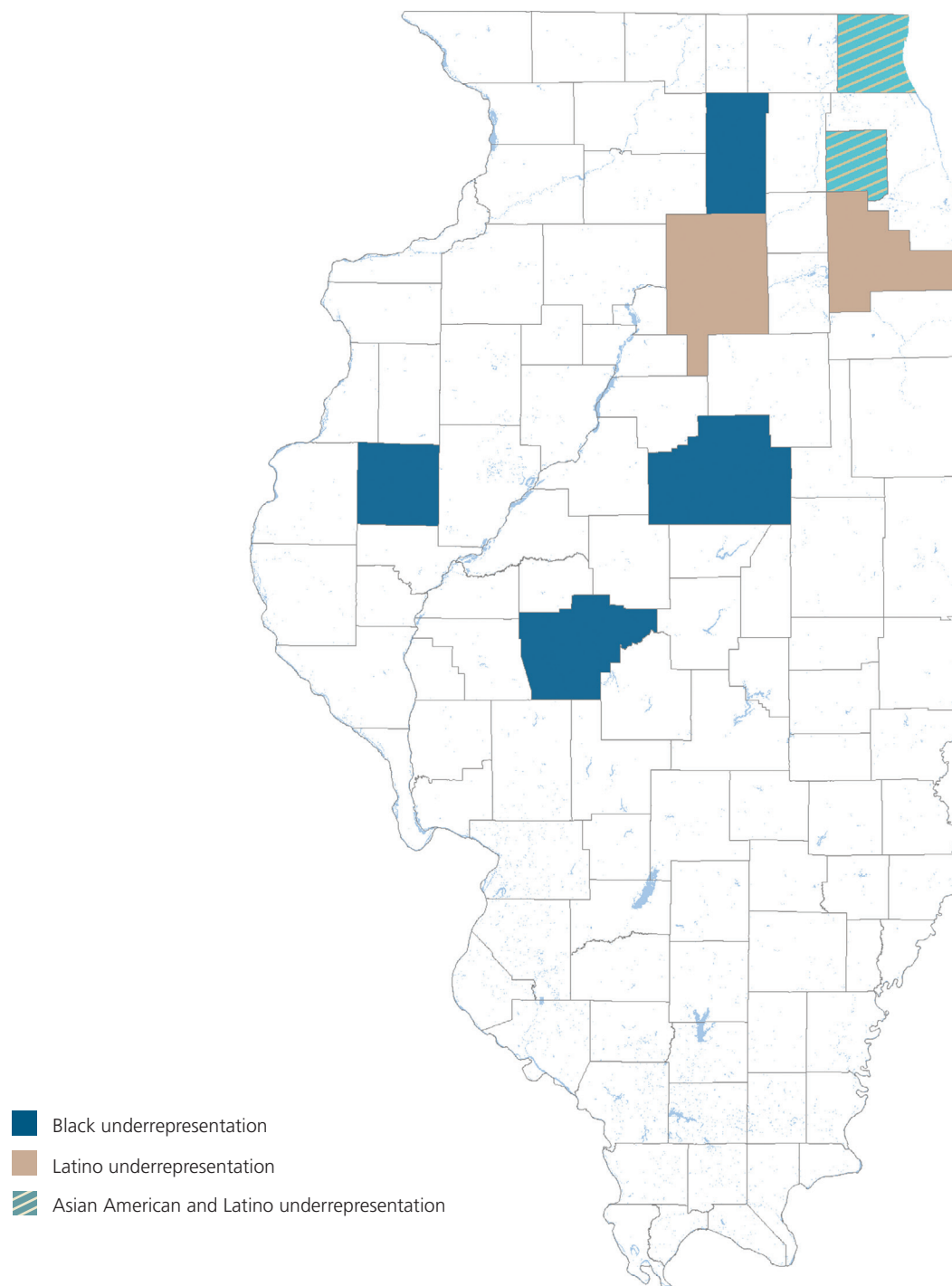
TABLE 3: LATINO UNDERREPRESENTATION ON COUNTY BOARDS

County	No. of Seats	How elected	Total Minority CVAP	POC on Current Board	Total Pop	Black CVAP	Latino CVAP	Asian American CVAP
Will	26	13 districts with two members each	25%	3 Black members	677,670	11.5%	9.7%	3.7%
LaSalle	29	29 SMDs	8%	0	113,690	2.2%	5.2%	0.5%

TABLE 4: ASIAN AMERICAN UNDERREPRESENTATION ON COUNTY BOARDS

County	No. of Seats	How elected	Total Minority CVAP	POC on Current Board	Total Pop	Black CVAP (excl. prisoners)	Latino CVAP	Asian American CVAP
Lake	21	21 SMDs	22%	2 Black members	701,280	7.4%	9.7%	5.2%
DuPage	18	Six districts with three members each	21%	0	918,610	4.6%	7.4%	8.7%

FIGURE 6: ILLINOIS COUNTY BOARDS WITH A SEVERE UNDERREPRESENTATION OF PEOPLE OF COLOR BY RACE/ETHNICITY



City, Town, and Village Councils with a severe underrepresentation of people of color

Tables 5 to 7 list the towns identified as having a severe underrepresentation of people of color. Figure 108 shows a map of the towns identified in this section, with color-coding by minority group.

TABLE 5: BLACK UNDERREPRESENTATION ON TOWN COUNCILS

Town	No. of Seats	How elected	Total Minority CVAP	POC on Current Board	Total Pop	Black CVAP	Latino CVAP	Asian American CVAP
Belleville	16	Eight districts with two members in each	26%	1 Black member	44,120	22.9%	2.1%	1.0%
Blue Island City	14	Seven districts with two in each	69%	2 Black, 2 Latino members	23,455	38.1%	31.0%	0.1%
Chicago Heights	7	Seven SMDs	66%	2 Black, 2 Latino members	30,330	43.6%	22.4%	0.0%
City of Zion	4	At-large	53%	0	24,400	36.3%	13.9%	2.6%
Crest Hill City	8	Four districts with two in each	36%	1 Latino members	20,725	20.3%	13.1%	2.1%
Evergreen Park	6	At-large	28%	0	19,850	19.1%	7.1%	1.4%
Lansing Village	6	At-large	40%	0	28,270	31.1%	8.8%	0.5%
O'Fallon City	14	Seven districts with two members in each	18%	0	28,375	12.5%	2.4%	3.1%

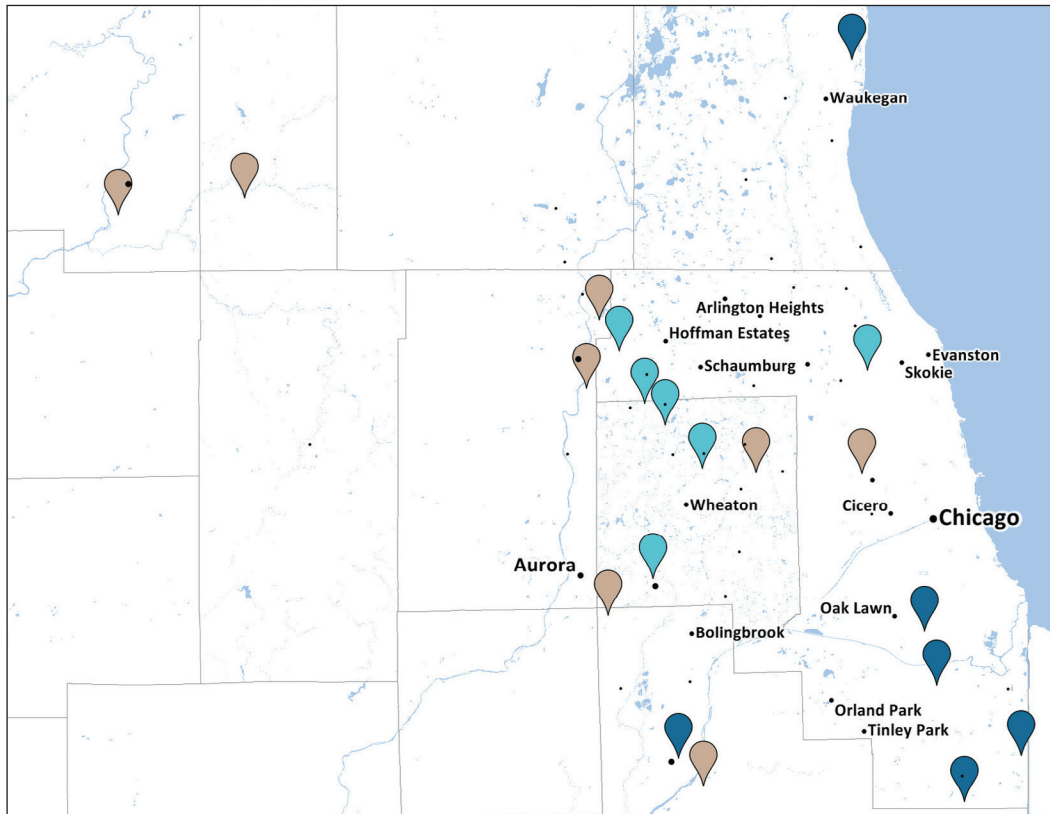
TABLE 6: LATINO UNDERREPRESENTATION ON TOWN COUNCILS

Town	No. of Seats	How elected	Total Minority CVAP	POC on Current Board	Total Pop	Black CVAP	Latino CVAP	Asian American CVAP
Addison Village	6	At-large	33%	0	36,975	2.8%	22.1%	7.8%
Aurora	12	10 SMDs and 2 at-large	44%	3 Black, 1 Latino members	196,570	12.6%	25.0%	6.4%
Belvidere	10	Five districts with two in each	20%	0	25,545	3.0%	15.9%	1.2%
Carpentersville	6	At-large	40%	0	37,760	6.9%	28.7%	4.6%
Elgin	8	At-large	38%	1 Black, 1 Latino members	109,515	8.0%	23.7%	5.9%
Elmwood Park	6	At-large	21%	0	24,875	1.9%	17.3%	1.8%
Joliet	8	Five SMDs, 3 at-large	35%	2 Black members	147,100	16.7%	16.4%	2.1%
Rockford	14	14 SMDs	31%	4 Black, 0 Latino members	152,950	20.9%	8.1%	2.0%

TABLE 7: ASIAN AMERICAN UNDERREPRESENTATION ON TOWN COUNCILS

Town	No. of Seats	How elected	Total Minority CVAP	POC on Current Board	Total Pop	Black CVAP	Latino CVAP	Asian American CVAP
Morton Grove	6	At-large	34%	0	23,195	1.8%	4.8%	27.5%
Glendale Heights	6	6 SMDs	47%	0	34,160	7.3%	16.9%	23.2%
Hoffman Estates	6	At-large	31%	0	52,065	4.0%	7.9%	19.3%
Hanover Park	6	At-large	44%	0	37,990	10.7%	16.9%	16.4%
Naperville	8	At-large	21%	0	142,145	4.7%	3.6%	12.5%
Streamwood	6	At-large	34%	0	40,200	2.3%	17.7%	14.3%

FIGURE 7: ILLINOIS CITY, TOWN, AND VILLAGE COUNCILS WITH A SEVERE UNDERREPRESENTATION OF PEOPLE OF COLOR BY RACE/ETHNICITY



- Black underrepresentation
- Latino underrepresentation
- Asian American underrepresentation

School Boards with a severe underrepresentation of people of color

Tables 8 to 10 list the school boards identified as having a severe underrepresentation of people of color. Figure 8 shows a map of the school boards identified in this section, with color-coding by minority group.

TABLE 8: BLACK UNDERREPRESENTATION ON SCHOOL BOARDS

School District	No. of Seats	How elected	Total Minority CVAP	POC on Current Board	Total Pop	Black CVAP	Latino CVAP	Asian American CVAP
Homewood-Flossmoor Community High School District 233	7	At-large	50%	2 Black members	38,253	43.4%	4.6%	1.9%
Bloom Township High School District 206	7	At-large	59%	2 Black members	64,796	43.3%	14.9%	0.4%
Thornton Fractional Township High School District 215	7	At-large	59%	2 Black members	60,428	47.2%	11.3%	0.4%

TABLE 9: LATINO UNDERREPRESENTATION ON ILLINOIS SCHOOL BOARDS

School District	No. of Seats	How elected	Total Minority	POC on Current CVAP	Total Pop Board	Black CVAP	Latino CVAP	Asian American CVAP
Leyden Community High School District 212	7	At-large	35%	0	64,119	2.5%	27.8%	4.5%
Fenton Community High School District 100	7	At-large	28%	0	29,995	3.0%	21.9%	3.2%
Elmwood Park Community Unit School District 401	7	At-large	21%	0	24,483	1.9%	17.3%	1.9%
Joliet Township High School District 204	7	At-large	37%	1 Black member	128,595	20.4%	15.0%	1.5%

TABLE 10: ASIAN AMERICAN UNDERREPRESENTATION ON ILLINOIS SCHOOL BOARDS

School District	No. of Seats	How elected	Total Minority CVAP	POC on Current Board	Total Pop	Black CVAP	Latino CVAP	Asian American CVAP
Indian Prairie Community Unit School District 204	7	At-large	29%	2 Black members	127,286	7.6%	6.6%	14.6%

FIGURE 8: ILLINOIS SCHOOL BOARDS WITH A SEVERE UNDERREPRESENTATION OF PEOPLE OF COLOR BY RACE/ETHNICITY



- Black underrepresentation
- Latino underrepresentation
- Asian American underrepresentation



DR. NAKIA HALL

DR. NAKIA HALL was elected to the Board of Education at the Crete-Monee Community Unit School District 201U, and then chosen by her fellow board members to be the President. She holds a Master's Degree in Professional and School Counseling and a Doctorate of Education. Before running for office, Dr. Hall was involved in the community through her non-profit organization and as a founding member of the district's Parent-Teacher Organizations and the mother of four children in the schools. Noticing her dedication, a school board member (who was at the time the only Black member of the board) encouraged her to run for office. Unlike many other school boards in this report, Crete-Monee has achieved racial diversity in elected office: with a student population that is 60% Black, the community has elected four out of seven board members who are Black, two of whom were elected from majority-white areas of the city.

However, Crete-Monee also shows that progress for minority voting rights isn't easy, and requires constant vigilance. In the 1990s, the district was sued under Section 2 of the Voting Rights Act for having an at-large election system that precluded minority candidates from reaching elected office. Crete-Monee entered into a consent decree that required them to change to a district system of election, with two majority-minority districts. Despite the progress made possible by this change, not everyone is happy with the new system—as late as March 2015, the district successfully fended off a court challenge to part of the consent decree.

Crete-Monee has also managed to make progress in student achievement and in closing the racial achievement gap. One of its elementary schools—Coretta Scott King Magnet School—was consistently under-performing as the former neighborhood school, Hickory Elementary, and went through a mandatory restructuring. As a result, the school expanded to a district-wide student body, including students from both predominantly white and predominantly Black communities. Initial problems at the school included some hesitancy of enrollment by white students, in a school located in a Black neighborhood and with a track record of underperformance. However, as of their 2014 state report card, Coretta Scott King Magnet School (which now has a 67% Black student body) was 76% proficient on the Illinois state assessment—17 points above the state average. Dr. Hall examined the progress that the school made in her dissertation research, concluding that parent involvement, teacher training, collaborative learning, and high expectations all contributed to a result that she and her community are rightfully proud of: a school that's beating the odds to give a high-quality education to all students.

4

IMPROVING LOCAL MINORITY REPRESENTATION

Chapter 3 illustrated that there are a number of county, town, and school boards in Illinois that evidence a severe underrepresentation of people of color. Improving minority representation has historically been resisted across the U.S., and the biggest leaps toward fair representation have come from the Voting Rights Act of 1965 and subsequent litigation.

The difficulty with using litigation to develop solutions to a complex problem like minority representation is that an impact case will set a precedent based on a unique factual scenario, with a single or limited set of remedies. In the case of minority representation *Thornburg v. Gingles* was a watershed for minority representation because it set the floor—a base level of representation of people of color in the halls of power—below which the country would not return. Unfortunately *Gingles* has also come to represent a ceiling. That ceiling prevents the adoption of election system that would allow for fairer representation for people of color.

Gingles was borne of a judicial mindset that defined the underrepresentation of people of color as “minority vote dilution.” This chapter traces the development of the concept of minority vote dilution and explains how the *Gingles* remedy (majority-minority single member districts with winner-take-all plurality voting) was envisioned to protect minority voting rights. It then outlines the drawbacks of the *Gingles* prescribed remedy in 2015 conditions. Finally, this chapter looks at a lesser used remedy in Section 2 cases, cumulative voting, and explains how cumulative voting, and remedies like it (what are called “fair representation systems”), can better protect minority representation.

A history of minority vote dilution

The concept of vote dilution was recognized as a constitutional harm in the “one person, one vote” U.S. Supreme Court cases of the 1960s.¹ The Supreme Court found that an individual’s vote could be diluted if she was in an election district that had a much greater population than another district that elected members of the same legislature. For example, in *Baker v. Carr*, districts for the state legislature in the urban centers of Tennessee had ten times the number of people as districts in rural areas. This meant that a voter in an urban district had one-tenth the voting power of a voter in a rural area. The court labeled the requirement of rough population equality² a “one person, one vote” requirement:

[A]ll who participate in the election are to have an equal vote—whatever their race, whatever their sex, whatever their occupation, whatever their income, and wherever their home may be...The concept of “we the people” under the Constitution visualizes no preferred class of voters, but equality among those who meet the basic qualifications.³

The “one person, one vote” requirement recognizes that an individual’s vote can be diluted by the size of election districts. Minority vote dilution operates in a similar, but more complex way than individual vote dilution, and it describes a group rather than an individual harm.⁴ As Pamela S. Karlan explains, “[u]nlike the white suburban plaintiffs in *Reynolds* whose voting strength was diluted because of *where* they lived, the political power of black citizens is diluted because of *who* they are.”⁵

Thus in 1971, in *Whitcomb v. Chavis*,⁶ a group of Black voters in Indiana argued that vote dilution could also occur based on race, rather than geography. The plaintiffs argued that by electing multiple legislators in the Marion County area using at-large elections, the Black community was left with “almost no political force or control over legislators because the effect of their vote [was] cancelled out by other contrary interest groups.”⁷ The problem with winner-take-all, at-large elections (those where 51% of the community can elect 100% of the representatives) is that “a slim majority of voters has the power to deny representation to all others.”⁸ The Court declined to find that there was in fact a constitutional violation caused by the use of at-large districts in Indiana, but it left open the question of whether, in the right factual scenario, the rights of minority voters might be diluted.

Shortly thereafter, plaintiffs from Texas, in *White v. Regester*,⁹ convinced the Supreme Court that there was invidious discrimination in the drawing of the Texas legislative redistricting plan in violation of the Equal Protection Clause of the Fourteenth Amendment. The plaintiffs showed that “the political processes leading to nomination and election were not equally open to participation by the group in question—that its members had less opportunity than did other residents in the district to participate in the political processes and to elect legislators of their choice.”¹⁰ The court analyzed a number of practices that prevented political participation by Black voters in Dallas County and Latino voters in Bexar County. These included party slating, poll taxes, and cultural barriers, as well as the use of multi-member districts (MMDs) with at-large, winner-take-all plurality voting.

Another set of plaintiffs tried to build on the theory from *Regester*, of minority vote dilution as caused by at-large voting in multi-member districts (MMDs) to argue that such dilution was occurring in the City of Mobile, Alabama. In *Mobile v. Bolden*,¹¹ the plaintiffs alleged that the Fourteenth and Fifteenth Amendments, and Section 2 of the VRA, were violated by the City Commission’s election system that elected the three-person Commission at-large, thereby denying the Black population (that constituted 35.4% of the total population) the ability to elect a single candidate. The Court held that there was no difference between the Fifteenth Amendment and Section 2 of the VRA, and found that neither the Fourteenth nor the Fifteenth Amendment was violated because such a violation required a showing of purposeful discrimination and such a purpose was not proven in this case.¹²

The holding in *Bolden* appeared to make it all but impossible for plaintiffs to overturn redistricting plans or election systems that diluted the minority vote. As Chandler Davidson describes, in the context of an attempted minority vote dilution case in the town of Taylor, Texas (where, despite high Latino turnout in elections and Latino candidates running regularly for office between 1967 and 1974, no candidate that was the choice of the minority community was elected):

The decision presented serious problems to the plaintiffs in Taylor, whose at-large system had been established in 1914. The files of the local newspaper only went back to the 1930s, and official city documents relating to the charter revision shed no light on the motives for the change. After much soul searching, the plaintiffs withdrew the suit, at the cost of three years of trial preparation, dashing the minorities lingering hopes that the U.S. Constitution might provide them relief.¹³

The difficulties *Bolden* created were foremost on the minds of legislators when they amended Section 2 of the VRA in 1982. Congress added paragraph (b) to Section 2 that explained that Section 2(a) could be violated if a “totality of circumstances” test was met, rather than the more stringent purposeful discrimination test of the Fourteenth and Fifteenth Amendments. The totality of the circumstances test allowed plaintiffs to present evidence that an election system *in effect* dilutes the minority vote, along with examples of *other types of racial discrimination* that occur in the jurisdiction, rather than having to show that the particular election system was adopted with a racially discriminatory purpose.

The amended Section 2 was used effectively in litigation immediately after 1982, with the seminal case of *Thornburg v. Gingles* in 1986 establishing a three part test that plaintiffs could meet in order to prove a Section 2 violation even if they could not prove that an election system was instituted for the purpose of discriminating with respect to voting on the basis of race. The *Gingles* test requires a plaintiff to prove that the racial, ethnic, or language minority group:¹⁴

1. is sufficiently large and geographically compact to constitute a majority in a single-member district;
2. is politically cohesive; and
3. that in the absence of special circumstances, bloc voting by the white majority usually defeats the minority group’s preferred candidate.

The Court will also look to factors identified by the Senate in the 1982 amendment of Section 2, meant to clarify the “totality of circumstances” requirement in Section 2:¹⁵

- (1) the history of official voting-related discrimination in the state or political subdivision
- (2) the extent to which voting in the elections of the state or political subdivision is racially polarized
- (3) the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority-vote requirements, and prohibitions against bullet voting
- (4) the exclusion of members of the minority group from candidate slating processes
- (5) the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process
- (6) the use of overt or subtle racial appeals in political campaigns
- (7) the extent to which members of the minority group have been elected to public office in the jurisdiction.

Modern legal strategies to overcome minority vote dilution must still operate within the *Gingles* framework. However, this does not mean that the remedy imposed in *Gingles* (majority-minority SMDs with winner-take-all plurality voting) is the only option wherever a Section 2 violation occurs. In addition, Section 2 litigation is not the only strategy that can be used to remove minority vote dilution. The remainder of this Chapter compares the *Gingles* remedy to other election systems used in the U.S. to prevent minority vote dilution.

Remediating minority vote dilution: the problem of majority-minority SMDs

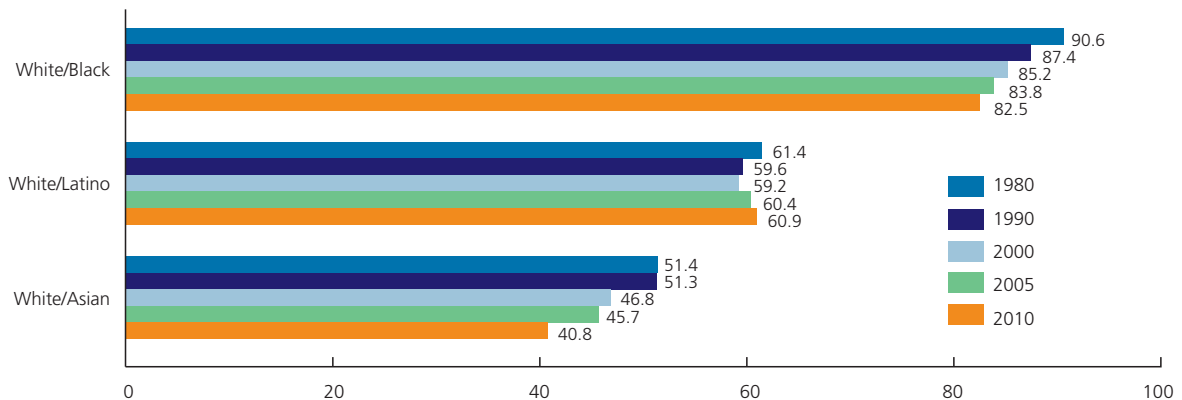
The benefits of the *Gingles* remedy are most clear where the facts of *Gingles* hold, that is, where an “at-large scheme consistently, systematically dilutes the voting strength of a geographically isolated racial or ethnic minority.”¹⁶ There are multiple reasons why this particular scenario is becoming less common, and therefore why election systems other than majority-minority SMDs are more likely to protect the voting rights of racial and ethnic minorities. These reasons are discussed below.

Decreasing residential segregation

A commonly used measure of the level of segregation is the Index of Dissimilarity (ID).¹⁷ It measures how two mutually exclusive groups are distributed across a geographic area (e.g. the distribution of Black and white people across a city). The ID math formula produces a number that ranges between 0 (where the groups are spread evenly across the area) and 100 (where the groups are entirely segregated) that can be compared with other geographic areas, regardless of size.¹⁸

The City of Chicago is well known for its residential segregation.¹⁹ Yet even Chicago has decreased in almost all measures of the ID since 1980 (Figure 9). Between 2000 and 2010 Illinois as a whole experienced an overall population increase of 3.3%, but the geographic distribution of the population also changed. The most significant change pattern in Illinois was the reduction of population in the City of Chicago and the increase in population in suburban Cook County and the collar counties (see Figure 10). In particular, the South Side

FIGURE 9: CITY OF CHICAGO: INDEX OF DISSIMILARITY



of the City of Chicago lost population, primarily Black residents, with those residents moving to the south suburbs, but also to some degree, to the western suburbs. The Latino population diminished on the West Side of the City of Chicago but grew in almost every other neighborhood and suburb. The Asian American population grew particularly in the western and northern suburbs outside Chicago. Further afield, a similar pattern of Black residents moving from within the city center to the surrounding suburbs was evident in and around East St. Louis and Rockford.

The movement of people of color into relatively white suburban areas causes those suburbs to become more diverse (in that they include people of multiple races and ethnicities), but not necessarily residentially integrated. The suburbs around Chicago show differing levels of residential integration, shown by the ID. For example Oak Park is a fairly integrated neighborhood, while Joliet is still relatively segregated.

FIGURE 10: POPULATION CHANGE IN GREATER CHICAGO 2000-2010⁶⁹

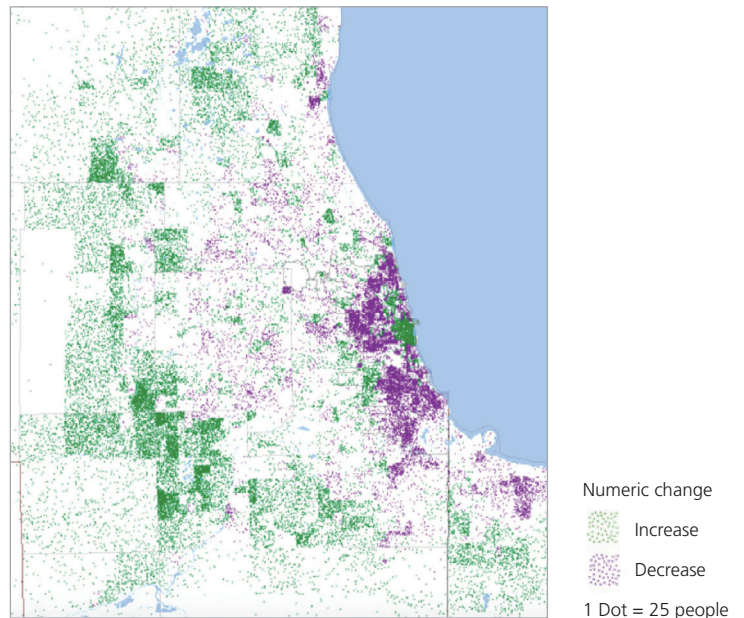
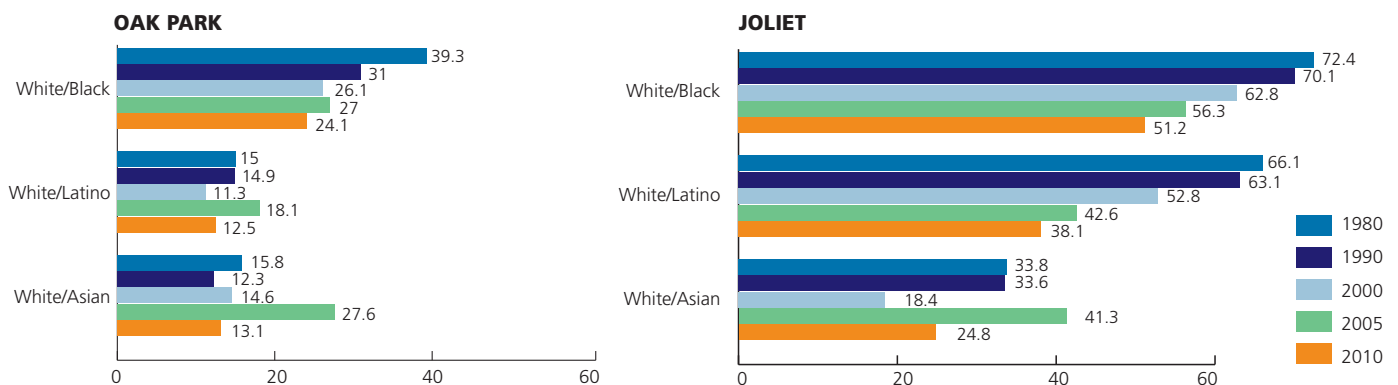
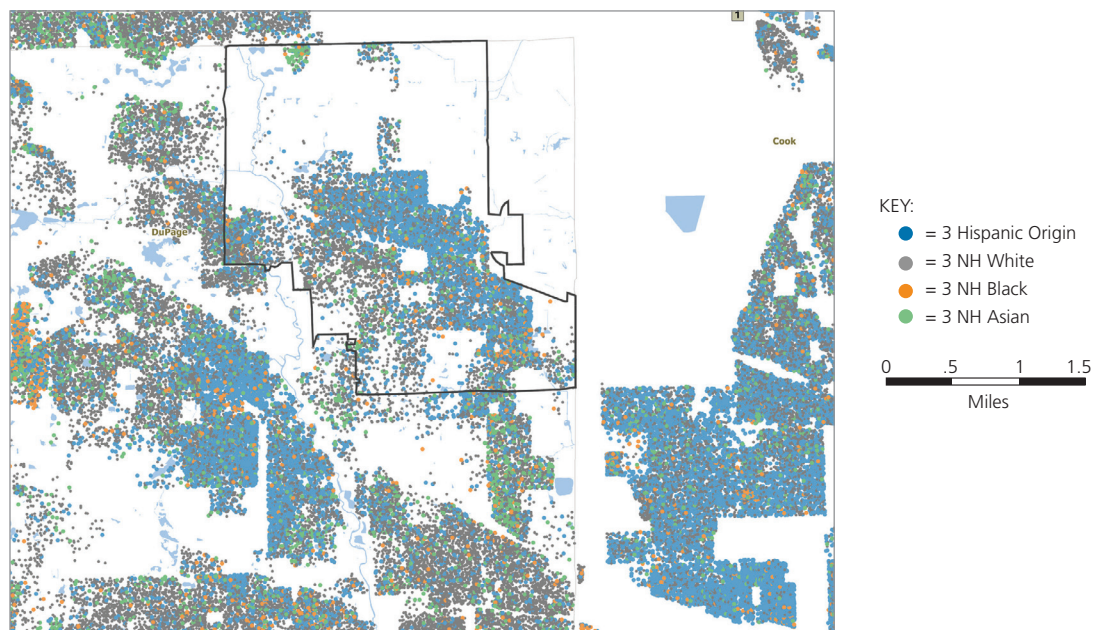


FIGURE 11: OAK PARK AND JOLIET: INDEXES OF DISSIMILARITY⁷⁰



Many of the areas that have new populations of color still have almost entirely white representation at the school board or local government level. In many cases, this is because at-large districts are used to elect the local board. For example, the Hanover Park town council is all white, yet 44% of the population is Black, Latino, or Asian American. In other cases, this is because the community is too integrated for a majority-minority SMD to be drawn. For example, Figure 3 on page 4 shows that DuPage County is too integrated for a single majority-minority district to be drawn for its County Commission consisting of 18 seats, even though the Asian community makes up 8.65% of the population by CVAP. Similarly, Figure 12 demonstrates that the Fenton Community High School District is too integrated for a single majority Latino school board district to be drawn for its seven member school board, even though the Latino community is 21.87% of the jurisdiction's population.

FIGURE 12: POPULATION DISTRIBUTION BY RACE: FENTON COMMUNITY HIGH SCHOOL DISTRICT

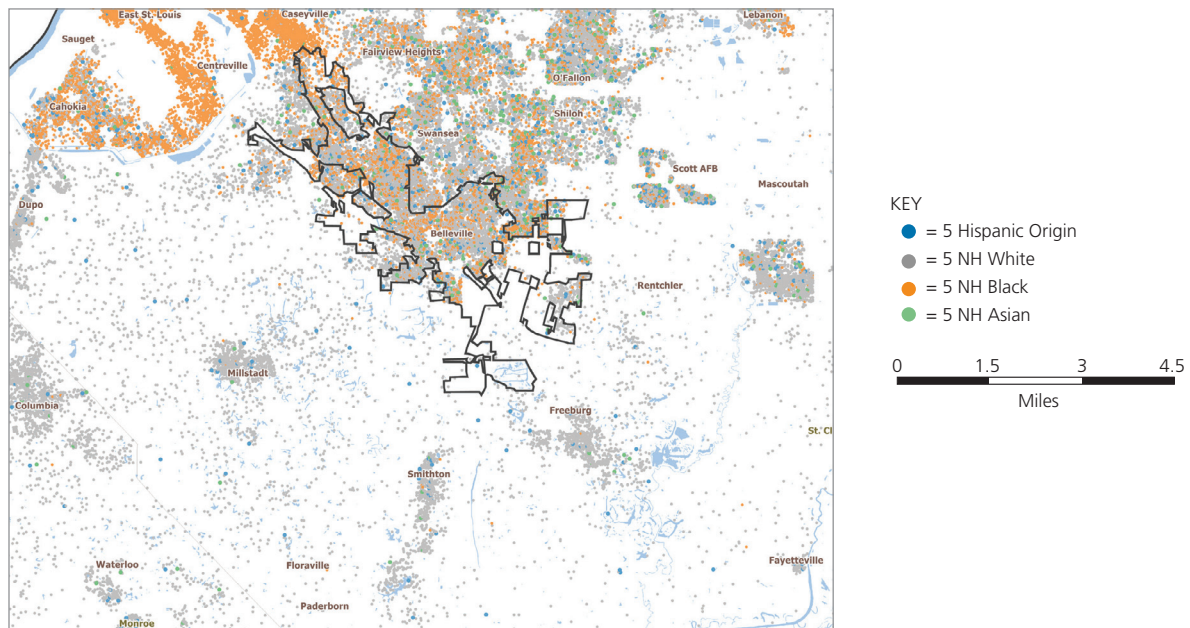


The consequence of reduced segregation is that majority-minority SMDs cannot be drawn to protect the voting rights of people of color. The *Gingles* remedy only protects geographically compact minority communities. Thus, as long as people of color do not make up a majority of new neighborhoods and racially polarized voting persists,²⁰ there will be no minority representation on local government bodies.

Irregular town boundaries

Unlike county boundaries, which are mostly square in Illinois, and school board boundaries, which are also fairly smooth, town boundaries are often uneven, winding in and out of communities, along some roads and not others, and very often including unincorporated areas within the town boundary. In order to keep SMDs as contiguous as possible (it is not possible if the town itself is non-contiguous), district boundaries can only be drawn in certain ways, which can prevent the drawing of majority-minority districts. For example, Figure 13 shows the city of Belleville. Belleville has such a strange outline, and such a high level of integration, that it is not possible to draw majority Black districts even though the town is over 20% Black by CVAP.

FIGURE 13: POPULATION DISTRIBUTION AND CITY BOUNDARY FOR THE CITY OF BELLEVILLE



Lack of minority voting cohesion

There are a number of cities or school boards that have a combined minority population over 50% and yet, in at-large elections, all of the elected officials are white. It may be that minority voter turnout is lower than that of white voters. However, it could also be that the minority communities do not vote together to elect candidates of mutual choice, so if the plurality of voters are white and vote cohesively, they will be able to elect all of the candidates for the local board.

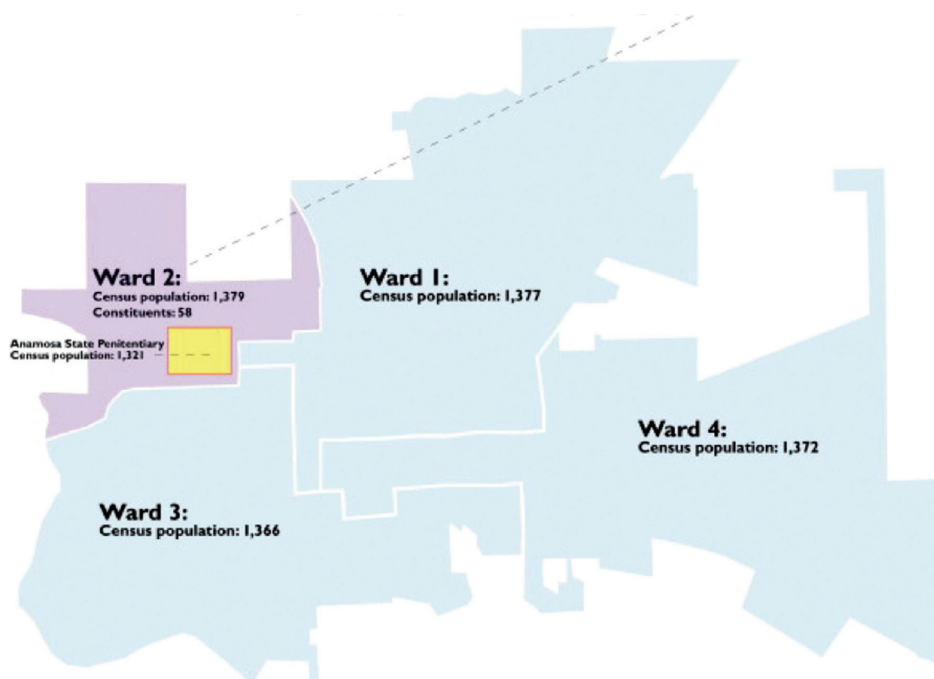
Low turnout or lack of candidates

There are some cities and school districts that are majority-minority, or even plurality Black or Latino, and yet they continue to elect an all-white council or board. An explanation for this is lower voter turnout by the minority community. The Joint Center for Political and Economic Studies notes that minority turnout in local elections is worse than white turnout (this does not always hold for federal general elections).²¹ As long as this continues, even with cumulative or ranked choice voting, it will be hard to improve minority representation. Two good examples of this problem are the school boards of Bloom Township High School District 206 and Thornton Fractional Township High School District 215. In each case the plurality of the citizen voting age population is Black, yet most of the members of the school board are white.²²

The problem of prison-based gerrymandering

Prison-based gerrymandering occurs because prisoners are counted at their prison address by the U.S. Census Bureau, but they cannot actually vote. Thus, if a district is drawn to include the prison, it will consist of far fewer actual eligible voters than a neighboring district (though they have the same total population). The most egregious example in the country is in the city of Anamosa, Iowa where each City Council ward has around 1,370 people, but one ward has 1,321 prisoners and 58 non-prisoners. This means that 58 people have the voting power of 1,370 for the City Council.²³

FIGURE 14: CITY COUNCIL WARDS IN ANAMOSA, IOWA²¹
WARD 2 HAS ALL THE PERKS OF A CITY COUNCIL SEAT WHILE REPRESENTING ONLY 58 CONSTITUENTS



In Illinois, the biggest distortion caused by prison-based gerrymandering occurs because 60% of the prison population comes from Cook County, yet 99% of the population is housed and counted in districts outside of Cook County.²⁴ This leads to less comparative urban representation and greater rural representation when looking at jurisdictions that underrepresent Black communities. Six of the top ten counties with Black underrepresentation appeared to be underrepresentative of Black people only because the large Black population was actually a prison population. The worst of these are Montgomery County, with nearly 10% Black population, and Lawrence County, with over 15% Black population.²⁵

The City of Crest Hill has a prison that is bigger in population than any one SMD would be on its city council, so it is impossible to draw SMDs if the prison population is counted when drawing districts.

Growing minority populations

The Census is only taken every ten years, and redistricting (except where at-large elections with winner-take-all voting is used) occurs shortly thereafter. This snapshot of the population does not account for the fact that after Census Day people move, citizens turn 18, and residents gain citizenship. If fair representation systems are used, then a minority community can elect a candidate of its choice, when it achieves sufficient population to do so, rather than waiting for the next Census and redistricting cycle. If at-large systems are used, then the jurisdiction does not need to change to SMDs or move district boundaries until it is sued under Section 2 of the VRA, or until the next census is released.

Problems with majority-minority districts for the Black population

Many researchers have found that district-based elections increase Black representation when they replace winner-take-all at-large systems.²⁶ Despite this, there are three main criticisms leveled at majority-minority districts for the Black community. First, as a matter of substantive representation, packing Black voters, who are predominantly Democratic, into single districts can create surrounding districts that are more Republican, resulting in the election of more Republicans to the legislature in total, who may be less likely to support the interests of the Black community.²⁷ Cameron, Epstein, and O'Halloran found in 1996 that the 1990 round of congressional redistricting's focus on using majority-minority districts to ensure that communities of color could elect candidates of their choice diluted the minority influence in surrounding areas and led to "an overall decrease in support for minority sponsored legislation."²⁸

Cameron et al believe that there is a tradeoff, if SMDs are used, between increasing the number of minority officeholders and enacting legislation that furthers the interests of the minority community. Their finding held in the South, where they determined the optimal minority population in any district to be 47% (rather than over-50% as has been imposed by the Courts in Section 2 cases).²⁹ Outside of the South, they found that "substantive minority representation is best served by distributing black voters equally among all districts."³⁰

A second criticism of majority-minority districts, articulated, *inter alia*, by Professor Abigail Thernstrom, is that a preoccupation with creating majority Black districts entrenches the racial segregation of minority voters. Thernstrom argues that "minority representation might actually be increased not by raising the number of black officeholders [elected from black district], but by increasing the number of officeholders, black or white, who have to appeal to blacks to win."³¹

A version of this argument has been made by Professor Lani Guinier, who argues that “single member districts may aggravate the isolation of the black representative,”³² and possibly even lead to Black representatives being viewed as tokens that let the white majority feel that their role in the winning coalition has greater value.³³

In addition to opposing the tokenism of minority representation, Guinier highlights that the purpose of the VRA was, and the purpose of civil rights activists should be, minority empowerment, not just minority legislative presence.³⁴ She has argued that the current interpretation of the VRA (to protect majority-minority districts seemingly at the expense of all other protections) has “inescapably closed the door” on the “real goal of the civil rights movement, which was to alter the material condition of the lives of America’s subjugated minorities.”³⁵ Whether the door is closed is debatable, but the research in *The Color of Representation* shows that remedies other than SMDs will need to be used with more frequency if we are to improve the substantive representation of communities of color.

A third criticism is leveled by the national organization FairVote, which has long argued that one of the main problems with majority-minority districts is that they “require the continuation of some degree of housing segregation that concentrates minority populations within easily drawn boundaries.”³⁶ They elaborate:

[A SMD system] has been effective for racial minorities and has remedied thousands of minority vote dilution lawsuits and dramatically increased racial minority representation where it has been applied. However, the effectiveness of majority-minority districts as a voting rights remedy is dependent upon the geographic concentration of racial minorities. Geographic dispersion can limit majority-minority districts to fewer seats than a given racial minority’s share of population. Even where districts provide an effective remedy in the short-term, they may not adequately represent the jurisdiction’s diversity after its demography changes. Finally, many racial minority voters will be unable to elect preferred candidates when not living in majority-minority districts.³⁷

Problems with majority-minority districts for the Latino population

Single-member districts do not increase descriptive representation for Latinos as much as they do for Black voters, and may actually decrease Latino descriptive representation.

Latinos are not as segregated from whites or from other minority groups as are Blacks residents.³⁸ This means that there are fewer places where it is even possible to draw a Latino majority-minority district. This is one of the major reasons why Latinos are more underrepresented than Black Americans. Since the 1980s, Latinos have moved from more-segregated to less-segregated areas, becoming more integrated with both white and Black Americans.

In addition, any attempt to enfranchise minority communities must take into account varying levels of citizenship and political incorporation.³⁹ Even in communities where there are a significant number of Latinos who are American citizens, the communities may still be new enough that they have not developed the social networks and community knowledge to run a successful campaign. The non-Latino community may be more resistant to Latino candidates, especially in local races where candidates often run on a platform of how long they and their families have been in the community.⁴⁰ In a city with low levels of citizenship and political incorporation, there may be one viable candidate and just enough Latino citizens across the city to elect that person, with a fair representation electoral system (rather than SMDs with winner-take-all plurality voting system) providing the only likelihood of that happening.

The scenario of the city with a high number of Latino non-citizens and a dispersed population represents a particularly important case for minority representation. In a single-member-district system, each candidate may not have enough Latino citizens to ever be concerned with the interests of Latinos, because they do not influence his or her chances for re-election. A system that allowed at least one Latino representative to be elected would give that population some chance of having a voice.

Problems with majority-minority districts for the Asian American population

SMDs with winner-take-all plurality voting are even more problematic for the Asian American population, because their population is comparatively low throughout the country, making it hard to draw majority Asian American districts in most places.⁴¹ New York City elections provide the clearest example of how SMDs have failed the Asian American population. The use of ranked choice voting in New York City school board elections from 1970 to 1999 led to descriptive representation of Asian Americans, “many with almost exclusive support from Asian American voters.”⁴² This result provided a “stark contrast” with the experiences of Asian American candidates in elections for other legislative bodies representing New York (that do not use ranked choice voting): In the late 1990s, “[e]ven with 800,000 Asian Americans, though there [we]re fifteen Asian American elected officials in the school boards, no Asian ha[d] been elected to the city council, state legislature, or Congress.”⁴³

Remedying minority vote dilution: fair representation systems

The United States has a long tradition of using methods of election other than SMDs, called fair representation electoral systems. Fair representation electoral systems used in the U.S. include cumulative and ranked choice voting (where used with MMDs). These are defined in the box on page 32. Overall, fair representation systems ensure that “a majority cannot control the outcome of every seat up for election. Instead, [they] ensure that the majority wins the most seats, but guarantee[s] access to representation for those in the minority.”⁴⁴

Cumulative voting was used to elect the Illinois House of Representatives for more than a century (1870-1980),⁴⁵ and was initially enacted to ensure that the minority party would have representation in a politically polarized state.⁴⁶ Cumulative voting is currently used in local elections in Alabama, California, Illinois, New York, South Dakota, and Texas;⁴⁷ and ranked choice voting was previously used at the local level in Ohio and New York, and is currently used in California, Maine, Minnesota, and Massachusetts.⁴⁸ Overall, more than 100 jurisdictions in the U.S. currently use fair representation voting to elect their representatives.⁴⁹

COMMON ELECTION SYSTEMS USED IN THE UNITED STATES⁷²

PLURALITY WINNER-TAKE-ALL VOTING: All of the voters in a jurisdiction (which may be a county, city, or district within a larger jurisdiction) vote for a single candidate for an elected office. The candidate with the highest number of votes (that is, the plurality) is elected to the position. For example, if three people run for election and candidate A receives 34% of the vote, candidate B receives 33% and candidate C receives 33% of the vote, then candidate A will be the winner of that election.¹

CUMULATIVE VOTING: Voters cast as many votes as there are seats. But unlike winner-take-all systems, voters are not limited to giving only one vote to a candidate. Instead, they can give multiple votes to one or more candidates. For example, in an election for a five-seat body, voters could choose to give one vote each to five candidates, two votes to one candidate and three to another, or all five votes to a single candidate. If members of a minority group work together and get behind a single candidate, “plumping” all of their votes on him or her, they may be able to elect a candidate of their choice, even if they only constitute a small share of the population.²

RANKED CHOICE VOTING (RCV): Each voter has one vote, but can rank candidates in order of choice (1, 2, 3, 4, etc.). Candidates win by reaching a “victory threshold” roughly equal to the number of votes divided by the number of seats. If a candidate has too little first-choice support to win, votes for that candidate are transferred to those voters’ next choices. This transfer of votes facilitates coalition-building and allows a candidate to run without fear of being a “spoiler” splitting the vote. RCV is also known as “single transferable vote” and “instant runoff voting.”³

The benefits of fair representation systems

Fair representation systems not only improve many measures of minority representation, they also lead to improved democratic outcomes generally.

Improved minority representation

First and foremost, for our purposes, the benefit of fair representation systems is that they allow people of color to elect candidates of their choice where winner-take-all, at-large systems would, and SMD systems may, prevent them from doing so. As Robert Brischetto found, “in a study of 96 elections in 62 jurisdictions with cumulative voting . . . black candidates were elected 96 percent of the time and Latino candidates 70 percent of the time when a black or Latino candidate ran.”⁵⁰

In New York “African Americans, [Latinos], and Asian Americans made up 37 to 47 percent of [the] City’s population during the three decades in which it used [ranked choice] voting for its school board elections. The minority groups won 35 percent to 57 percent of these positions, compared to only 5 percent to 25 percent of seats on the city council, which were elected using single member districts.”⁵¹

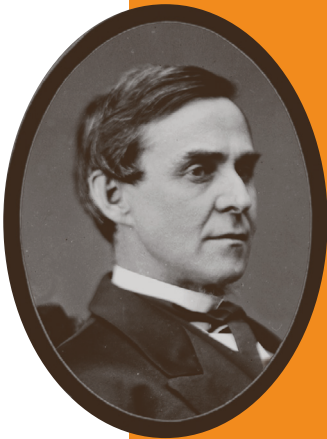
Closer to home, during a period when the South elected zero Black representatives to Congress and State legislatures, Illinois’ cumulative voting system meant that at all times from 1894 to 1980 there was at least one Black legislator in the Illinois House (and in most years many more than that).

Where fair representation systems have been implemented to remedy a Section 2 violation, the system has resulted in communities of color being able to elect their candidates of choice and has improved descriptive representation. This has been shown for the Black, Latino, and Native American communities.⁵²

Ranked choice voting (RCV) (see the box on page 32 for an explanation of RCV) provides additional value for racial and ethnic minorities. Because RCV creates incentives for candidates to reach out to more voters, it tends to result in less racially polarized campaign tactics and more inclusion for racial minority voters. Even in single-winner, winner-take-all elections, ranked choice voting appears to have an impact. For example, the imposition of ranked choice voting in San Francisco and Oakland led to the first Asian American mayor being elected in San Francisco and the first Asian American, and first female, mayor being elected in Oakland.⁵³ In San Francisco, of 18 offices elected by RCV, 15 are held by people of color—up from nine when RCV was first used in 2004.⁵⁴

The ability of communities of color to elect candidates of their choice in fair representation systems is not limited to groups that are residentially segregated, which, as Nicholas Stephanopoulos has argued, is more equitable because “spatially diverse groups are just as deserving of representation”⁵⁵ as segregated ones. This also means that all members of a community of color in a jurisdiction can have a say in who is elected to represent that community of color, rather than just those people of color that happen to live in the majority-minority district.

U.S. SENATOR BUCKALEW SUPPORTS CUMULATIVE VOTING⁷²



UNITED STATES SENATOR CHARLES BUCKALEW

of Pennsylvania, at first a leading proponent of districting, became the leading advocate of cumulative voting and proportional representation by the 1860s. In a speech in Philadelphia in 1867, he described why he would have supported cumulative voting, rather than single-member districts, had the former system been known at the time he campaigned successfully to replace at-large elections with single-member districts:

I drew the amendment to the Constitution of our State by which your city is broken into districts...What was the idea of that amendment? . . . The idea was to break up the political community, and allow the different political interests which compose it, by choosing in single districts, to be represented in the Legislature of the State. Unfortunately, when that arrangement was made for your city (and for Pittsburgh also, to which it will soon apply), this just, equal, almost perfect system of voting (cumulative voting), which I have spoken of to-night, was unknown; it had not then been announced abroad or considered here, and we did what best we could.

Cross-racial coalition building

As well as improving descriptive representation and allowing communities of color to elect candidates of their choice, fair representation systems have also been shown to foster the construction of cross-racial coalitions among both voters and legislators.⁵⁶ This is particularly true for RCV, given that voters have every incentive to rank candidates outside their own racial group in order of perceived or actual responsiveness to their concerns (in addition to selecting their preferred candidate in the number one position). Even when voters in a racial minority are below the victory threshold necessary to elect their most preferred candidate, their second choice vote will be sought after by multiple candidates, possibly from a variety of racial, ethnic, and political backgrounds. The victory threshold is explained in the box on page 32.

Increased representation for all political minorities

Fair representation systems show huge benefits to racial minorities, but they may also “open up the political process for politically cohesive minorities, not just racial minorities.”⁵⁷ As well as the minority political party being able to gain representation, other demographic minorities can also have a better chance at being elected under fair representation systems. For example, a fair representation systems can lead to greater diversity by gender, age, religion, sexuality, or country of origin, depending on the communities of interest in the jurisdiction.

Reduced partisan polarization

Cumulative voting in Illinois historically increased the “variance of the policy views held by both Democratic and Republican members of the state house.”⁵⁸ This holds not just historically for Illinois, but has also been suggested as a way to reduce polarization across the board in modern America: “If one’s greatest concern in a...legislature is partisan gridlock, multi-member districts could potentially ease the partisan feuding by making each party more ideologically diverse.”⁵⁹

Improved civic engagement

Fair representation systems can lead to improved civic engagement by communities of color. For example, a study of cumulative voting “found that their elections feature higher turnout, more active campaigning by candidates, greater mobilization by outside groups, and more contested races than either single-member districts or at-large regimes” ...also “voters worldwide in preferential systems [e.g. ranked choice voting] exhibit greater satisfaction with democracy and are more likely to believe their elections are conducted fairly.”⁶⁰

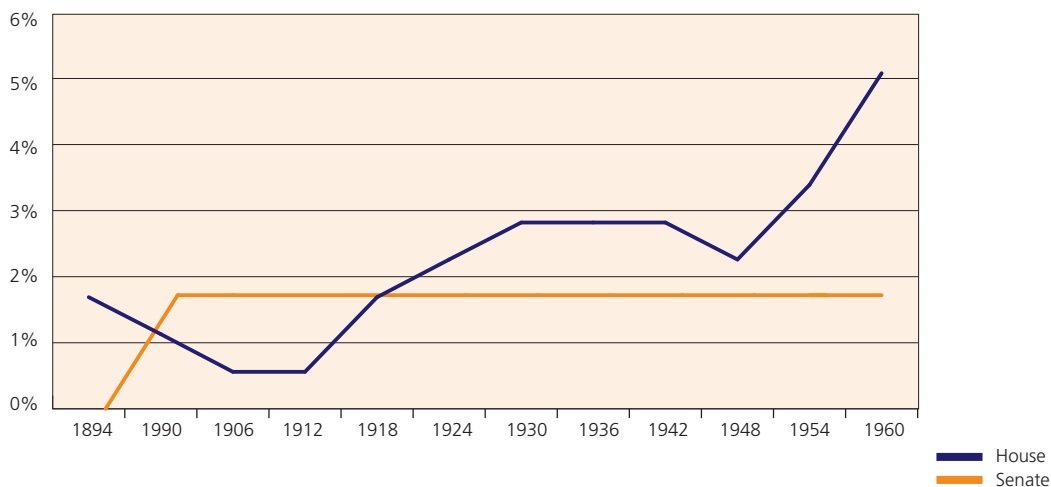
Removal of race conscious districting

While many racial justice advocates do not accept that redistricting should avoid being race conscious, there are skeptics in the community and on the Supreme Court⁶¹ of an over-zealous focus on race in redistricting,⁶² and in remedying past discrimination generally.⁶³ For these critics, fair representation systems may be more acceptable than SMD systems, because they “do not compel any consideration of race in their design or operation. They promise levels of minority representation comparable to those produced by Section 2, but without any of the “dividing” and “segregating” that are sometimes linked to the provision.”⁶⁴

Fair representation systems in Illinois

The State of Illinois operated a cumulative voting system to elect members of the Illinois House from 1870 to 1980. In 2001, the Institute of Government and Public Affairs at the University of Illinois released a report, based on deliberations from the Illinois General Assembly, academics, business leaders, and other community members, assessing the impact of cumulative voting on political representation in Illinois. The report found that compared to plurality voting systems, cumulative voting provides greater choice for voters, makes it easier for candidates to participate, allows for more minority political party representation, and encourages greater consensus in the legislature.⁶⁵ At the end of the study, a majority of the Assembly concluded that a return to a cumulative voting system would thus be preferable to the existing single-member district system.⁶⁶

FIGURE 15: BLACK MEMBERS OF THE ILLINOIS HOUSE AND SENATE 1894 - 1960





MARIA ARACELIA ROSAS URBANO

MARIA was born in Juarez, Mexico in the 1960s, then immigrated with her grandparents and 13 siblings to Joliet in 1973. She attended Catholic schools in Joliet on scholarship, then worked part-time while she earned her associate's degrees in education and science. Between raising her three children as a single parent and working full- or part-time, she was usually too busy to get involved in local politics.

But then something happened in Joliet that made it impossible for her to stay out of politics: the Corrections Corporation of America (CCA) was planning to build a for-profit immigrant detention center in Joliet. Maria knew firsthand the problems with those centers: a close family member, whom had not been fortunate enough to immigrate to America with papers, was picked up at the American-Mexican border in the 1990s and thrown into one detention center after another—without being able to stay in the US or return to Mexico—until he finally died in detention in North Carolina.

Learning about CCA's plans for the detention center spurred Maria to join a local advocacy group, the Concerned Citizens of Joliet (CCJ), a multi-racial, multi-generational, multi-denominational community organization. Though Maria had no experience with local advocacy, she relied on her fierce determination and guidance from the other members of CCJ to collect petitions, hold council members to account at council meetings, and get local press involved in the effort to stop the for-profit detention center. Together, they achieved their goal: CCA withdrew their plans for the detention center in mid-2013.

Maria and the Concerned Citizens of Joliet are now working to change the structure of the Joliet City Council from a system with five single member districts and three members elected at-large, to eight individual districts, so that their council members will come from all corners of the city. They have collected thousands of petition signatures as part of two attempts to change the electoral system, and they will keep trying until they succeed. As Maria knows, "en unidad hay poder" ("in unity there is power"), so it is just a matter of time before CCJ is powerful enough to change Joliet's election system to be more fair and more representative.

5

PATHWAYS TO REFORM

This Chapter lays out three complimentary strategies for improving minority representation at the local level in Illinois.

Community power

In Illinois, jurisdictions with over 25,000 people are automatically home rule jurisdictions, unless they vote to opt-out of that designation, and jurisdictions under 25,000 may opt-in to be home rule jurisdictions.¹ This means the overwhelming majority of local governments are governed by home rule powers. Home rule jurisdictions may choose their form of government and that can include their method of electing representatives to the local government body. The Attorney General in Illinois has issued a statement specifically approving the use of fair representation systems in local elections:²

It is my opinion that, pursuant to article VII, section 6, of the Illinois Constitution of 1970, a home rule municipality is authorized, subject to referendum approval, to adopt procedures for selecting municipal officers that differ from those set forth in either the Election Code or the Municipal Code.

In order to change to a fair representation system in Illinois, one must either gather a specified number of signatures³ or the representative body can vote to put the question of a new election system on the ballot.⁴ Once on the ballot, the measure will be enacted if approved by a majority of those voting on the question.⁵

State Voting Rights Acts

Implementing a state Voting Rights Act could alleviate some of the practical difficulties of Section 2 VRA litigation. The difficulties of Section 2 litigation include:⁶

- “[v]oting rights suits are actually among the most time- and labor-intensive of all actions brought before the federal courts;”⁷
- attorneys’ fees do not necessarily follow from a victory and the cost of litigating a Section 2 case is extremely high; and
- the defendant is usually allowed to choose how to remedy a violation and so can implement a new election system that meets a bare minimum requirement of representation of the minority population.

California, wanting to alleviate some of the problems of Section 2 litigation, enacted the California Voting Rights Act (CVRA) that makes it cheaper and easier to prove that a local government’s election system impermissibly dilutes the votes of the minority community. The CVRA does not require fair representation remedies, but such systems can be imposed as a remedy.⁸

An additional benefit of developing a state level jurisprudence on minority vote dilution is that it can fill the gaps left in the current Section 2 jurisprudence. For example, the *Gingles* criteria for Section 2 liability are based on the assumption that SMDs are the appropriate benchmark for minority vote dilution when, in fact, the SMD requirement effectively overlooks the dilution of non-compact minority populations. As a result, a place where a crossover district can be drawn (districts where a racial minority votes as a bloc with a small amount of support from the white majority, resulting in the candidate of choice of the racial minority being elected) will not establish liability under Section 2 and so cannot be required by federal law.

The current Illinois Voting Rights Act (IVRA) adds a requirement beyond that of federal law for state legislative districts only.⁹ It provides that “[d]istricts shall be drawn...to create crossover districts, coalition districts, or influence districts.” Later language in the statute provides that the IVRA shall not “be construed, applied, or implemented in a way that imposes any requirement or obligation that conflicts with the United States Constitution [or] any federal law.” This may mean that the crossover and influence district requirement has no effect as long as the current interpretation of the federal VRA holds.¹⁰ However, this question has not yet been addressed by the Illinois courts.¹¹

Current Illinois law allows cumulative¹² and ranked choice voting to be implemented in local communities,¹³ but even in states where the question of fair representation systems has not been raised, there is good reason to believe that state law will allow fair representation systems as remedies to minority vote dilution cases.¹⁴ It has been argued that ranked choice voting could violate state definitions that declare the winner of an election to be the person with the greatest number of votes (these were introduced to prohibit runoff elections), because a person can win a ranked choice election without the greatest number of “number 1” votes.¹⁵ However, a court has agreed with the argument that the winner in a ranked choice election is in fact the candidate with the greatest number of votes, once all the votes have been counted and redistributed.¹⁶

A more recent challenge to ranked choice voting (called instant run-off voting (IRV) in California) was dismissed by the Ninth Circuit in the case of *Dudum v. Arntz*. The Court held:¹⁷

At its core, Dudum’s argument is that some voters are literally allowed more than one vote (i.e., they may cast votes for their first-, second-, and third-choice candidates), while others are not. Once again, Dudum’s contention mischaracterizes the actual operation of San Francisco’s restricted IRV system and so cannot prevail. In fact, the option to rank multiple *preferences* is not the same as providing additional votes, or more heavily-weighted votes, relative to other votes cast. Each ballot is counted as no more than one vote at each tabulation step, whether representing the voters’ first-choice candidate or the voters’ second- or third-choice candidate, and each vote attributed to a candidate, whether a first-, second- or third-rank choice, is afforded the same mathematical weight in the election. The ability to rank multiple candidates simply provides a chance to have several preferences recorded and counted *sequentially*, not at once (emphasis in original).

Though not a triviality in litigation, there is certainly an argument that even in states with strict “winner take all” type provisions, ranked choice, cumulative, and single voting can still be imposed to remedy minority vote dilution.

State Voting Rights Acts can be tailored to local needs, but in all cases if they include provisions that explicitly allow for fair representation systems to be imposed in response to a violation, and if they make the proving of a violation less burdensome than the federal VRA, then they will be a useful tool in the fight for improved minority representation in local government.

Federal litigation

Even without a state Voting Rights Act, federal Section 2 litigation can be pursued to remedy the most egregious cases of minority vote dilution, where the minority population in question is geographically concentrated.

Section 2 litigation possibilities in Illinois

The authors analyzed the jurisdictions outlined in Chapter 3 as those with the most severe underrepresentation of minority populations for the possibility of Section 2 VRA liability. The first step in a Section 2 case to determine, if SMDs were drawn, whether there would be a sufficiently large and geographically compact minority population to constitute a majority in one or more SMDs. Using Maptitude loaded with the Citizen Voting Age Population from the 2009-2013 American Community Survey 5 year estimates,¹⁸ the authors determined whether one or more SMDs could be drawn with a majority-minority population. The results are listed in Table 200. In some cases one minority group was used as the majority in a district, but in others two minority groups could together constitute a majority in one or more districts. This is noted in the table. In these locations, additional tests will need to be conducted to determine whether the minority populations vote cohesively. In all cases, there is some evidence that the white majority is voting as a bloc to defeat the minority population(s) candidates of choice, but this will need to be proven with political science analysis.



TABLE 11: POSSIBILITY OF SECTION 2 VRA LIABILITY IN 38 ILLINOIS JURISDICTIONS

Jurisdiction type	Jurisdiction Name	No. of Seats	Combined POC CVAP	POC on Current Board	Possible Section 2 case?	Explanation for Section 2 case possibility	Possible minimum number of minority chosen candidates (with and a fair representation system)
COUNTY	DeKalb	24	14%	0	No	Too integrated	3
	DuPage	18	21%	0	No	Too integrated	3
	Lake	21	22%	2 Black members	No	Three districts are currently majority Black + Latino; Asian community is too integrated for a majority district	4
	LaSalle	29	8%	0	No	Too integrated	2
	McDonough	21	9%	0	No	Too integrated	1
	McLean	20	12%	0	No	Too integrated	2
	Sangamon	29	13%	2 Black members	Yes	Can draw plan with 3 majority Black districts	3
	Will	26	25%	3 Black members	Yes	Can draw plan with 2 majority Black and 2 majority Black + Latino districts	6
CITY, TOWN, VILLAGE	Addison Village	6	33%	0	Yes	Can draw plan with 1 majority Latino district	2
	Aurora	12	44%	3 Black, 1 Latino members	Yes	Can draw plan with 3 majority Latino districts and 2 Black + Latino majority districts	5
	Belleville	16	26%	1 Black member	No	Too integrated	4
	Belvidere	10	20%	0	No	Too integrated	2
	Blue Island City	14	69%	2 Black, 2 Latino members	Yes	Can draw plan with 4 majority Black, and 3 Latino + Black majority districts	10
	Carpentersville	6	40%	0	Yes	Can draw plan with 2 majority Latino districts	2
	Chicago Heights	7	66%	2 Black, 2 Latino members	Yes	Can draw plan with 3 majority Black and 1 majority Latino districts	5
	City of Zion	4	53%	0	Yes	Can draw plan with 1 majority Black and 1 Black + Latino majority district	2
	Crest Hill City	8	36%	1 Latino member	No	Prison gerrymandering prevents any majority Black district	3
	Elgin	8	38%	1 Black, 1 Latino	No	Too integrated, only one majority Latino district can be drawn	3
	Elmwood Park	6	21%	0	No	Too integrated	1

TABLE 11: CONTINUED

Jurisdiction type	Jurisdiction Name	No. of Seats	Combined POC CVAP	POC on Current Board	Possible Section 2 case?	Explanation for Section 2 case possibility	Possible minimum number of minority chosen candidates (with and a fair representation system)
	Evergreen Park	6	28%	0	Yes	Can draw plan with 1 majority Black + Latino district.	1
	Glendale Heights	6	47%	0	No	Too integrated	3
	Hanover Park	6	44%	0	No	Too integrated	3
	Hoffman Estates	6	31%	0	No	Too integrated	2
	Joliet	8	35%	2 Black members	Yes	Can draw plan with 3 Black+ Latino majority districts	3
	Lansing Village	6	40%	0	Yes	Can draw plan with 1 majority Black district	2
	Morton Grove	6	34%	0	No	Too integrated	2
	Naperville	8	21%	0	No	Too integrated	1
	O'Fallon City	14	18%	0	No	Too integrated	2
	Rockford	14	31%	4 Black, 0 Latino members	No	Too integrated	4
	Streamwood	6	34%	0	No	Too integrated	2
SCHOOL BOARDS	Homewood-Flossmoor Community High School District 233	7	50%	2 Black members	No	At-large voting is not preventing 2 POC from being elected; but the community is not electing the three POC members that it could	3
	Bloom Township High School District 206	7	59%	2 Black members	Yes	Can draw plan with 3 majority Black districts	4
	Thornton Fractional Township High School District 215	7	59%	2 Black members	No	At-large voting is not preventing 2 POC from being elected; but the community is not electing the three to four POC members that it could	4
	Leyden Community High School District 212	7	35%	0	Yes	Can draw plan with 1 majority Latino district	2
	Fenton Community High School District 100	7	28%	0	No	Too integrated	2
	Elmwood Park Community Unit School District 401	7	21%	0	No	Too integrated	1
	Joliet Township High School District 204	7	37%	1 Black members	No	Can draw plan with 1 majority Black district but no majority Latino districts	2
	Indian Prairie Community Unit School District 204	7	29%	2 Black members, 0 Asian members	No	Too integrated	2

Table 11 shows that of the 38 jurisdictions, eight are counties, 21 are towns, and nine are school boards. In roughly 34% (13/38) of those cases there is a possibility that a Section 2 suit could be used to improve minority representation, but in 66% (25/38) of the jurisdictions there is no clear federal legal path to improve minority representation. The reasons why a Section 2 suit is or is not possible are set out in Table 11. In the 25 jurisdictions without hope of a Section 2 suit, the adoption of fair representation systems, like cumulative or ranked choice voting, would better ensure that the voices of the minority community are represented at the local government level. In many of the 13 jurisdictions where a Section 2 suit may be possible, cumulative or ranked choice voting would likely improve outcomes for the minority community beyond the implementation of SMDs (which is the likely, but not inevitable, outcome of a Section 2 suit).

Section 2 remedies

A jurisdiction found to violate Section 2 is usually able to choose how it will remedy the violation,¹⁹ and, with the approval of the court, can then implement the new system where the system is permitted by state law. In many cases jurisdictions choose to adopt SMDs, but not in every case. Recently, the defendant in Port Chester, New York was able to implement cumulative voting to remedy a Section 2 violation, over the objection of the plaintiff.²⁰ Many jurisdictions in Alabama that were forced to change from at-large elections after the long running Dillard litigation chose to adopt cumulative or single voting in the 1980s and 1990s.²¹

Thus far, no jurisdiction has chosen to adopt ranked choice voting in response to a Section 2 violation, but it was requested (and approved by the Court) as a remedy to a potential Military and Overseas Voter Empowerment Act (MOVE Act) violation in Alabama in 2013,²² and was used for overseas voters in a similar way in four additional states in 2014 (Arkansas, Louisiana, Mississippi and South Carolina).²³

Karlan has argued since 1989 that Section 2 remedies can be innovative and non-traditional.²⁴ She explains:

Once a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies... Congress squarely stated that a court faced with a violation of Section 2 must 'exercise its traditional equitable powers so that it completely remedies the prior dilution of minority voting strength and fully provides equal opportunity for minority citizens to participate and to elect candidates of their choice.' A court faced with a violation 'cannot authorize a remedy . . . that will not with certitude completely remedy the Section 2 violation.' (citations omitted)²⁵

Courts have rejected remedies that have been proposed by defendants, and explained how options provided by the plaintiff will remedy the section violation better,²⁶ but ultimately the defendant is able to determine the remedy for a Section 2 violation. The remedies in Alabama included not only cumulative voting, but also an increase in the number of commissioners from four to seven and the institution of a system whereby the commission chairmanship would rotate between commissioners, allowing a Black commissioner to occasionally be chairman, if one had been elected.²⁷ These provisions were implemented upon the recommendation of a "special master," a Magistrate with the federal court. The Supreme Court's finding in *Holder v. Hall* has now limited the ability of a court to impose a remedy requiring an increase in the number of districts in an election jurisdiction in response to a Section 2 violation,²⁸ but the Court did not impose a limit on the type of election system that can be used to remedy a Section 2 violation.

6

THE IMPORTANCE OF MINORITY REPRESENTATION

This Chapter explains what is meant by representation, and therefore minority representation, and then discusses how protecting and promoting minority representation can improve our democracy generally, and substantive policy areas more specifically.

Representation

Representation in a democracy is “a substitute for the meeting of citizens in person.”¹ Federal, state, and local governments could not function efficiently if all of the millions of citizens with a stake in the decisions of government were involved in every decision. Americans long ago decided that they did not want a single leader to determine issues of the common wealth. Thus, governmental systems were chosen whereby some people represent others to determine the rules by which we live.

To be represented has four relevant meanings in the context of voting rights.² One can be said to be represented if:³

1. She can register, vote, and have that vote count;
2. She can join with her community to elect candidates of their choice;
3. People who share demographic or social characteristics are part of a governmental decision making body (this is referred to as descriptive representation); and
4. There is a congruence between the actions and behavior of a representative and one’s policy preferences (this is referred to as substantive representation).

The first form of representation, though protected by the Constitution and a goal of the VRA, is not the focus of *The Color of Representation*. Whether someone can access voter registration, the ballot, and not have her ballot thrown out is a question of election administration and is better discussed as a topic on its own. The latter three definitions, however, form the basis of the types of representation analyzed in *The Color of Representation*.

Recognizing that democracy requires representation is only the first step. A community must then decide how it will choose its representatives. The mechanism chosen will depend on a community’s conception of democracy and of representation. Is democracy served by a purely majoritarian representative body in which representatives do only what those they represent want and the decision made in each case is by majority rule (majoritarianism)?⁴ Is it served by a representative body where the most talented members of society are trusted to deliberate and act in favor of the national interest, even if it involves unpopular choices (trusteeship)?⁵ Is it served by a representative body that is a vibrant marketplace of ideas, where every demographic and interest group is represented, and decision makers form

different coalitions come to different compromises depending on the issue (pluralism)?⁶ Perhaps a little of each of these drove the decisions of the Founders to establish the decision-making structures of federal government.

The Constitution dictates the federal government's structure in a manner that is almost impossible to amend,⁷ but the structure of a local government is, in most states, relatively easily amended.⁸ For example, in Illinois, home rule jurisdictions⁹ can change their system of government (that is, their county, town, or school board) by majority vote at a general election after collecting enough signatures to place the question on the ballot.¹⁰

At the local level then, we are all potential founders.

In a world of relatively infinite choice, what system of democracy suits local government? And therefore what system of representation is preferable? Some guidance can be drawn from Hanna Pitkin's seminal 1967 book, *The Concept of Representation*. Pitkin found that political decisions are "questions about action, about what should be done; consequently they involve both facts and value commitments."¹¹ While decisions based on facts may be delegated to experts, decisions based on value commitments—like the decisions of what rules a community wants to live by—require diverse representation.

Not every type of diversity will be relevant for representation. For example, it is hard to think of a reason why blue-eyed people need specific representation that they could not get from brown or green-eyed people. Additionally, in some communities different religions or ages may not need to be represented, but in others, religion or age may be a key cleavage in a community and so establishing a system that ensures diverse representation with respect to religion or age will be necessary. In many communities in the United States one thing is certain: racial and ethnic differences create issues that require diverse representation.¹²

Minority representation

If the goal of democracy is majority rule, why is pluralism or an explicit protection of racial justice needed? This question strikes at the basic paradox of democracy—can a society be equally committed to majority rule and minority protection?¹³ Because it conflicts with government by the majority, the commitment to minority protection must be grounded in some other value. A commitment to minority representation can be grounded in pluralism and/or a commitment to racial justice. Failing to value and promote minority representation is not a race-neutral choice, but instead a de facto vote against racial justice.

For minority representation to exist, all four types of representation outlined above should be present. That is, minority communities must be able to register and vote, to elect candidates of their choice, and they should be both descriptively and substantively represented in federal, state, and local government. These types of representation stand in contrast to various kinds of disenfranchisement and political disempowerment minorities have experienced in America's history.

Minority disenfranchisement

The text of the Amendments to the Constitution could lead one to conclude that minority representation has been protected in America since the Fifteenth Amendment was enacted in March, 1870. However, for Black Americans, the enfranchisement of the Fifteenth Amendment did not last past the end of Reconstruction. During Reconstruction, Black citizens were able to register and vote; to come together to elect Black citizens to the U.S. Senate, House, and state and local offices;¹⁴ and those representatives were able to enact policies that the Black community preferred.¹⁵ However, Reconstruction ended in 1876, and soon thereafter the country took a step backward for minority representation by enacting policies meant to undo the advances of Reconstruction. Jim Crow laws like grandfather clauses,¹⁶ literacy tests,¹⁷ and poll taxes,¹⁸ as well as outright discrimination¹⁹ and violence,²⁰ prevented most Black Americans from registering to vote, let alone voting or electing candidates to office.

The story is a little different for Latinos, because the primary mechanism of disenfranchisement was through denying people of Mexican origin citizenship. In parts of the Southwest white Americans constructed a split in citizenship, whereby Latinos with lighter skin were listed as being of Spanish origin and granted citizenship (and therefore the right to vote), while Latinos with darker skin were listed as of Mexican origin and denied citizenship, and with it the ability to vote.²¹

The Treaty of Guadalupe Hidalgo in 1848 allowed some Mexicans living in what is now the United States the right to claim U.S. citizenship, and so even dark-skinned Mexicans had valid citizenship. This fact, plus general anti-Latino sentiment led to some, but not all, Latino citizens facing the burdens of Jim Crow like their Black counterparts. Similarly, some Latinos experienced disenfranchisement through white primaries, grandfather tests, literacy tests, and poll taxes.²²

Asian Americans also faced disenfranchisement through restrictive citizenship laws. The Chinese Exclusion Act of 1882, passed because white Americans viewed Chinese laborers as an economic threat, barred immigration from China into the U.S. and explicitly stated that the Chinese could not become U.S. citizens.²³ By denying Chinese individuals citizenship, the Exclusion Act also effectively disenfranchised all Chinese people in the U.S. The Exclusion Act, originally designed to last ten years, was extended for another ten years in 1892 before becoming permanent in 1902.²⁴ The Magnuson Act of 1943 repealed the Exclusion Act, allowing 105 Chinese immigrants into the country annually and Chinese Americans to again be eligible for citizenship.²⁵ The exclusion of Chinese immigrants effectively remained in force until the passage of the Immigration Act of 1965, which provided for substantial Chinese immigration into the U.S. for the first time in 83 years.²⁶

The incomplete disenfranchisement of the Latino and Asian American communities meant that some Latinos and Asian Americans were elected to Congress between Reconstruction and 1965,²⁷ though never in large numbers, and usually not due to jurisdictions being constituted by a majority of people of color.

The Voting Rights Act

It wasn't until 1965 that part of the promise of the Fifteenth Amendment was codified by Congress in the Voting Rights Act (VRA).²⁸ Though passed in direct response to the violence in Selma, Alabama on Bloody Sunday, March 7, 1965, the aims of the VRA were broader than simply allowing black people to register to vote without fear of losing their lives. In 1991 Lani Guinier summarized Dr. Martin Luther King Jr.'s views on the topic: "King advocated full political participation by an enlightened electorate to elect blacks to key political positions, to liberalize the political climate in the United States and to influence the allocation of resources."²⁹ Guinier also notes that Roy Wilkins, Executive Director of the NAACP and Chairman LCCR, advocated for the VRA before the House Committee on the Judiciary, on the grounds that eliminating voting restrictions would mean that elected officials "will become responsive to the will of all the people."³⁰

Provisions protecting language minority communities (Latinos, Asian Americans, American Indians, and Native Alaskans and Hawaiians) were not included in the VRA until 1975.³¹ Congress added these provisions to help non-English speaking voters to "cast an effective ballot..."³² The definition of minority political participation used during the 1975 debates included registering, voting, running for office, and holding office as civic participation goals.³³ The 1975 Act's added protections were written to apply to "language minority groups," defined as "persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage."³⁴

a. Registering, voting, and having that vote count today

The removal of practices that directly prevented minority voters from registering and voting (e.g. literacy tests, and some of the practices prevented through Section 5 preclearance, such as not opening voter registration opportunities when Black citizens appeared at the relevant office to register) supported the most basic type of minority representation: allowing people of color to register, vote, and have that vote count.

TABLE 12: VOTER REGISTRATION RATES 1965 VS 1988⁹¹

State	MARCH, 1965			NOVEMBER, 1988		
	Black	White	Gap	Black	White	Gap
Alabama	19	69	50	68	75	7
Georgia	27	63	35	57	64	7
Louisiana	32	81	49	77	75	-2
Mississippi	7	70	63	74	81	6
North Carolina	47	97	50	58	66	7
South Carolina	37	76	38	57	62	5
Virginia	38	61	23	64	69	5

There are still laws that disproportionately disenfranchise voters of color, including ex-felon disenfranchisement laws, photo ID laws, citizenship requirements, and restrictions on early voting that are either currently on the books or are being advanced in legislatures or through ballot initiatives.³⁵ Advocates for minority representation are using Section 2 of the VRA somewhat effectively³⁶ where previous litigation under the Fourteenth Amendment has not been successful.³⁷

b. Electing candidates of the minority community's choice

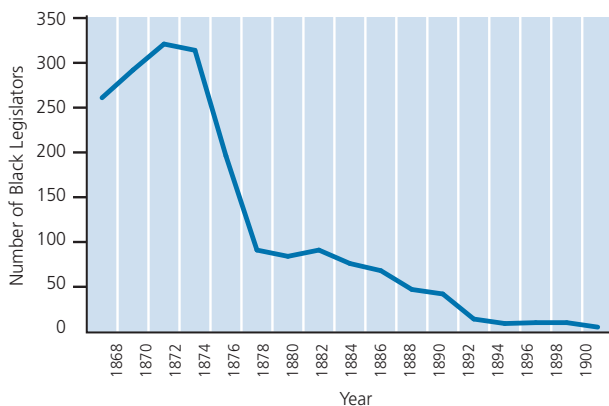
The VRA, though originally interpreted by the Supreme Court to protect against only intentional discrimination with respect to the right to vote, was clarified by Congress in 1982 such that today it prohibits systems of election that prevent minority communities from electing candidates of their choice.³⁸ The classic example of such a system is a town council that elects all of its representatives at-large, meaning that every voter chooses someone for each of, say, seven positions. The result of at-large systems is that the majority white population, if there is racial polarization in voting, will elect all seven members, and the minority community will never be able to elect a candidate to the local office. In places where it is possible to divide the jurisdiction into single member districts (SMDs) such that one or more will have a majority of minority citizens, Section 2 of the VRA has been interpreted to require that SMDs (or another remedy) be implemented.³⁹

c. Descriptive representation

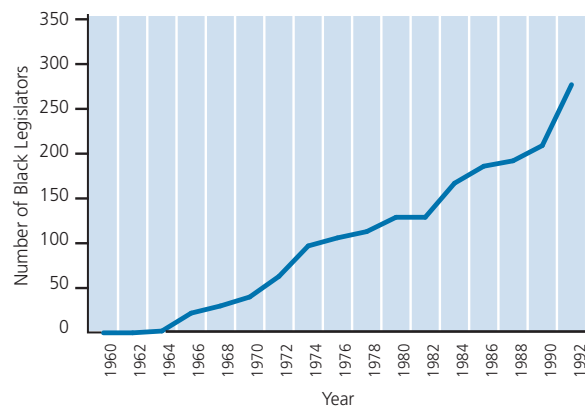
The VRA says nothing explicitly about descriptive representation, but the Senate, in passing the amendments to Section 2 in 1982, added in a list of factors that a court must consider as part of the “totality of the circumstances” test.⁴⁰ These are set out on page 23 in Chapter 4. Factor seven, in particular, is concerned with descriptive representation: “the extent to which members of the minority group have been elected to public office in the jurisdiction.”

In many cases, the protection of descriptive representation results from the VRA's protection of communities' rights to elect candidates of their choice, because these communities tend to elect people of color while white communities tend to elect white representatives as their candidates of choice. For example, at the congressional level in elections from 1966-1996 (the thirty years after the VRA was passed) only 35 of the 6,667 elections in white majority districts provided black winners (that is 0.005%).⁴¹ There are more white winners in majority Black or Latino districts than this low rate, but not a sufficient amount to threaten the ability of representatives of color to be elected at the local, state, and national level.

**FIGURE 16: NUMBER OF BLACK LEGISLATORS
1868 VS 1990⁹²**



**FIGURE 17: NUMBER OF BLACK LEGISLATORS
1960 VS 1992⁹³**



d. Substantive representation

Substantive representation can have both an individual representative component and a component that looks at overall legislative and policy outcomes. With respect to individual representatives, the VRA protection of communities of color's ability to elect candidates of their choice should protect substantive representation (if the community votes in its self interest and is able to hold the legislator to account). In addition, the Senate Factors outline the issues that a court should consider as part of the "totality of the circumstances" test required by Section 2 VRA.

Additionally, political scientists have found strong evidence that substantive representation follows directly from descriptive representation. For example, Kerry L. Haynie finds, in analyzing agenda-setting behavior,⁴² that "a legislator's race tends to have a stronger effect on substantive representation than does a legislator's party membership."⁴³

With respect to whole legislature/policy outcomes, the story is somewhat different, due to the nature of winner-take-all district elections. Whether substantive policy outcomes are promoted by the VRA depends on the size and distribution of the minority communities and the level of racially polarized voting. This argument is discussed on page 29 of this report.

The need to divide minority representation into a substantive and descriptive component reveals how differently the political world is experienced by whites and people of color (and hence why it is important to approach the political world with an appreciation of racial difference). Since 90% of elected officials are white (and 65% are white men),⁴⁴ a white person will almost never need to worry about whether the candidate who will descriptively represent him will also substantively represent him.

The benefits of minority representation

Q: Now why would you come from Crittenden County to participate in a fundraiser for a county race that was basically a local race to Philips County?

A: Well, the reason I would come, first of all, there are no blacks elected to a county position in eastern Arkansas and no black serving in the House of Representatives in eastern Arkansas and no blacks elected to anything other than school boards in districts that are predominantly black. And I feel like blacks should be elected to public office because they should have a chance to serve.

And I want to help get blacks elected so little black children can see them serving and I want to dispell (sic) the myth that some white kids might have that blacks can't serve or shouldn't be serving at the courthouse. And when my little girl goes to the courthouse or when other little girls go to the courthouse, I want them to be able to see black people working up there.

And if we can get some blacks elected at the local level, eventually we can—blacks will have the expertise and we can groom them to the point where they can run for the state legislature and other positions . . .

Ben McGee, 1988⁴⁵

McGee's quote identifies a number of reasons why one should care about minority representation. It deals specifically with the Black community, but the reasoning applies just as well to all minority communities. The reasons identified include because representatives of color can be role models for children of color, because local representatives can go on to be better qualified state or federal representatives, and because people of color should have the same opportunity to serve as white people.

These ideas are outlined in more detail below, along with an explanation of the additional benefits of minority representation.

Minority contributions to political deliberation

At its most basic, protecting minority representation ensures that America's representative democracy is indeed representative. That is, people of color are involved in choosing representatives that know and care about their issues, and people of color are representatives and thus are involved in the process of governmental decision-making and can influence votes to protect minority rights.

Guinier explains that Black people contribute to democratic deliberation in a way white people cannot: "Black representatives are not just physically black. Because they grew up being black, these officials enjoy a cultural and psychic linkage that cuts across class lines."⁴⁶ This makes intuitive sense with respect to all people of color. There is only so much a white person can learn by studying and talking to communities of color. And if the white representative is talking to people from a community of color before a vote, why not have that conversation as one representative to another, before they both vote?

Karlan explains why it is important that Black voices be heard in representative bodies, rather than solely at the ballot box:

[L]egislative voting, as opposed to general election voting, occurs in an institutional setting that maximizes the possibilities for deliberation through debates, amendment processes and mark-ups, and hearings in which the voter/representatives participate actively. With such deliberation may come greater understanding and acceptance of minority positions and a greater willingness to compromise. It is critical to this process, however, that an advocate of the distinctive minority perspective be present to advance its views.⁴⁷

A good example of the value of having Black representatives in a decision-making body (even if they are elected by a majority white constituency) comes from Carol Moseley Braun, when she was a U.S. Senator from Illinois. As the first, and only, Black woman to ever serve in the U.S. Senate, Moseley Braun also demonstrates the difference that a single representative of color can make in a white-dominated legislature. David Canon explains:

Senator Carol Moseley Braun (D-IL) successfully challenged the Daughters of the Confederacy's renewal of their patent on the Confederate flag insignia. The measure was about to sail through as a noncontroversial, non-germane amendment that had been attached by Jesse Helms (R-NC) and Strom Thurmond (R-SC). Braun, as the only African American in the Senate, was outraged. Her passion carried the day as twenty-seven senators switched their votes on the amendment, which was defeated by a 75-25 vote... It is quite likely that the Helms amendment would not have been questioned had Braun not been in the Senate."⁴⁸

Similarly, but on an issue of much greater prominence, Representative Luis Gutierrez's outspoken opposition to the huge number of deportations conducted during President Obama's administration eventually led the President to sign an executive order in 2012 to stop deportations of DREAMers.⁴⁹ Gutierrez has described how his experience as a Puerto Rican helped him to understand what Mexican Americans are facing today as the largest group of people facing deportation: "what did they write about Puerto Ricans in the 1950s? We were bringing diseases. We were coming to get welfare and have babies...If you look at how [Arizona Sheriff Joe] Arpaio and the other xenophobics speak about immigrants today, is that any different than the treatment my mom and dad got?"⁵⁰

Acknowledging that there is something intrinsically beneficial about having people of color on a decision-making body recognizes that people of color experience America differently than white people. Not in every circumstance, or with respect to every issue a government could decide, but in many circumstances and on many issues. Ensuring that people of color participate in the deliberation and decision-making process of our governments will make those processes not only more fair, but also better.

ALEXANDER LANE



ALEXANDER LANE⁵¹, born the son of a slave in Mississippi, moved to Perry County, Illinois in 1868 when he was only eight years old. Lane became the first African American man to graduate from Southern Illinois Normal University, after which he became a teacher, principal, and then a prominent doctor in Chicago. In 1906, Lane ran for a seat in the Illinois House of Representatives, First District, Second Ward of Chicago, and won one of three seats by placing third in a field of six candidates under Illinois' cumulative voting system. Re-elected in 1908, Lane served as an active General Assembly member, supporting and introducing several measures directly aimed at helping black Illinoisians. Some of these policies included a bill designed to make it unlawful to take or keep a photo of a prisoner not convicted of a crime without his consent, appropriations to build an armory building for the 8th Infantry of the Illinois National Guard (consisting mostly of black Chicagoans), and a bill giving House janitorial workers better positions and higher pay.

Substantive outcomes as a result of descriptive representation

Black, Latino, and Asian Americans exhibit differing degrees of homogeneity of views, and so each community is addressed separately below. This section seeks to understand how researchers have found that substantive representation follows, in varying degrees for each minority group, from descriptive representation.

BLACK AMERICANS

Though the Black community is not homogenous, and Black community groups will differ in their support for various policies and laws, a good degree of consensus exists between Black citizens on questions of public policy, ideology, and candidate choice. Therefore it is possible to define “Black interests,” for the purpose of studying whether these interests are furthered by an increased presence of black legislators, by greater seniority of Black legislators, or other practices aimed at promoting minority representation. Kerry L. Haynie finds that Black citizens “have been the most cohesive and consistent political subgroup in U.S. politics.”⁵²

This coherence has made it easier for researchers to draw conclusions as to whether white or Black representatives are better able to represent the views of the Black community. Canon researched thousands of Congressional representatives over a thirty-year period and found that “white representatives from districts that are 30-40 percent black can largely ignore their black constituents, and many do. Black representatives from districts that are 30-40 percent white cannot ignore their white constituents *because they are operating in an institution that is 86 percent white and a nation that is 82.5 percent white.*”⁵³ He concludes that there is “very little support” for the claim that “whites are just as able to represent black interests as blacks.”⁵⁴

Additionally, Haynie, in analyzing state legislatures, found that Black members did not need to be in positions of power (for example, on legislative committees) to exert an influence over substantive outcomes, instead “the mere presence of African Americans in state legislatures... was sufficient to yield significant institutional and governmental responsiveness to black interests.”⁵⁵ Haynie also examined the introduction of bills by state legislatures⁵⁶ and found that “the race of the representative has a powerful and statistically significant effect on the introduction of traditional civil rights legislation.”⁵⁷

A corollary of the Canon and Haynie findings is that “districts with a majority black population (but a non-Black representative) had no significant impact on whether legislators representing such districts introduced black interest legislation.”⁶⁸ That means that majority Black districts without a Black elected official are not likely to see Black interest legislation introduced on their behalf, even though the minority community voted that representative into office. Thus, the candidate of choice of a minority community will best represent them substantively if—and only if—that candidate also descriptively represents them. There are of course exceptions to this statistical finding: there have been and are a small number of majority Black communities that elect white candidates to represent them, and those candidates provide substantive representation for their communities. Those exceptions don’t undercut the link between descriptive and substantive representation but rather should give us hope that in a future time it will be possible for *all* white candidates to represent *all* of their constituents, not just the white ones.

LATINO AMERICANS

The Latino community is not as cohesive as the Black community, largely because of group differences by country of origin, e.g. Mexico, Puerto Rico, and Cuba.⁵⁹ This makes it difficult to assess whether on the whole, the Latino community is able to get “what it wants,” because there is no “it.”

However, it is possible to assess whether Latinos are more likely to get the outcomes they desire than white Americans. It has been shown that, in Congress, Latinos, like Black Americans, are less likely to have policies implemented that they care about when their representatives are white, with the exception of districts that are over 50% Latino and represented by white members.⁶⁰ In the latter case, Latinos are as likely to have their policies represented by their congressional members as the whites in that district. Thus, having a Latino representative generally leads to substantive representation for Latinos.

For Latinos, the substantive representation that results from descriptive representation also goes beyond just being more generally liberal. An analysis of voting patterns in several Congresses shows that “rather than simply greater intensity on a liberal-conservative spectrum, which generally emphasizes economic/class cleavages, minority representatives see a second, racial, dimension of policies as highly salient.”⁶¹ This finding also tends to discredit those who say that substantive representation for minorities can be achieved by simply increasing the number of liberal representatives in office. White representatives—even liberal ones—do not have the “sense of racially linked fate” or “personal experience with discrimination” to draw upon, which shows up in how they vote.⁶²

ASIAN AMERICANS

Though the Asian American community does not share a history, common religion, language, or country of origin, political scientists conclude that an “Asian American identity does exist and frequently works as a collective group.”⁶³ Unlike Black and Latino Americans, Asian Americans, though exhibiting a reasonable level of political cohesion, largely do not exhibit party loyalty.⁶⁴

An example of Asian political cohesion is the fight to keep an Asian neighborhood together during a redistricting process. Latinos challenged the 12th congressional district in New York, and a group of Asian Americans intervened to argue that the redrawn district should not split up their community. The community was defined by common neighborhoods, language, level of education, employment in similar industries, use of public transport, and immigration status.⁶⁵ The Court found this argument compelling, and the first constitutionally permissible Asian influence district was formed. The district remains a multi-racial opportunity district (with 40% Latino and 20% Asian American population).⁶⁶

When there are common interests amongst Asian American groups,⁶⁷ it is possible to study whether Asian American legislators effectively represent those interests, and it has been found that they do indeed further such interests.⁶⁸

Minority representatives as role models

Guinier explains role model theory as: Black representatives “who convey the message ‘We Have Overcome,’ also inspire those not yet overcoming. Thus in general, Black role models are powerful symbolic reference points for those worried about the continued legacy of past discrimination,” as McGee also testifies on page 48.⁶⁹

The most prominent example of a candidate of color inspiring others is, of course, President Obama. The ability of a Black man to be elected to the highest office in the land conveys the message to Black children everywhere that they too can do great things even though they may experience racism along the way. Similarly Senator Daniel Inouye served as a role model to a generation of Japanese Americans,⁷⁰ as did Mayor Villaraigosa, Senator Rubio, and Congressman Castro for Latinos.

Improved civic participation by people of color

In 1965, Black voter registration rates were as low as 6.7% in some states.⁷¹ This was the intended outcome of the white power structure in place at the time. Following the adoption of the VRA, Black voter registration rates increased and voter turnout also largely followed a similar trajectory. Guinier theorized in 1992 that this is because there is a key role that “group identity plays in mobilizing political participation and influencing legislative policy.”⁷² She noted also that:

Blacks can be encouraged to participate in the political process, the possibility of electing a “first” black tends to increase election day turnout. Indeed, the courts and commentators have recognized that the inability to elect black candidates depresses black political participation.⁷⁵

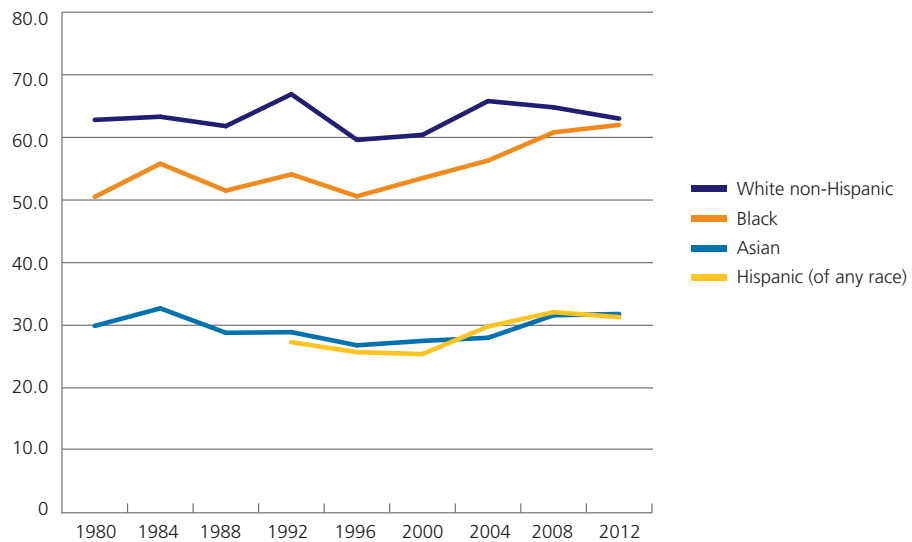
Studies of each of the minority groups under consideration bear out this hypothesis. For Black voters, this effect was dramatically illustrated in the 2008 election where Black turnout eclipsed that of white turnout for the first time,⁷⁴ likely because Black voters wanted to elect the first Black President. Additionally, political scientists have found a link between the election of Black mayors and greater Black political participation.⁷⁵

For Latinos, a study of Southern California over five years shows that Latino voter turnout increases when Latino voters have a chance to elect their candidate of choice in a majority-minority district.⁷⁶ That boost to turnout increases with each additional overlapping district where electing a Latino is possible: the highest turnout came from Latino voters who lived in overlapping majority-minority districts for state Assembly, state Senate, and U.S. House.

For Asian Americans, Taofang Huang finds that Asian Americans are more likely to vote when an Asian American is a candidate, particularly when the candidate's ties to a specific Asian country are a prominent part of their presentation during a campaign.⁷⁷

It seems likely that, beyond mayoral races, increased minority representation at the local level will drive minority civic participation. For example, each additional Latino majority-minority district increases turnout by the Latino community. Thus, descriptive representation should increase substantive representation on both ends: the elected official is more likely to take the interests of the minority community seriously and the community will become more engaged and mobilized and better able to hold that representative accountable.

FIGURE 18: PERCENT VOTING IN PRESIDENTIAL ELECTIONS BY RACE AND ETHNICITY 1980-2012⁹⁴



Confidence in government

Jane Mansbridge explains the connection between increased descriptive representation, legitimacy, and confidence in government:

“Seeing proportional numbers of members of their group exercising the responsibility of ruling with full status in the legislature can enhance de facto legitimacy by making citizens, and particularly members of historically underrepresented groups feel as if they themselves were present in the deliberations”⁷⁸

Haynie and Guinier accept this argument, but clarify that they believe descriptive representatives will only contribute a basic level of trust in political institutions if the minority members actually speak for the communities from which they come.⁷⁹

The benefit of an increased confidence in government will not necessarily only be felt by members of the relevant minority community but may also increase the confidence of elected officials that they have made decisions based on the views of the entire community, rather than just the white majority. There is also a possibility that this confidence could flow on to white voters themselves, if they believe that all community members are having their voices heard on local decision-making bodies.

Changing attitudes to minority legislators and minority community members

There is some evidence that Black political leaderships can help to break down the “myth that some white kids might have that blacks [and other minority candidates] can’t serve or shouldn’t be serving.”⁸⁰ For example, Zoltan Hajnal shows that “the transition from white to black leadership frequently leads to notable shifts in white attitudes and behavior.”⁸¹ Hajnal argues that this occurs where information about the Black political leadership is credible and widely disseminated such that the white community perceives their Black leader to have real control over outcomes and policies. Then they are more likely to reduce their negative attitudes to Black leadership.⁸²

At the Congressional level, some studies on white voting behavior following Black leadership support Hajnal’s findings,⁸³ but some find the opposite result, with whites being 8 to 10 percent less likely to support Black incumbents than white incumbents.⁸⁴ Despite this finding, the number of Black Congressional representatives that represent majority white districts increased from zero in 1960 to six in 2000, representing 16% of all Black representatives.⁸⁵ Though changes in the level of racially polarized voting is slow, it seems it has indeed followed from increased examples of Black leadership (in both majority white and majority Black communities).

The number of Latino and Asian American representatives have only started to grow in the past three decades, but the data so far suggests that white voters respond to Latino and Asian American leadership positively. Hajnal finds “there does appear to be a pattern of changing white behavior in response to experience with Latino elected officials. The evidence is clearer for whites who experience Latino leadership than it is for whites who live under Asian American incumbents, but in both cases there are signs that white Americans are learning.”⁸⁶

The effect of minority political leadership on white racial attitudes is therefore one of caution and hope. Though minority representation “cannot solve all or even most of America’s racial ills . . . if it can begin to reduce racial divisions in the political arena, then it is a goal well worth pursuing.”⁸⁷

Minority representation and the representation of women

Focusing on minority representation gives us a chance to explore “the interaction and coalition formation that may occur between women and minority groups with corresponding interests” and to find ways to advance representation for both of these underrepresented groups of people.⁸⁸

A finding that reveals corresponding interests is that the improvement in minority representation over the past few years has largely been driven by the election of women of color. This is particularly true for Black elected officials. For example, in 2001, the increase in Black elected officials in office was entirely due to the increase in Black women in office. Since 1998, the number of elected Black men has actually decreased, and overall (from 1970-2005) Black female elected officials increased 20-fold while Black male elected officials increased only four-fold.⁸⁹ For all minority groups under consideration in this report (plus Native Americans), women make up a higher percentage of the elected officials within each racial group than white women do among all white elected officials.⁹⁰

The fight for gender and racial/ethnic equality should be seen as connected because achieving minority representation is not just about narrowly satisfying the interests of some racial groups. Rather, it is grounded in a view of democracy that says that all of those who are historically or currently disempowered still deserve respect and recognition.

7 RECOMMENDATIONS AND CONCLUSION

Though this report has focused on Illinois, the steps that can be taken to improve minority representation in Illinois could also improve representation across the country. The recommendations here could help every community in the country improve the representation of people of color on local (and even state and federal) representative bodies. In changing our school boards, local councils, and county commissions to include the voices of all people regardless of minority status, we set ourselves on a path to improved policies and outcomes for people of color specifically, and democracy generally. Three basic recommendations, one at each of the local, state, and national level, could vastly improve minority representation.

RECOMMENDATIONS

LOCAL: Implementation of fair representation systems through community action

County, town, and school boards should change to fair representation electoral systems (cumulative or ranked choice voting with multi-member districts (MMDs)). Though some jurisdictions could change to single-member districts (SMDs) to improve minority representation, fair representation systems will ensure that any growth or reduction in the minority population can be reflected in increased (or decreased) minority representation, as appropriate (i.e. without waiting for new Census data to be released, and without the need for a sufficiently large and geographically compact minority population).

If possible local minority communities in home rule jurisdictions could build local power to persuade local governments to put propositions on the ballot to let the community decide whether to change to fair representation electoral systems. If this is not successful, local coalitions can gather signatures to put that proposition on the ballot without the support of the local government.

STATE: Adoption of state voting rights acts

State Voting Rights Acts along the lines of the California VRA, but with explicit allowances for the implementation of fair representation electoral systems (ideally in preference to SMDs), should be implemented to allow litigants to more efficiently and effectively advocate for improved minority representation in local governments that will not voluntarily change to fair representation electoral systems.

NATIONAL: Programs to improve minority civic engagement and candidate recruitment

Programs should be developed and run by local governments, or policy and advocacy groups, to improve minority turnout in local elections, improve other measures of civic participation by the minority community, and to recruit and train minority candidates on how to run for local elected office. Without minority turnout and minority candidates to vote for, the greatest election system in the world will not improve minority representation.

CONCLUSION

Living in an integrated community can have a hugely positive effect on people's lives.¹ One's choice should not be to *either* live in an integrated opportunity area *or* to be fairly represented in local government. However, that is the choice facing minority communities as long as the current interpretation of the federal VRA holds, and as long as states do not adopt state VRAs or change local governments to be elected by fair representation systems.

All citizens should all be able to have both a community that will support its socio-economic, educational, and health outcomes, and a local government chosen by the community, that looks like the community, and that serves the community. Currently, not enough Americans are able to choose a place to live that will ensure all of these outcomes.

ENDNOTES

CHAPTER 1

- ¹ John Stuart Mill, *Representative Government*, in *THREE ESSAYS: ON LIBERTY, REPRESENTATIVE GOVERNMENT, AND THE SUBJECTION OF WOMEN*, 143, 252 (Millicent Garret Fawcett ed., Oxford 1960).
- ² Editorial Board, Editorial, *The Death of Michael Brown: Racial History Behind the Ferguson Protests*, N.Y. TIMES (Aug. 12, 2014), http://www.nytimes.com/2014/08/13/opinion/racial-history-behind-the-ferguson-protests.html?_r=0.
- ³ This report uses “Black” rather than African American to ensure that people without slave ancestry but who still hail from Africa are included in the analysis. The Census Bureau uses both terms in its work. This report capitalizes “Black” because the terms Latino and Asian are also usually capitalized.
- ⁴ *Investigation of the Ferguson Police Department*, U.S. DEP’T OF JUSTICE, CIVIL RIGHTS Div. (Mar. 4, 2015), http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.
- ⁵ Karen Shanton, *The Problem of African American Underrepresentation on Local Councils*, DEMOS (Oct. 30, 2014), <http://www.demos.org/publication/problem-african-american-underrepresentation-city-councils>.
- ⁶ David Hunn, *ACLU Alleges Ferguson-Florissant School District Elections Favor White Candidates*, ST. LOUIS POST-DISPATCH (Dec. 18, 2014), http://www.stltoday.com/news/local/education/aclu-alleges-ferguson-florissant-school-district-elections-favor-white-candidates/article_f5e8a48f-c586-5593-9aed-440a353efd86.html.
- ⁷ Jessica Bock, *Suspension of Ferguson-Florissant Superintendent Questioned*, ST. LOUIS POST-DISPATCH (Nov. 9, 2013), http://www.stltoday.com/news/local/education/suspension-of-ferguson-florissant-superintendent-questioned/article_d26b81af-7010-55b1-8233-50b33a08bb09.html.

CHAPTER 2

- ¹ Policies that can influence the level of neighborhood integration include redlining, *See, e.g.*, Alexis C. Madrigal, *The Racist Housing Policy That Made Your Neighborhood*, THE ATLANTIC (May 22, 2014), <http://www.theatlantic.com/business/archive/2014/05/the-racist-housing-policy-that-made-your-neighborhood/371439/>. A contrasting policy is an explicit mission dedicated to achieving meaningful integration. *See, e.g.*, *About Us*, OAK PARK REGIONAL HOUSING CENTER, [http://www.oprhc.org/news-media-releases-updates/\(stating+a+mission+to+achieve+meaningful+and+lasting+diversity+throughout+Oak+Park+and+the+region.\)](http://www.oprhc.org/news-media-releases-updates/(stating+a+mission+to+achieve+meaningful+and+lasting+diversity+throughout+Oak+Park+and+the+region.)).
- ² City policies about standards for hiring can affect the diversity of public employees. *See, e.g.*, *Lewis v. City of Chi.*, 643 F.3d 201 (2011).
- ³ One example is New York City’s “Stop and Frisk” policies, which were found to disparately impact the Black community in New York. *See Floyd v. City of N.Y.*, F. Supp. 2d 540 (2013).
- ⁴ A good example of this is Fresno’s disparate expulsion referrals for people of color. *See, e.g.*, *School Discipline and Disparate Impact*, U.S. COMM’N ON CIVIL RIGHTS 43-48 (Mar. 2014), http://www.usccr.gov/pubs/School_Disciplineand_Disparate_Impact.pdf.
- ⁵ Governor Pat Quinn appropriated \$10 million dollars to go to cities, towns, and villages across Illinois to address the problem of food deserts. City council members had to apply to receive that money, and some used the media in that lobbying effort. *See Landon Cassaman, Rockford ‘Food Desert’ Seeks State Funding*, WIFR.COM, (Aug. 3, 2012), <http://www.wifr.com/home/headlines/Rockford-Food-Desert-Seeks-State-Funding-164970226.html>.

- ⁶ For example, Chicago has a Minority and Women-Owned Business (M/WBE) Certification Program that provides contracting opportunities to M/WBE certified companies. See *Businesses & Professionals: MBE/WBE/DBE*, CITY OF CHI., <http://www.cityofchicago.org/city/en/ofinterest/bus/mwdbe.html>.
- ⁷ For example, the Department of Justice (DOJ) was asked to investigate the placement of voting machines in Franklin County. The DOJ found that more registered voters were allocated to a single machine in predominantly Black precincts, and less registered voters per machine in predominantly white precincts (the amount of actual voters for each machine did not show a discriminatory impact). See Dan Tokaji, *DOJ: No Discrimination in Ohio Election*, ELECTION LAW @ MORTIZ BLOG, (July 5, 2005), http://moritzlaw.osu.edu/blogs/tokaji/2005_07_01_equalvote_archive.html. In addition, decisions on the allocation of voting machines and election judges can affect the length of lines in predominantly Black and white communities. In the 2012 election, Black and Latino voters waited in line two and one and a half times as long as white voters. See Charles Stewart III & Stephen Ansolabehere, *Waiting in Line to Vote 2012*, SUPPORT THE VOTE 11(July 28, 2013), <https://www.supportthevoter.gov/files/2013/08/Waiting-in-Line-to-Vote-White-Paper-Stewart-Ansolabehere.pdf>.
- ⁸ The Cook County State's Attorney is an elected position in local government. In March 2011, the Cook County State's Attorney implemented a Deferred Prosecution Program to attempt to divert first time offenders from the justice system. See *Deferred Prosecution Program*, TREATMENT ALTS. FOR SAFE CMTYS. (Mar. 2011), <http://www2.tasc.org/program/deferred-prosecution-program>.
- ⁹ The Corrections Corporation of American sought to build a for-profit immigration prison in Joliet in 2013. In order for that to go ahead, the Joliet City Council had to approve a special use permit. See Ashlee Rezin, *Pressure Against Joliet's Proposed For-Profit Immigrant Detention Center Escalates*, PROGRESS ILLINOIS (May 16, 2013), <http://www.progressillinois.com/quick-hits/content/2013/05/16/pressure-against-joliet-proposed-profit-immigrant-detention-center-es>.
- ¹⁰ The importance of a single minority voice in representative bodies is discussed in more detail on pages 50-58 of this report.
- ¹¹ The terms descriptive representation, substantive representation, and other kinds of representation are discussed in detail in Chapter 6 of this report.
- ¹² Zoltan Hajnal, *Conclusion: A Tale of Hope and Caution*, in *CHANGING WHITE ATTITUDES TOWARD BLACK POLITICAL LEADERSHIP* 160-63 (Cambridge Univ. Press 2007) (stating "Black mayoral leadership [can]...change white voting behavior, [and] also alter white racial attitudes.").
- ¹³ Lani Guinier, *LIFT EVERY VOICE: TURNING A CIVIL RIGHTS SETBACK INTO A NEW VISION OF SOCIAL JUSTICE*, 259-60 (2003).
- ¹⁴ *Id.*
- ¹⁵ Daniel J. Hopkins & Katherine T. McCabe, *After It's Too Late: Estimating the Policy Impacts of Black Mayoralties in U.S. Cities*, 40 AM. POL. RES. 665, 665-700 (2012); see also Jihong Zhao, Ni He & Nicholas Lovrich, *Predicting the Employment of Minority Officers in U.S. Cities: OLS Fixed-Effect Panel Model Results for African American and Latino Officers for 1993, 1996, and 2000*, 33 J. CRIM. JUST. 377, 377-86 (2005), [http://nuweb.neu.edu/nhe/race and police emp.pdf](http://nuweb.neu.edu/nhe/race%20and%20police%20emp.pdf).
- ¹⁶ Grace Hall Saltzstein, *Black Mayors and Police Policies*, 51 J. POL. 525, 525-44 (1989).
- ¹⁷ Belinda Creel Davis, Michelle Livermore & Younghee Lim, *The Extended Reach of Minority Political Power: The Interaction of Descriptive Representation, Managerial Networking, and Race*, 73 J. POL. 494, 494-507 (2011).
- ¹⁸ David L. Leal, Valerie Martinez-Ebers & Kenneth J. Meier, *The Politics of Latino Education: The Biases of At-Large Elections*, 66 J. POL. 1224, 1224-1244 (2004).
- ¹⁹ *Id.*
- ²⁰ *Id.*
- ²¹ *Id.*

CHAPTER 3

- ¹ For a greater discussion of this method of estimation, see the discussion of candidates of choice in Chapter 6 at pages 48-50.
- ² *Citizen Voting Age Population (CVAP) Special Tabulation From the 2009-2013 5-Year American Community Survey*, U.S. CENSUS BUREAU, https://www.census.gov/rdo/data/voting_age_population_by_citizenship_and_race_cvap.html.

CHAPTER 4

- ¹ See *Baker v. Carr*, 369 U.S. 186 (1962); *Gray v. Sanders* 372 U.S. 368 (1963); *Wesberry v. Sanders* 376 U.S. 1 (1964); *Reynolds v. Sims*, 377 U.S. 533 (1964).
- ² The one person, one vote requirement started as a rough population equality measure, but later was refined to require a population deviation of no more than one person for congressional districts (and at the state legislative and local level to be a population requirement where the largest and smallest districts deviated by no more than 10%). See *Karcher v. Daggett*, 462 U.S. 725 (1983) (congressional districts); *Larios v. Cox*, 305 F. Supp. 2d. 1335 (2004), *aff'd*, 124 S. Ct. 2806 (2004), *citing* *Brown v. Thomson*, 462 U.S. 835, 842-43 (1983) (state legislative districts).
- ³ *Sanders*, 372 U.S. at 379-80 (1963).
- ⁴ The concept of minority vote dilution was first hinted at in *Fortson v. Dorsey*, 379 U.S. 433 (1965), but not relied on by the appellees and thus only briefly addressed by Justice Brennan writing for the Court. *Dorsey*, 379 U.S. at 439 (“It might well be that, designedly or otherwise, a multimember constituency apportionment scheme, under the circumstances of a particular case, would operate to minimize or cancel out the voting strength of racial or political elements of the voting population.”).
- ⁵ Pamela S. Karlan, *Maps and Misreadings: The Role of Geographic Compactness in Racial Vote Dilution Litigation*, 24 HARV. C.R.-C.L. L. REV. 173, 174 (1989).
- ⁶ *Whitcomb v. Chavis*, 403 U.S. 124 (1971).
- ⁷ *Id.* at 129.
- ⁸ *Fair Representation and the Voting Rights Act: Remedies for Racial Minority Vote Dilution Claims*, FAIRVOTE, <http://www.fairvote.org/assets/Racial-Minority-Representation-Booklet.pdf>.
- ⁹ *White v. Regester*, 412 U.S. 755 (1973).
- ¹⁰ *Id.* at 766.
- ¹¹ *Mobile v. Bolden*, 446 U.S. 55 (1980).
- ¹² *Id.* at 64-66, *citing* *Whitcomb v. Chavis*, 403 U.S. 124 at 149, also relying on *Washington v. Davis*, 426 U.S. 229 (1976).
- ¹³ Chandler Davison, *Minority Vote Dilution: An Overview*, in *MINORITY VOTE DILUTION 1-2* (Chandler Davison ed., Howard Univ. Press 1984).
- ¹⁴ *Thornburg v. Gingles*, 478 U.S. 30, 49-51 (1986).
- ¹⁵ For the list of Senate Factors and a brief discussion of how they are used in litigation see *Section 2 of the Voting Rights Act*, U.S. DEP’T OF JUSTICE, http://www.justice.gov/crt/about/vot/sec_2/about_sec2.php.
- ¹⁶ James Blacksher & Larry Menefee, *At-Large Elections and One Person, One Vote: The Search for the Meaning of Racial Vote Dilution*, in *MINORITY VOTE DILUTION 233* (Chandler Davison ed., Howard Univ. Press 1984).
- ¹⁷ John Iceland, Daniel H. Weinberg & Erika Steinmetz, *Racial and Ethnic Residential Segregation in the United States: 1980-2000*, U.S. CENSUS BUREAU (Aug. 2002), https://www.census.gov/housing/patterns/publications/front_toc.pdf<https://www.census.gov/hhes/www/housing/resseg/pdf/massey.pdf>.
- ¹⁸ *Racial Residential Segregation Measurement Project*, POPULATION STUDIES CTR., U. MICH., <http://enceladus.isr.umich.edu/race/calculate.html>.
- ¹⁹ *Chicago Most Segregated City in America, Despite Significant Improvements in Last Decade*, HUFFINGTON POST (Jan. 31, 2012), http://www.huffingtonpost.com/2012/01/31/chicago-most-segregated-c_n_1244098.html

- ²⁰ Racially polarized voting occurs “when there is a consistent relationship between [the] race of the voter and the way in which the voter votes...or to put it differently, where black voters and white voters vote differently.” See *Thornburg v. Gingles*, 478 U.S. 30, 53 n.21 (1986) (internal quotation marks omitted; bracket in original). For example, in Alabama in 2008, white voters voted for President Obama at a rate of about 10%, while Black voters voted for the President at a rate over 94%. This represents a huge polarity in voting preferences by race. See John M. Powers, *Statistical Evidence of Racially Polarized Voting in the Obama Elections and Implications for Section 2 of the Voting Rights Act*, 102 GEO. L. J. 881, 896 (2014).
- ²¹ Khalilah Brown-Dean, Zoltan Hajnal, Christina Rivers & Ismail White, *50 Years of the Voting Rights Act: The State of Race in Politics*, JOINT CTR. FOR POLITICAL AND ECON. STUDIES 12-14 (2015), <http://jointcenter.org/blog/50-years-voting-rights-act>.
- ²² *Voting Age Population by Citizenship and Race (CVAP) 2009-2013 American Community Survey 5 Year Estimates*, U.S. CENSUS BUREAU, https://www.census.gov/rdo/data/voting_age_population_by_citizenship_and_race_cvap.html. This is similar to the Ferguson City Council. See, e.g., Khalilah Brown-Dean et al., *supra* note 21, at 12.
- ²³ *The Problem*, PRISON POLICY INITIATIVE, <http://www.prisonersofthecensus.org/impact.html>.
- ²⁴ *Id.*
- ²⁵ *Correctional Facility Locator 2010*, PRISON POLICY INITIATIVE, <http://www.prisonersofthecensus.org/locator2010/states/starts-with-illinois/>.
- ²⁶ See Richard L. Engstrom & Michael D. McDonald, *The Election of Blacks to City Councils: Clarifying the Impact of Electoral Arrangements on the Seats/Population Relationship*, 75 AM. POL. SCI. REV. 344, 344-354 (1981); see also Richard L. Engstrom & Michael D. McDonald, *The Underrepresentation of Blacks on City Councils: Comparing the Structural and Socioeconomic Explanations for South/Non-South Differences*, 44 J. POL. 1088, 1088-1099 (1982); see also Richard L. Engstrom & Michael D. McDonald, *The Effect of At-Large vs. District Elections on Racial Representation in U.S. Municipalities*, in ELECTORAL LAWS AND THEIR POLITICAL CONSEQUENCES, 203-225 (G. Bernard & A. Lijphart eds., Agathon Press 1986); see also Theodore P. Robinson & Thomas R. Dye, *Reformism and Black Representation on City Councils*, 59 SOC. SCI. Q. 133, 133-141 (1978); see also Joseph Stewart Jr., Robert E. England & Kenneth J. Meier, *Black Representation in Urban School Districts: From School Board to Office Classroom*, 42 W. POL. Q. 287, 287-305 (1989); see also Albert K. Karnig & Susan Welch, BLACK REPRESENTATION AND URBAN POLICY 134-149 (1980).
- ²⁷ Charles Cameron, David Epstein & Sharyn O’Halloran, *Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?*, 90 AM. POL. SCI. REV. 794, 808 (1996) (finding a tradeoff “between maximizing the number of black representatives in Congress and maximizing the number of votes in favor of minority-sponsored legislation”); see also David Epstein et al., *Estimating the Effect of Redistricting on Minority Substantive Representation*, 23 J.L. ECON. & ORG. 499, 510 (2007); see also Christine Leveaux Sharpe & James C. Garand, *Race, Roll Calls, and Redistricting*, 54 POL. RES. Q. 31, 44 (2001).
- ²⁸ Cameron et al., *supra* note 27, at 794.
- ²⁹ *Bartlett v. Strickland*, 556 U.S. 1, 17 (2009) (“We find support for the majority-minority requirement in the need for workable standards and sound judicial and legislative administration. The rule draws clear lines for courts and legislatures alike. The same cannot be said of a less exacting standard that would mandate crossover districts under § 2.”).
- ³⁰ Cameron et al., *supra* note 27, at 809.
- ³¹ Abigail Thernstrom, *WHOSE VOTES COUNT? AFFIRMATIVE ACTION AND MINORITY VOTING RIGHTS*, 21 (1987).
- ³² Lani Guinier, *No Two Seats*, in THE TYRANNY OF THE MAJORITY: FUNDAMENTAL FAIRNESS IN REPRESENTATIVE DEMOCRACY 81 (1994).
- ³³ Lani Guinier, *The Triumph of Tokenism*, in THE TYRANNY OF THE MAJORITY: FUNDAMENTAL FAIRNESS IN REPRESENTATIVE DEMOCRACY 42, 64 (1994).
- ³⁴ *Id.* at 55.
- ³⁵ *Id.* at 54.

- ³⁶ Robert Richie, Douglas Amy & Frederick McBride, *How Proportional Representation Can Empower Minorities and the Poor* (2000), <https://www.mtholyoke.edu/acad/polit/damy/articles/empower.htm>.
- ³⁷ FAIRVOTE, *supra* note 8.
- ³⁸ Paru Shah, *Racing Toward Representation: A Hurdle Model of Latino Incorporation*, 38 AM. POL. RES. 24, 84-87 (2010).
- ³⁹ *Id.* at 84-89.
- ⁴⁰ *Id.* at 84-90.
- ⁴¹ California's 49th state legislative district is the first majority Asian American state legislative district outside of Hawaii. See Daniela Gerson, *California's First Asian Majority Legislative District*, ALHAMBRA SOURCE (Aug. 17, 2011), <http://www.alhambraresource.org/stories/californias-first-asian-majority-legislative-district>.
- ⁴² Glenn D. Magpantay, *Asian American Voting Rights and Representation: A Perspective from the Northeast*, 28 FORDHAM URB. L. J. 739, 773 (2001). This history led to the Department of Justice, in 1999, denying preclearance to a state law seeking to replace ranked choice voting for the school boards. Ultimately, school boards were shifted to not being elected at all, which is why ranked choice voting is not used in the city today.
- ⁴³ *Id.*
- ⁴⁴ FAIRVOTE, *supra* note 8.
- ⁴⁵ *Black Representation Under Cumulative Voting in IL*, FAIRVOTE, <http://archive.fairvote.org/?page=419>.
- ⁴⁶ *Effectiveness of Fair Representation Voting Systems for Racial Minority Voters*, FAIRVOTE (Jan. 2015), <http://www.fairvote.org/assets/Fair-Representation-Systems-Voting-Rights.pdf>.
- ⁴⁷ Nicholas O. Stephanopoulos, *Our Electoral Exceptionalism*, 80 U. CHI. L. REV. 769, 835 (2013); see also *Communities in America Currently Using Proportional Voting*, FAIRVOTE, <http://archive.fairvote.org/?page=2101>.
- ⁴⁸ Stephanopoulos, *supra* note 47 at 865.
- ⁴⁹ FAIRVOTE, *supra* note 8. In addition, many corporations in the U.S. (about 10% of the S&P 500) use cumulative voting to elect their boards, including AON, Toys 'R' Us, Walgreen's, and Hewlett-Packard. See *Cumulative Voting: A Commonly Used Proportional Representation Method*, FAIRVOTE, <http://archive.fairvote.org/?page=226>.
- ⁵⁰ Robert Brischetto et al., *Minority Representation Under Cumulative & Limited Voting*, 60 J. POL. 1108, 1115 (1998); see also Steven Hill & Rob Richie, *New Means for Political Empowerment in the Asian Pacific American Community*, 11 Harv. J. Asian Am. Pol'y Rev. 335, 340 (2001) (citing the election of Bobby Agee in Chilton County, Alabama despite Agee being outspent 20-1 by the highest-spending candidate).
- ⁵¹ Stephanopoulos, *supra* note 47, at 849 (citations omitted).
- ⁵² Brief for FairVote as Amici Curiae Supporting Respondents, *Montes v. City of Yakima* 2:12-cv-03108 (E.D. Washington 2014), citing Richard L. Engstrom, *Cumulative and Limited Voting: Minority Electoral Opportunities and More*, 30 St. Louis U. Pub. L. Rev. 97, 125 (2010) (first Latino representative); see also Robert R. Brischetto & Richard L. Engstrom, *Cumulative Voting and Latino Representation: Exit Surveys in Fifteen Texas Communities*, 78 Soc. Sci. Q. 973, 975 (1997) (first Latino and Native American representatives); see also Richard H. Pildes & Kristen A. Donoghue, *Cumulative Voting in the United States*, U. Chi. Legal F. 241, 272-73 (1995) (first black representative).

- ⁵³ *About the Mayor*, CITY & COUNTY OF SAN FRANCISCO OFFICE OF THE MAYOR, <http://www.sfmayor.org/index.aspx?page=858>; see also Tina Trenkner, *Oakland, Calif. Elects First Female, Asian-American Mayor*, GOVERNING (2011), <http://www.governing.com/topics/politics/oakland-california-elects-first-female-asian-american-mayor.html>. But see Troy M. Yoshino, *Still Keeping the Faith: Asian Pacific Americans, Ballot Initiatives, and the Lessons of Negotiated Rulemaking*, 6 ASIAN AM. L. J. 1 (1999), <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1052&context=aalj>. Yoshino discusses the fact that in many places the Asian American community will be too small to reach the threshold of exclusion. This is less relevant in Illinois because there are local jurisdictions with an Asian American population much greater than the 3% Yoshino discusses.
- ⁵⁴ Richard DeLeon & Arend Lijphart, *In Defense of Ranked Choice Voting*, SAN FRANCISCO CHRONICLE (Jan. 2013), <http://www.sfgate.com/opinion/openforum/article/In-defense-of-ranked-choice-voting-4215299.php>.
- ⁵⁵ Stephanopoulos, *supra* note 47, at 847.
- ⁵⁶ Brief for FairVote as Amici Curiae Supporting Respondents, *supra* note 52, citing Steven J. Mulroy, *Alternative Ways Out: A Remedial Map for the Use of Alternative Electoral Systems as Voting Rights Act Remedies*, 77 N.C. L. Rev. 1867, 1903 (1999); see also Richard H. Pildes & Kristen A. Donoghue, *Cumulative Voting in the United States*, 1995 U. Chi Legal F. 241, 297 (1995).
- ⁵⁷ Guinier, *supra* note 32, at 71.
- ⁵⁸ Stephanopoulos, *supra* note 47, at 855 n.404.
- ⁵⁹ *Id.* at 849, 855 citing Greg D. Adams, *Legislative Effects of Single-Member Vs. Multi-Member Districts*, 40 AM. J. POL. SCI. 129, 140 (1996); see also Gary W. Cox, *Centripetal and Centrifugal Incentives in Electoral Systems*, 34 AM. J. POL. SCI. 903, 927 (1990) (finding that “[i]n multimember districts, cumulation promotes a dispersion of competitors across the ideological spectrum.”).
- ⁶⁰ Stephanopoulos, *supra* note 47, at 852.
- ⁶¹ *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007) (Chief Justice Roberts stating “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”).
- ⁶² See, e.g., *Shaw v. Reno*, 509 U.S. 630 (1993); *Shaw v. Hunt*, 517 U.S. 899 (1996); *Bush v. Vera*, 517 U.S. 952 (1996).
- ⁶³ *Fisher v. Univ. of Texas at Austin*, 570 U.S. ____ (2013).
- ⁶⁴ Stephanopoulos, *supra* note 47 at 849; see also *Holder v. Hall*, 512 U.S. 874, 908-912 (1994).
- ⁶⁵ *Final Report and Background Papers, Illinois Assembly on Political Representation and Alternative Electoral Systems*, IGPA U. ILL. 13 (2001).
- ⁶⁶ *Id.*; but see James H. Kuklinksi, James D. Nowlan & Philip D. Habel, *Voting For the Illinois House: Experience and Lessons From the Illinois Laboratory in Final Report and Background Papers, Illinois Assembly on Political Representation and Alternative Electoral Systems*, IGPA U. ILL. 49-63 (2001).
- ⁶⁷ *Residential Segregation, US2010*, <http://www.s4.brown.edu/us2010/segregation2010/Default.aspx>.
- ⁶⁸ *Numeric Change in Population by Census Tract: 2000 to 2010 using Total Population and Numeric Change in Population by Census Tract: 2000 to 2010*, U.S. CENSUS BUREAU, http://www.census.gov/population/metro/data/thematic_maps.html.
- ⁶⁹ US2010, *supra* note 67.
- ⁷⁰ *The Problem*, PRISON POLICY INITIATIVE, <http://www.prisonersofthecensus.org/impact.html>.
- ⁷¹ FAIRVOTE, *supra* note 8; see also FairVote, *supra* note 49; see also Robert Richie et al., *supra* note 36.
- ⁷² Pildes et al., *supra* note 52, at 258, citing Charles R. Buckalew, *Proportional Representation 62-63* (John Campbell & Son, 1872). Photo credit: *Charles R. Buckalew - Brady-Handy* by Mathew Brady, Call Number: LC-BH83- 537, LIBRARY OF CONGRESS PRINTS AND PHOTOGRAPHS DIVISION, BRADY-HANDY PHOTOGRAPH COLLECTION, <http://hdl.loc.gov/loc.pnp/cwpbh.00396>. Licensed under Public Domain via Wikimedia Commons -http://commons.wikimedia.org/wiki/File:Charles_R._Buckalew_-_Brady-Handy.jpg#/media/File:Charles_R._Buckalew_-_Brady-Handy.jpg

CHAPTER 5

- ¹ ILL. CONST. art. VII, § 6.
- ² *Advisory Opinion, File N. 05-007*, OFFICE OF THE ATT'Y GENERAL, STATE OF ILL. (Sept. 7, 2005), http://archive.ucimc.org/127.0.0.1/usermedia/application/1/05-007_2529.pdf.
- ³ 10 ILL. COMP. STAT. 5/28-7 (the number of signatures required is equal to 8% of total vote of that jurisdiction in most recent gubernatorial election).
- ⁴ ILL. CONST. art. VII, § 11(a).
- ⁵ ILL. CONST. art. VII, § 11(b).
- ⁶ For a full discussion of the gaps, see Paige A. Epstein, *Addressing Minority Vote Dilution Through State Voting Rights Acts* (U. Chi., Public Law Working Paper No. 474, 2014), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2422915; see also Nicholas O. Stephanopoulos, *The South After Shelby County*, 2013 Sup. Ct. Rev. 55 (2013).
- ⁷ Nicholas O. Stephanopoulos, *Our Electoral Exceptionalism*, 80 U. Chi. L. Rev. 769, 850 (2013).
- ⁸ For example, Santa Clarita chose to adopt cumulative voting as a settlement to a CVRA lawsuit. See Press Release, FairVote, California City of 180,000 to Provide Cumulative Voting Rights (Mar. 12, 2014), <http://www.fairvote.org/newsletters-media/e-newsletters/california-city-of-180000-to-provide-cumulative-voting-rights/> (last visited March 15, 2015). Note, however that jurisdictions found liable under Section 2 VRA can choose to adopt cumulative voting, but they cannot be required to do so.
- ⁹ 10 ILL. COMP. STAT. 120/5-5.
- ¹⁰ *Bartlett v. Strickland*, 556 U.S. 1 (2009).
- ¹¹ The ILVRA was held constitutional in *Radogno v. Ill. State Bd. of Elections*, 2011 WL 5025251 (N.D. Ill. Oct. 21, 2011), but the interpretation of the ILVRA in light of the federal VRA was not otherwise addressed.
- ¹² Kate Clements, *Cumulative Voting Bill Signed by Blagojevich*, THE NEWS-GAZETTE (July 25, 2003), <http://www.news-gazette.com/news/state/2003-07-25/cumulative-voting-bill-signed-blagojevich.html>.
- ¹³ *Advisory Opinion, File N. 05-007*, *supra* note 2.
- ¹⁴ See generally Jeffrey C. O'Neill, *Everything That Can Be Counted Does Not Necessarily Count: The Right to Vote and the Choice of a Voting System*, 2006 MICH. ST. L. REV. 327 (2006).
- ¹⁵ *Id.* at 343-44.
- ¹⁶ *Id.*
- ¹⁷ *Dudum v. Arntz*, 640 F.3d 1098, 1112 (9th Cir. 2011).
- ¹⁸ *Voting Age Population by Citizenship and Race*, UNITED STATES CENSUS BUREAU REDISTRICTING DATA OFFICE, https://www.census.gov/rdo/data/voting_age_population_by_citizenship_and_race_cvap.html.
- ¹⁹ *Harper v. City of Chi. Heights*, 223 F.3d 593, 599-600 (7th Cir. 2000).
- ²⁰ *U.S. v. Vill. of Port Chester*, 704 F. Supp. 2d 411, 448-49 (S.D.N.Y. 2010).
- ²¹ Richard H. Pildes & Kristen A. Donoghue, *Cumulative Voting in the United States*, 1995 U. Chi. Legal F. 241, 260-272 (1995).
- ²² *U.S. v. Alabama*, 2015 WL 570978 (11th Cir. Feb. 12, 2015).
- ²³ Rob Richie & Dania N. Korkor, *Overseas Voters from 5 States to Use Ranked Choice Voting Ballots in 2014 Congressional Election*, FAIRVOTE BLOG (Apr. 17, 2014), <http://www.fairvote.org/research-and-analysis/blog/overseas-voters-from-5-states-to-use-ranked-choice-voting-ballots-in-2014-congressional-election/>.
- ²⁴ Pamela S. Karlan, *Maps and Misreadings: The Role of Geographic Compactness in Racial Vote Dilution Litigation*, 24 HARV. C.R.-C.L. L. REV. 173, 218-9 (1989).
- ²⁵ *Id.* at 219.
- ²⁶ See, e.g., *Dillard v. Crenshaw Cnty.*, 831 F.2d 246 (1987).
- ²⁷ *Dillard v. Chilton Cnty. Comm'n*, 495 F.3d 1324 (2007).
- ²⁸ *Holder v. Hall*, 512 U.S. 874, (1994).

CHAPTER 6

- ¹ Hanna Fenichel Pitkin, *Representing People Who Have Interests: Liberalism*, in *THE CONCEPT OF REPRESENTATION* 191 (University of California Press 1967).
- ² For a full discussion of definitions of representation, see Hanna Fenichel Pitkin, *Introduction*, in *THE CONCEPT OF REPRESENTATION* (University of California Press 1967).
- ³ Adapted from Hanna Fenichel Pitkin, *Formalistic Views of Representation*, in *THE CONCEPT OF REPRESENTATION* (University of California Press 1967).
- ⁴ Hanna Fenichel Pitkin, *The Problem of Thomas Hobbes*, in *THE CONCEPT OF REPRESENTATION* 30 (University of California Press 1967).
- ⁵ Hanna Fenichel Pitkin, *Representing Unattached Interests: Burke*, in *THE CONCEPT OF REPRESENTATION* 181 (University of California Press 1967).
- ⁶ Pitkin, *supra* note 1, at 191.
- ⁷ Eric Posner, *The U.S. Constitution Is Impossible to Amend*, SLATE.COM (May 5, 2014), http://www.slate.com/articles/news_and_politics/view_from_chicago/2014/05/amending_the_constitution_is_much_too_hard_blame_the_founders.html.
- ⁸ See Chapter 5, Community Power, at page 49.
- ⁹ Home rule jurisdictions in Illinois are defined as jurisdictions with over 25,000 people, unless the jurisdiction has opted out (or a jurisdiction with less than 25,000 people that has opted-in). ILL. CONST. art. VII, § 6.
- ¹⁰ The number of signatures required to place a change of government proposition on the ballot is equal to 8% of the gubernatorial votes in the relevant jurisdiction's most recent gubernatorial campaign. 10 ILL. COMP. STAT. 5/28-7.
- ¹¹ Hanna Fenichel Pitkin, *Political Representation*, in *THE CONCEPT OF REPRESENTATION* 212 (University of California Press 1967).
- ¹² Ian F. Haney Lopez, *Post-Race Racialism: Racial Stratification and Mass Incarceration in the Age of Obama*, 98 CAL. L. REV. 1023 (2010); see also Mario L. Barnes, *Reflections on a Dream World: Race, Post-Race and the Question of Making It Over*, 11 BERKELEY J. AFR.-AM. L. & POL'Y 6 (2009); see also Eduardo Bonilla-Silva, *Racism Without Racists: Colorblind Racism and the Persistence of Racial Inequality in the United States* (2d ed. 2006); see also John Griffin and Brian Newman, *Conclusion: The Future of Political (In)Equality*, in *MINORITY REPORT* 196 (University of Chicago Press 2008).
- ¹³ Alexis de Tocqueville, *Tyranny of the Majority*, in *DEMOCRACY IN AMERICA* (1895); see also Jaques Derrida, *ROGUES: TWO ESSAYS ON REASON*, 31-36 (2005).
- ¹⁴ Tim McNeese, *RECONSTRUCTION: LIFE AFTER THE CIVIL WAR* 107-11 (2009).
- ¹⁵ For example, the passage of the Enforcement Acts of 1870-71.
- ¹⁶ *Giles v. Harris*, 189 U.S. 475 (1903).
- ¹⁷ *Lassiter v. Northampton Cnty. Bd. of Elections*, 360 U.S. 45 (1959).
- ¹⁸ *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663 (1966).
- ¹⁹ *Smith v. Allwright*, 321 U.S. 649 (1944).
- ²⁰ The Southern Poverty Law Center outlines a number of Civil Rights Martyrs, many of whom were killed for assisting Black men and women with voter registration. See *Civil Rights Memorial*, SOUTHERN POVERTY LAW CTR., <http://www.splcenter.org/civil-rights-memorial/civil-rights-martyrs>.
- ²¹ *Civil Rights in America: Racial Voting Rights*, NAT'L HISTORIC LANDMARKS PROGRAM 1, 102-07 (2009), http://www.crmvet.org/info/nps_voting_rights.pdf.

- ²² *Civil Rights in America: Racial Voting Rights*, NAT'L HISTORIC LANDMARKS PROGRAM 1, 102-07 (2009), http://www.crmvet.org/info/nps_voting_rights.pdf. See also Ian Haney Lopez & Michael A. Olivas, *Jim Crow, Mexican Americans, and the Anti-Subordination Constitution: The Story of Hernandez v. Texas*, in RACE LAW STORIES (Eds. Devin Carbado & Rachel Moran, 2008), <https://www.law.berkeley.edu/php-programs/faculty/facultyPubsPDF.php?facID=301&pubID=32>; see also George A. Martinez, *The Legal Construction of Race: Mexican-Americans and Whiteness*, 2 HARV. LATINO L. REV. 321 (1997); see also Kevin R. Johnson, "Melting Pot" or "Ring of Fire"? : Assimilation and the Mexican-American Experience, 85 CAL. L. REV. 1259 (1997); see also Chandler Davidson, Tanya Dunlap, Gale Kenny & Benjamin Wise, *Vote Caging As a Republican Ballot Security Technique*, 34 WM. MITCHELL L. REV. 533 (2008).
- ²³ *Aspiration, Acculturation, and Impact: Immigration to the United States, 1789-1930*, HARVARD U. LIBRARY OPEN COLLECTIONS PROGRAM, <http://ocp.hul.harvard.edu/immigration/exclusion.html>. A few groups of Chinese immigrants were still allowed to apply to enter the U.S., including students, teachers, travelers, and diplomats. See Erika Lee, *The Chinese Exclusion Example: Race, Immigration, and American Gatekeeping, 1882-1924*, 21 J. AM. ETHNIC HIST. 36 (2002). Lee, *supra* note 23.
- ²⁵ Alicia J. Campi, *The McCarran-Walter Act: A Contradictory Legacy on Race, Quotas, and Ideology*, IMMIGRATION POLICY CTR. (2004), <http://icirr.org/sites/default/files/IPC McCarran-Walter.pdf>.
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- ²⁸ There are other statutes that indirectly protect minority voting rights by protecting voting rights of particular communities that include people of color, for example, the National Voter Registration Act (NVRA), 42 U.S.C. §§ 1973gg-10 (1993); the Uniformed and Overseas Citizens Act (UOCAVA), 42 U.S.C. §§ 1973ff-7 (1998); the Help America Vote Act (HAVA), 42 U.S.C. 15301-15545 (2002); and the Military and Overseas Voter Empowerment Act (MOVE Act), 42 U.S.C. §§ 1973ff-7 (2009).
- ²⁹ Lani Guinier, *The Triumph of Tokenism: The Voting Rights Act and The Theory of Black Electoral Success*, 89 MICH. L. REV. 1077, n.26 (1991), citing Martin Luther King Jr., *WHY WE CAN'T WAIT* 166 (1963); see also Christina R. Rivers, *THE CONGRESSIONAL BLACK CAUCUS, MINORITY VOTING RIGHTS, AND THE U.S. SUPREME COURT* 137 (University of Michigan Press 2012).
- ³⁰ Guinier, *supra* note 29, citing *Statement of Roy Wilkins, Voting Rights: Hearings Before Subcomm. No. 5 of the House Comm. on the Judiciary*, 89TH CONG., 1ST SESS. 377-80 (1965).
- ³¹ The expansion was both through the coverage formula in Section 4 of the Voting Rights Act, 42 U.S.C. §§ 1973-1973aa-6 (1965), and the addition of Section 203 that required election materials to be printed in multiple languages in areas where there was a significant community with a common language that also spoke English less than well.
- ³² *Voting Rights Act: Ten Years After*, U.S. COMM. ON CIVIL RIGHTS 1, 117 (1975).
- ³³ *Id.* at 39-58.
- ³⁴ Section 4 of the Voting Rights Act, 42 U.S.C. §1973 (1965); see also Rivers, *supra* note 29, at 74-77.
- ³⁵ For a full list of restrictive voting laws introduced and passed in 2015, see *Summary of Introduced and Pending Restrictive Voting Legislation: Voting Laws Roundup 2015*, BRENNAN CTR., <https://www.brennancenter.org/analysis/voting-laws-roundup-2015#Restrictive>.
- ³⁶ See e.g., *Frank v. Walker*, 17 F. Supp. 3d 837 (reversed by *Frank v. Walker*, 768 F.3d 744 (2014)); *Veasey v. Perry*, 2014 WL 509025 (S.D. Tex. 2014), *Ohio State Conf. of N.A.A.C.P. v. Husted*, 43 F.Supp.3d 808 (2014).
- ³⁷ *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181 (2008).
- ³⁸ 42 U.S.C. § 1973(b) (1965).

- ³⁹ Thornburg v. Gingles, 478 U.S. 30 (1986), see also Bartlett v Strickland, 556 U.S. 1 (2009).
- ⁴⁰ S. Rep. No. 97-417, 97TH CONG., 2D SESS., 28-29 (1982).
- ⁴¹ David T. Canon, *Introduction*, in RACE, REDISTRICTING, AND REPRESENTATION IN THE U.S. HOUSE 12 (The University of Chicago Press 1999).
- ⁴² Haynie justifies assessing agenda-setting behavior as a method of assessing substantive representation by relying on R. Douglas Arnold's finding that "analyzing legislator's bill introductions is often superior to a reliance on roll-call votes for attempting to establish a linkage between constituency interests or preferences and the legislative behavior of representatives." See Kerry L. Haynie, *Agenda-Setting and the Representation of Black Interests*, in AFRICAN AMERICAN LEGISLATORS IN THE AMERICAN STATES 25 (Columbia University Press 2001).
- ⁴³ *Id.* at 30.
- ⁴⁴ *Do America's Elected Officials Reflect Our Population?*, WHO LEADS US, <http://wholeads.us/#>.
- ⁴⁵ Whitfield v. Democratic Party, 686 F. Supp. 1365 (E.D. Ark 1988), *aff'd by equally divided court*, 890 F.2d 1423 (8th Cir. 1989) (en banc) (trial transcript at 654-55), in THE TYRANNY OF THE MAJORITY 54 (The Free Press 1994).
- ⁴⁶ Lani Guinier, *The Triumph of Tokenism*, in THE TYRANNY OF THE MAJORITY 54 (The Free Press 1994).
- ⁴⁷ Pamela S. Karlan, *Maps and Misreadings: The Role of Geographic Compactness in Racial Vote Dilution Litigation*, 24 HARV. C.R.-C.L. L. REV. 173, 218 (1989). A judicial discussion along similar lines occurs in Georgia v. Ashcroft, 539 U.S. 461 (2003).
- ⁴⁸ David T. Canon, *Black Interests, Difference, Commonality, and Representation*, in RACE, REDISTRICTING, AND REPRESENTATION IN THE U.S. HOUSE 37 (The University of Chicago Press 1999).
- ⁴⁹ People that fall within the definition set out in the Development, Relief, and Education for Alien Minors (DREAM) Act 2001, S 1291, 107th Cong. (2001).
- ⁵⁰ Ed Morales, *Luis Gutiérrez: Congress' Rebel Without a Cause*, ROLLING STONE (Oct. 10, 2013), <http://www.rollingstone.com/politics/news/luis-gutierrez-congress-rebel-with-a-cause-20131010#ixzz3PTlf7Q5M>.
- ⁵¹ Photo credit: The Journal of Blacks in Higher Education.
- ⁵² Haynie, *supra* note 42, at 19.
- ⁵³ Canon, *supra* note 41, at 13.
- ⁵⁴ *Id.* at 12.
- ⁵⁵ Kerry L. Haynie, *African American Political Incorporation*, in AFRICAN AMERICAN LEGISLATORS IN THE AMERICAN STATES 90 (Columbia University Press 2001).
- ⁵⁶ Haynie justifies using this method to assess whether descriptive representation affects agenda setting. See Haynie, *supra* note 42, at 25.
- ⁵⁷ *Id.* at 30.
- ⁵⁸ *Id.*
- ⁵⁹ John D. Griffin and Brian Newman, *Differences in Political Preferences and Priorities*, in MINORITY REPORT 51 (University of Chicago Press 2008).
- ⁶⁰ John D. Griffin and Brian Newman, *Conclusion*, in MINORITY REPORT 197 (University of Chicago Press 2008).
- ⁶¹ Robert R. Preuhs and Rodney E. Hero, *A Different Kind of Representation: Black and Latino Descriptive Representation and the Role of Ideological Cuing*, 64 POL. RES. Q. 157, 157-71 (2011).
- ⁶² *Id.* Preuhs and Hero used a measure of how liberal a representative was (the DW NOMINATE score) along with scores on race issues from the NAACP and NHLA (National Hispanic Leadership Council) to analyze voting patterns. They found that for white liberals, the DW NOMINATE score was highly explanatory of voting patterns whereas for Black and Latino representatives, the scores from NAACP and NHLA indicating how sensitive a candidate is to minority issues were far more predictive of a representative's votes on certain issues.

- ⁶³ Neilan Chaturvedi, *Responding to Silence: Asian American Representation through Bill Sponsorship and Co-Sponsorship*, AM. POL. SCI. ASSOC., 2011 Annual Meeting Paper, 5-6 (2011), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1902228.
- ⁶⁴ Glenn D. Magpantay, *Asian American Voting Rights and Representation: A Perspective from the Northeast*, 28 FORDHAM URB. L. J. 739, 764 n.163 (2001) (“Political cohesion around candidates can be discerned, but party loyalty is largely absent.”).
- ⁶⁵ *Id.* at 766-67.
- ⁶⁶ New York’s 12th Congressional District in the 1990s is now the 7th District, and is still represented by Nydia Velásquez. The District is 43% Latino and 19% Asian according to the 2013 American Community Survey estimates. See *Fast Facts for Congress*, U.S. CENSUS BUREAU, <http://www.census.gov/fastfacts/>.
- ⁶⁷ Magpantay explains that communities of interest can be identified within the Asian American community. See Magpantay, *supra* note 64, at 768.
- ⁶⁸ Chaturvedi, *supra* note 63, at 20 (“Asian American legislators represent Asian Americans well.”).
- ⁶⁹ Guinier, *supra* note 46, at 57.
- ⁷⁰ Paul Watanabe, *Remembrance: Daniel Inouye Was My Role Model*, COGNOSCENTI (Dec. 20, 2012), <http://cognoscenti.wbur.org/2012/12/20/daniel-inouye-paul-watanabe>.
- ⁷¹ *Introduction to Federal Voting Rights Laws, Figure 4*, U.S. DEP’T OF JUSTICE, https://epic.org/privacy/voting/register/intro_c.html.
- ⁷² Guinier, *supra* note 46, at 57.
- ⁷³ *Id.* at 58.
- ⁷⁴ Thom File, *The Diversifying Electorate – Voting Rates by Race and Hispanic Origin in 2012 (and Other Recent Elections)*, U.S. CENSUS BUREAU 3, <https://www.census.gov/prod/2013pubs/p20-568.pdf>.
- ⁷⁵ Zoltan Hajnal, *Introduction*, in CHANGING WHITE ATTITUDES TO BLACK POLITICAL LEADERSHIP 1 (Cambridge University Press 2007).
- ⁷⁶ Matt A. Barreto, Gary M. Segura & Nathan D. Woods, *The Mobilizing Effect of Majority–Minority Districts on Latino Turnout*, 98 AM. POL. SCI. REV. 65 (2004).
- ⁷⁷ Taofang Huang, *Electing One of Our Own: Descriptive Representation of Asian Americans*, W. POL. SCI. ASSOC. PAPER 2 (2010), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1580953.
- ⁷⁸ Kerry L. Haynie, *Conclusion*, in AFRICAN AMERICAN LEGISLATORS IN THE AMERICAN STATES 114 (Columbia University Press 2001), citing Jane Mansbridge, *Should Blacks Represent Blacks and Women Represent Women? A Contingent Yes*, 61 J. POL. 628-57, 650 (1999).
- ⁷⁹ Haynie, *supra* note 78, at 114.
- ⁸⁰ Haynie, *supra* note 55, at 63.
- ⁸¹ Hajnal, *supra* note 75, at 7. Unfortunately, Hajnal finds exceptions to his rule, and Chicago is one of the notable exceptions: “Although black representation in most cases leads to decreased racial tension and grater acceptance of black incumbents, there are a select number of cities where racial tension remains high, voting continues to be highly racially polarized, and few new white voters begin to support black leaders despite years under black leadership...Chicago represents perhaps the most famous case of ongoing white resistance.” *Id.* at 123. However, Hajnal can explain the unique circumstances that set Chicago as an outlier from other cities.
- ⁸² Zoltan Hajnal, *Black Mayoral Leadership in Chicago*, in CHANGING WHITE ATTITUDES TO BLACK POLITICAL LEADERSHIP 139-40 (Cambridge University Press 2007).
- ⁸³ Zoltan Hajnal, *Other Cases Where Information Could Matter*, in CHANGING WHITE ATTITUDES TO BLACK POLITICAL LEADERSHIP 145 (Cambridge University Press 2007).
- ⁸⁴ *Id.* at 146.
- ⁸⁵ *Id.*
- ⁸⁶ Zoltan Hajnal, *Raising Voter Turnout*, in AMERICA’S UNEVEN DEMOCRACY 153 (Cambridge University Press 2010).

- ⁸⁷ *Id.* at 161.
- ⁸⁸ Michael D. Minta, *Gender, Race, Ethnicity, and Political Representation in the United States*, 8 *POL. & GENDER* 541 (2012).
- ⁸⁹ Carol Hardy-Fanta, RACE, GENDER, AND DESCRIPTIVE REPRESENTATION: AN EXPLORATORY VIEW OF MULTICULTURAL ELECTED LEADERSHIP IN THE UNITED STATES (2007).
- ⁹⁰ *Id.* (“Non-Hispanic white women make up just 20.9 percent of state legislators who are non-Hispanic white. In contrast, 35.6 percent of Black state legislators are female. This is not unique to Black elected officials: 29.0 percent of Latino, 24.1 percent of Asian, and 28.6 percent of American Indian state legislators are female.”).
- ⁹¹ *The Effect of the Voting Rights Act: Introduction to Federal Voting Rights Laws*, U.S. DEP’T OF JUSTICE, adapted from Bernard Grofman, Lisa Handley & Richard G. Niemi, *MINORITY REPRESENTATION AND THE QUEST FOR VOTING EQUALITY* 23-24 (Cambridge University Press 1992) https://epic.org/privacy/voting/register/intro_c.html.
- ⁹² Adapted from J. Morgan Kousser, *COLORBLIND INJUSTICE: MINORITY VOTING RIGHTS AND THE UNDOING OF THE SECOND RECONSTRUCTION* 19 (University of North Carolina Press 1999).
- ⁹³ *Id.*
- ⁹⁴ Chart compiled using data from the U.S. Census Bureau. See *Table A-1. Reported Voting and Registration by Race, Hispanic Origin, Sex, and Age Groups: November 1964 to 2012*, in *VOTING AND REGISTRATION: HISTORICAL TIME SERIES TABLES*, <http://www.census.gov/hhes/www/socdemo/voting/publications/historical/index.html>.

CHAPTER 7

- ¹ Alana Seumeuls, *Is Ending Segregation the Key to Ending Poverty?*, *THE ATLANTIC* (Feb. 3, 2015), <http://www.theatlantic.com/business/archive/2015/02/is-ending-segregation-the-key-to-ending-poverty/385002/>.



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