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Karina Anthony

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ISSN 1325-4456
ISBN 0 7313 1794 7

March 2006

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The Political Representation of Ethnic and Racial Minorities

by

Karina Anthony

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EXECUTIVE SUMMARY

This paper is an update of *The Politics of Difference: The Political Representation of Ethnic and Racial Minorities* by Gareth Griffith, NSW Parliamentary Library Briefing Paper No 029/95. It discusses the political representation of ethnic and racial minorities in Australia. An overview of the issues surrounding the definition of an ‘ethnic minority’ is provided in section two (pp 2-4), with particular attention given to the fluidity of ethnicity as a concept, and an explanation of its usage in public policy terms. The potential for strong community reactions to the term is also touched upon in relation to the introduction of the *Community Relations Commission and Principles of Multiculturalism Act 2000*.

The multicultural nature of Australian society forms the backdrop against which this paper is written. Section three (pp 5-20) considers the meaning of ‘multiculturalism’ – in terms of official government policy – and briefly outlines some common critiques. The majority of the section consists of statistical data based on the 2001 National Census. Following a general overview of the Australian population, a more detailed look is taken at indigenous and non-indigenous Australians, including their presence in Australian parliaments. A final section on ethnicity and voting behaviour is included. It focuses on the extent to which voters favour candidates of their own ethnicity. The link between ethnic voting and socio-demographic indicators is also examined.

Section four (pp 21-38) surveys the barriers that must be overcome by ethnic and racial minorities before participation in formal representative bodies is possible. The right to vote, the right to stand for election, and the ability to understand the system itself, are identified as threshold barriers. The effect of permanent residency and dual nationality on participation is discussed with reference to ethnic minorities. Discussion of structural barriers such as systems of preselection, and the influence of electoral systems on the electoral fortunes of minority groups follows. An examination of New Zealand’s electoral system – Mixed Member Proportional – is included for the purpose of comparison.

Theoretical approaches to representation are reviewed in section five under the headings of ‘Microcosmic Representation’ (pp 39-45) and ‘Normative Theories of Representation’ (pp 45-50). The section concludes with a case study concerning the ethnicity of Members of Parliament (MPs) and constituents, and the influence – if any – of those characteristics upon the representative style of MPs at parliamentary level.

Alternatives to parliamentary representation are introduced in section six, including direct and indirect options. Proposals include an Aboriginal and Torres Strait Islander (ATSI) Assembly (p 51), dedicated seats (pp 52-55), the establishment of affirmative action programs by political parties, and the role of peak bodies. Finally, section seven examines international examples of minority representation: including redistricting in the United States (pp 63-65), dedicated Maori seats in New Zealand (pp 66-68) and an indigenous assembly for Norway’s Sámi peoples (pp 68-69).

1. INTRODUCTION

This paper provides an overview of the political representation of ethnic and racial minorities in Australia. It updates *The Politics of Difference: The Political Representation of Ethnic and Racial Minorities* by Gareth Griffith, NSW Parliamentary Library Briefing Paper No 029/95. The information in this paper is up to date as at 5 December 2005.

There has long been concern over the difficulty ethnic and indigenous Australians have in engaging with the dominant political system. In 1966, Prime Minister Harold Holt – having modified the White Australia Policy to allow a limited amount of non-white immigration – described migrants as ‘alienated from the political system and mass media, which rendered them politically “voiceless”’¹. Currently institutions such as parliaments remain largely unrepresentative of Australia’s diverse population. The overseas-born, particularly those from non-English speaking countries, are not well represented in Australia’s governments, and participation rates of indigenous Australians in policy making institutions are similarly low in comparison to their proportion in the population.

The extent to which ethnic or racial minorities are present in legislatures can be viewed as a litmus test for the effectiveness of a country’s democratic system. Former Senator Robert Hill recently raised the issue of whether indigenous Australians should be directly represented in Parliament. Lamenting the lack of indigenous representation in legislatures, Hill expressed disappointment that ‘Aboriginal people are not directly represented in Parliament’². Minority representation raises some of the most complex and difficult issues of democratic politics, concerning the relationship between formal and substantial equality and raising the question: ‘It is enough to give people formal equalities, or do we also need to address the structural obstacles that prevent certain groups from making full use of their equal rights?’³.

Broadly, this paper focuses on three questions posed by Zappala in relation to the representation of minority groups:

First, to what extent are these groups present in parliaments, and to what extent are they present in sufficient numbers to critically influence policy and decision-making? Second, even if parliaments comprise more female, ethnic or indigenous representatives, do they necessarily behave differently in their parliamentary roles from other representatives? Third, what are the strategies that can and have been pursued to increase the ‘effective presence’ of these groups?⁴.

¹ M Lopez, *The Origins of Multiculturalism in Australian Politics 1945-1975*, Melbourne University Press, 2000, p 96

² “Indigenous MPs needed, says Hill”, *ABC News Online*, 4/03/06, viewed 6 March 2006, <<http://www.abc.net.au/news/newsitems/200603/s1583808.htm>>

³ A Phillips, *The Politics of Presence*, Clarendon Press, Oxford, 1995, p 35

⁴ G Zappala, *Challenges to the Concept and Practice of Political Representation in Australia*, Research Paper No 28, Commonwealth Parliamentary Library Information and Research Service, Canberra, 1999, pp 6-7

2. DEFINITIONS

2.1 Ethnic Minority

Given the complexities inherent in defining ‘ethnicity’ (discussed below), this paper will adopt a definition of ‘ethnic minority’ consistent with its usage in public policy⁵. Thus, Australians of non-English speaking backgrounds (NESB) can be divided into two classes:

- (i) NESBI – born overseas
- (ii) NESBII – children of parents born overseas.

A member of an ethnic minority is taken as being someone born in a non-English speaking country (NESBI); or someone born in Australia but with at least one parent born in a non-English speaking country (NESBII).

2.2 Racial Minority

A member of a racial minority is taken as being someone from Aboriginal or Torres Strait Islander background (ATSI).

2.3 Issues and Limitations

Ethnicity is a difficult term to define. It is often imbued with negative overtones – a means to label ‘difference’, or identify an ‘outsider’. James Jupp has noted that the word ‘ethnic’ is ‘almost universally understood as referring to those not of British/Irish origin’⁶. In this way, it has the potential to invoke racial stereotypes, highlighting the concept of ‘other’ amid a white, Anglo-Celtic ‘majority’. Also, the use of the term to collectively characterise those of non-English speaking heritage implies the existence of a social duality: that of ‘ethnics’ and ‘non-ethnics’. Such use ignores the myriad differences between ethnic backgrounds and suggests a unity of interests that does not exist. Nor are people defined by their ethnicity alone: it is but part of an identity influenced by gender, socio-economic background and experience.

The introduction of the Community Relations Commission and Principles of Multiculturalism Bill highlights the complexities surrounding the use of the term ‘ethnic’. The Bill was introduced into the NSW Parliament in September 1999⁷. It provided for the replacement of the Ethnic Affairs Commission with a Community Relations Commission.

⁵ G Zappala, ‘The Influence of the Ethnic Composition of Australian Federal Electorates on the Parliamentary Responsiveness of MPs to their Ethnic Sub-constituencies’ (1998) 33(2) *Australian Journal of Political Science* 187 at 188 (note 2)

⁶ J Jupp, *How Well Does Australian Democracy Serve Immigrant Australians?* Report No 1 for the Democratic Audit of Australia, Centre for Immigration and Multicultural Studies, Australian National University, Canberra, 2003, p 4

⁷ Its passage through Parliament is outlined on p 3.

In relation to the replacement of the word ‘ethnic’ as part of the Commission’s name, the Premier at the time, Bob Carr MP, said: ‘The word “Ethnic” has outlived its usefulness, it has become divisive and derogatory’⁸. Others had contrary opinions. Opposition members and crossbenchers, along with ethnic communities, supported the establishment of a ‘*Multicultural Relations Commission*’. The Greens, for example, released this statement:

This Bill is racist. If it becomes law the clock will be turned back to the bad, old days of assimilation. It assumes that British culture is more important than other cultures, and that ethnic minorities should conform to the established culture⁹.

The Bill was passed in the Legislative Assembly on 4 May 2000, and in the Legislative Council on October 11, 2000. It became the *Community Relations Commission and Principles of Multiculturalism Act 2000* No 77. A compromise was reached regarding the name of the Commission. It is outlined in section 6(4) of the Act:

6 Constitution of Commission

...

(4) The Commission is to adopt the phrase “For a multicultural NSW” for use in conjunction with the name of the Commission.

As mentioned above, a person’s ‘ethnic’ identity does not exist in a vacuum, insulated against other traits or outside influences. Ethnic groups themselves are ‘not solidary groups but have their own broad-based internal divisions’¹⁰. This comment about former MLC Helen Sham-Ho illustrates the potential for multiple personal and political identities:

She sees herself as a representative of a political party; as someone from a non-English speaking background who has shared the experience of migration and linguistic exclusion; as an Asian Australian subject to the kind of discrimination experienced by those who are visibly different, whether or not they are Australian-born; and intersecting with all of these, her identity as a woman¹¹.

May, Modood and Squires refer to this as the ‘fluidity or malleability of ethnicity’. Thus,

⁸ R Carr MP, Premier, ‘Migrant Communities Force Passage of Community Relations Commission Bill’, *News Release*, 12/10/00. See also ‘Ethnic Label Outdated’ *The Daily Telegraph*, 14/03/01, p10

⁹ L Rhiannon MLC, “‘Ethnic’ cleansed in the dead of night’, *Media Release*, 11/10/00. Peter Wong MLC, also released a statement along similar lines: P Wong MLC, ‘NSW Government abandoning “multiculturalism” with Bill, says MP’, *Media Release*, 12/10/00. Part of the debate over the use of the by-line “For a multicultural NSW” can be found at NSWPD, 1/6/00, p 6328ff

¹⁰ May S, Modood T and Squires J, ‘Ethnicity, nationalism and minority rights: charting the disciplinary debates’ in S May, T Modood and J Squires (eds), *Ethnicity, Nationalism and Minority Rights*, Cambridge University Press, 2004, pp 9-10

¹¹ Sawyer M, ‘Representing Trees, Acres, Voters and Non-voters: Concept of Parliamentary Representation in Australia’ in M Sawyer & G Zappala (eds), *Speaking for the People. Representation in Australian Politics*, Melbourne University Press, 2001, pp 59-60

various identities may overlap with, or cross-cut other social identities. For example, one may be a woman, a Muslim, a Bangladeshi, a Bengali speaker, an Asian, working class, a Londoner, English, an English speaker, and British, all at the same time. However, which of these identities predominates in any given circumstance, and how they interact with each other, will depend on the context, the audience and the ongoing balance between the internal definition and external ascription of social identities...¹².

2.4 Common Abbreviations

The following abbreviations appear throughout this paper:

Abbreviation	Meaning
ABS	Australian Bureau of Statistics
ALP	Australian Labor Party
ANU	Australian National University
ATSI	A person of Aboriginal or Torres Strait Islander background.
ESB	English speaking background
MMP	Mixed Member Proportional
MP	Member of Parliament
NESB	Non-English speaking background
NESBI	A person born in a non-English speaking country.
NESBII	A person born in Australia but with at least one parent born in a non-English speaking country.
NESC	Non-English speaking country
NSWLA	New South Wales Legislative Assembly
NSWLC	New South Wales Legislative Council
OSB	Overseas born
TPP	Two Party Preferred

3. MULTICULTURAL AUSTRALIA

Graham Hugo referred to Australia as ‘one of the most multicultural of nations’ with 57 countries of birth having more than 10,000 persons and 110 countries having more than 1,000¹³. Australia is also said, by Gavin Jones, Professor in Demography and Sociology at ANU, to have the ‘highest proportion of overseas-born in the western world – higher than Canada, and much higher than the United States’¹⁴. The 2001 Census confirmed that people from over 250 countries have made Australia their home, with over 200 different languages being spoken in homes across the nation.

3.1 What is Multiculturalism?

The Council for Multicultural Australia (CMA) is responsible for assisting the Government to promote Australian multiculturalism. But what is multiculturalism? A fact sheet entitled *What is Australian Multiculturalism?* available from the Department of Immigration, Multicultural and Indigenous Affairs¹⁵ provides a brief overview:

Australian multiculturalism means that as a nation we recognise, accept, respect and celebrate our cultural diversity. It is about and for all Australians and embraces the heritage of Indigenous Australians, early European settlement, our Australian-grown customs and those of the diverse range of migrants now coming to this country¹⁶.

The Federal Government in its current multicultural policy statement gives a comprehensive definition of Australian multiculturalism. Issued on 13 May 2003, *Multicultural Australia: United in Diversity* updates the 1999 *New Agenda for Multicultural Australia*. It reaffirms fundamental principles, and sets strategic directions for multicultural policy for 2003-2006 with a specific emphasis on community harmony. The exact wording of the policy is as follows¹⁷:

¹³ G Hugo, *Australia's Most Recent Immigrants 2001*, Australian Census Analytic Program, Cat. No. 2053.0, Australian Bureau of Statistics, Canberra, 2004, p 23

¹⁴ Jones G W, ‘White Australia, National Identity and Population Change’ in L Jayasuriya, D Walker, & J Gothard, *Legacies of White Australia*, University of Western Australia Press, Crawley, 2003, pp 121-122

¹⁵ Department of Immigration and Multicultural Affairs 2005, *What is Australian Multiculturalism?*, Fact Sheet, Department of Immigration and Multicultural Affairs, Canberra, viewed 20 February 2006, <<http://www.immi.gov.au/multicultural/australian/multikit/04-what-is.pdf>>

¹⁶ Ibid

¹⁷ Department of Immigration and Multicultural Affairs 2003, *Multicultural Australia: United in Diversity. Updating the 1999 New Agenda for Multicultural Australia: Strategic directions for 2003-2006*, Policy Outline, Department of Immigration and Multicultural Affairs, Canberra, viewed 20 February 2006, p 6

Australian multiculturalism - the Policy

The Government is committed to ensuring that all Australians have the opportunity to be active and equal participants in Australian society, free to live their lives and maintain their cultural traditions. This social equity is enshrined in Commonwealth, State and Territory legislation.

Australian multiculturalism recognises, accepts, respects and celebrates cultural diversity. It embraces the heritage of Indigenous Australians, early European settlement, our Australian-grown customs and those of the diverse range of migrants now coming to this country.

The freedom of all Australians to express and share their cultural values is dependent on their abiding by mutual civic obligations. All Australians are expected to have an overriding loyalty to Australia and its people, and to respect the basic structures and principles underwriting our democratic society.

These are the Constitution, Parliamentary democracy, freedom of speech and religion, English as the national language, the rule of law, acceptance and equality. These civic obligations reflect the unifying values of Australian Citizenship. Australian Citizenship involves reciprocal responsibilities and privileges and enables individuals to become fully contributing members of the Australian community. Citizenship is a strong unifying force in our diverse multicultural community.

Our commitment to and defence of Australian values of equality, democracy and freedom unite us in our diverse origins, and enhance the ability of us all to participate fully in all spheres of Australian society.

In summary, the Government's aim is to build on our success as a culturally diverse, accepting and open society, united through a shared future, and a commitment to our nation, its democratic institutions and values, and the rule of law. This vision is reflected in the four principles that underpin multicultural policy:

Responsibilities of all – all Australians have a civic duty to support those basic structures and principles of Australian society which guarantee us our freedom and equality and enable diversity in our society to flourish;

Respect for each person – subject to the law, all Australians have the right to express their own culture and beliefs and have a reciprocal obligation to respect the right of others to do the same;

Fairness for each person – all Australians are entitled to equality of treatment and opportunity. Social equity allows us all to contribute to the social, political and economic life of Australia, free from discrimination, including on the grounds of race, culture, religion, language, location, gender or place of birth; and

Benefits for all – all Australians benefit from productive diversity, that is, the significant cultural, social and economic dividends arising from the diversity of our population. Diversity works for all Australians.

This multicultural policy provides a framework for maximising the social, cultural and economic benefits that cultural diversity brings to all Australians. But more than that, it actively promotes good community relations and social harmony among us all.

Various assessments of multiculturalism are available. Brian Barry offers the following critique of multiculturalism:

The whole thrust of the ‘politics of difference’ ... is that it seeks to withdraw from individual members of minority groups the protections that are normally offered by liberal states. Where a group qualifies as a national minority within a liberal state, multiculturalists commonly propose that it should be free to make its own laws, perhaps within a decision-making system that gives male elders a monopoly of power... Even where the power of collective decision-making is not turned over wholesale to possibly illiberal groups, the point of multiculturalism is still to insist that liberal protections for individuals be withdrawn wherever they interfere with a minority’s ability to live according to its culture¹⁸.

The above paragraph is applicable to a more radical multiculturalism – something akin to self-governance – rather than the official policy of Australian multiculturalism. Nonetheless, Barry’s book, *Culture & Equality*, provides a comprehensive critique of group rights, group exemptions and other special treatment of minority groups often championed by multiculturalists from the viewpoint of egalitarian liberalism.

Of more relevance to the Australian experience of multiculturalism are Jupp’s comments of 1991, that the policy, as formulated in Australia, was basically ‘ameliorative and cautious, attempting to bridge the sometimes incompatible expectations of the majority and the minority’¹⁹. Gareth Griffith, in an earlier *Briefing Paper*²⁰, following Jupp, wrote: ‘Viewed in this light, the policy of multiculturalism can be seen as something of a delicate balancing act in which difference is tolerated and even encouraged, but not at the expense of compromising every citizen’s paramount commitment to the nation state and not in any way that might alienate the majority or be seen to threaten social harmony’.

¹⁸ B Barry, *Culture & Equality*, Polity Press, Cambridge, 2001, p 327

¹⁹ F G Castles (ed), *Australia Compared: People, Policies and Politics*, Allen and Unwin, North Sydney, 1991, p 53

²⁰ G Griffith, *The Politics of Difference: The Political Representation of Ethnic and Racial Minorities*, Briefing Paper No 029/95, NSW Parliamentary Library Research Service, 1995, pp 13-14

3.2 Data based on 2001 Census figures²¹

Based on Australia's fourteenth national census, held on 7 August 2001, the following comments can be made regarding the composition of the Australian population:

- On Census night, the population of Australia was recorded as 18,769,249 (excluding overseas visitors and people in Off-Shore and Migratory areas). Based on Estimated Resident Population, the population as at 30 June 2001 was 19.4 million.
- Between 1996 and 2001, Australia's resident population increased by nearly 1.1 million people, from 18.3 million to 19.4 million. The majority (57 per cent) of this growth was from natural increase²²; the remaining growth was due to net overseas migration (43 per cent).

3.2.1 *Indigenous Australians*

- There were approximately 410,003 Aboriginal and/or Torres Strait Islander people - 2.2 per cent of the Australian population. As at 30 June 2001²³, 29.4 per cent of indigenous Australians lived in New South Wales, followed by 27.4 per cent in Queensland, 14.4 per cent in Western Australia and 12.4 per cent in the Northern Territory.
- The Northern Territory had the largest proportion of its population who were Indigenous (25.1 per cent) compared to 3.5 per cent or less for all the other states and the Australian Capital Territory.
- 50,978 people spoke Australian indigenous languages (0.3 per cent of the national population). This equates to approximately 12.4 per cent of the indigenous population.

3.2.2 *Non-Indigenous Australians*

- Nationally, 21.9 per cent of the population was born overseas. Western Australia (27.0 per cent) had the largest proportion of overseas-born residents, followed by New South Wales and Victoria (each 23.4 per cent). Tasmania recorded the lowest proportion of overseas-born residents (10 per cent), followed by the Northern Territory (14.5 per cent) and Queensland (17.2 per cent). These figures include

²¹ Unless otherwise stated, the data in this section comes from the 2001 Australian Census. The statistics are available from: Australian Bureau of Statistics, 2005, ABS, Canberra, viewed 9 December 2005, <<http://www.abs.gov.au>>. It is the latest data available.

²² The difference between births and deaths.

²³ Based on 'estimated resident population': Australian Bureau of Statistics, *Population Growth and Distribution Australia 2001*, Cat. No. 2035.0, ABS, Canberra, p 15

those born in English-speaking countries²⁴.

- Of those born overseas, 61 per cent were born in non-English speaking countries. Victoria had the largest proportion of residents from non-English speaking countries (16.82 per cent of the state population), followed by NSW (16.15 per cent) and the ACT (13.42 per cent). Tasmania recorded the lowest proportion of residents from non-English speaking countries (3.85 per cent), followed by Queensland (7.44 per cent) and the Northern Territory (7.65 per cent).
- Of those residents born in Australia²⁵, 71.9 per cent had both parents born in Australia (9,797,613); 25.2 per cent had one or both parents born overseas (3,427,890).
- The three largest birthplace groups were all English speaking: Australia (72.6 per cent), the United Kingdom (5.8 per cent) and New Zealand (1.9 per cent). The remaining countries in the top ten were: Italy (1.2 per cent), Vietnam (0.8 per cent), China (0.76 per cent), Greece (0.6 per cent), Germany (0.58 per cent), the Philippines (0.55 per cent), and India (0.51 per cent).
- Persons born in the United Kingdom were the largest group of overseas-born residents, accounting for 26.6 per cent of all overseas-born residents. New Zealand was the second largest group of overseas-born residents, contributing 8.7 per cent of all overseas-born residents.
- 982,520 or 5.2 per cent of Australian residents had been born in Asia (up from 4.6 per cent in 1994). Of those born in Asia, 50.6 per cent were born in South East Asia, 30.4 per cent in North East Asia, and 19 per cent in Southern and Central Asia.
- About 20 per cent of Australia's population spoke a language other than English at home. The three most widely spoken languages in Australia after English were Chinese (including Cantonese and Mandarin), Italian and Greek, which were spoken by 401,357; 353,605 and 263,717 people respectively. The Arabic languages were the next most widely spoken with 209,372 people, followed by Vietnamese with 174,236 people.

3.3 Ethnic / ATSI Population Data²⁶

The following table sets out the ethnic, and indigenous, population of Australia. The data is taken from the 2001 census data and compared with 1996. With regard to the category

²⁴ Nationally, 13.3 per cent of the population was born in non-English speaking countries.

²⁵ Of which there were 13,629,685 (72.6%) nationally.

²⁶ Unless otherwise stated, the data in this section comes from the 2001 Australian Census. The statistics are available from: Australian Bureau of Statistics, 2005, ABS, Canberra, viewed 9 December 2005, <<http://www.abs.gov.au>>. It is the latest data available.

entitled 'Australian Born', the data in the fields 'Both parents OSB' and 'One parent OSB' does not distinguish between parents born in English-speaking or non-English speaking countries. The 2001 Census did not provide this data. It is therefore not possible to compare the total number of MPs (from NESBI and NESBII categories) with the total number of NESBI and NESBII in the general population. It is, however, possible to compare the percentage of Australians born overseas in a non-English country with the percentage of MPs in each Australian parliament from the same (NESBI) category²⁷.

Ethnic / ATSI Population Data

Ethnic Population Data	AUSTRALIA		NSW		VIC	
	1996	2001	1996	2001	1996	2001
Population²⁸	17,752,829	18,769,249	5,995,545	6,311,168	4,354,126	4,612,097
Overseas Born (OSB)						
Total	3,908,213	4,105,444	1,388,957	1,474,987	1,040,086	1,080,344
% of population	22.01	21.87	23.17	23.37	23.89	23.42
Non English speaking country²⁹	2,362,159	2,502,791	947,837	1,019,419	743,760	775,911
% of State population	13.31%	13.33%	15.81%	16.15%	17.08%	16.82%
% of State OSB	60.44%	60.96%	68.24%	69.11%	71.51%	71.82%
Australian Born						
Total	13,227,776	13,629,685	4,394,218	4,450,772	3,168,848	3,277,054
Both parents OSB	1,473,785		517,292		446,786	
One parent OSB	1,896,078		596,544		444,794	
Aboriginal / TSI						
Total	352,970	410,003	101,485	119,865	21,474	25,078
% of State population			1.69%	1.90%	0.49%	0.54%
% of National Indigenous Population	1.99%	2.18%	24.75%	29.24%	5.24%	6.12%

²⁷ It should be noted however, that the figures compiled relating to NESB and ATSI Members of Parliament were current as at 27 November 2005, and the census data is from 2001. So any comparison would be subject to projected changes in the general ethnic population for 2005. However, if we look at the change in the ethnic (NESBI) population in 10 years, we see only a slight increase in the ethnic (NESBI) population in 10 years, 0.51 per cent increase in Australia and 1.36 per cent increase in NSW: Australia (12.82 per cent in 1991 to 13.31 per cent in 1996 to 13.33 per cent in 2001); and NSW (14.79 per cent in 1991 to 15.81 per cent in 1996 to 16.15 per cent in 2001).

²⁸ In accordance with Census practice, 'Population' does not include Overseas Visitors.

²⁹ The data in this category is derived from the Census category: 'Birthplace (Countries) By Sex'. The final figure of people born in non-English speaking countries is obtained by subtracting from the 'Total' column under 'Persons', the amounts of those born in Australia, Canada, Ireland, New Zealand, South Africa, the United Kingdom, the United States, Not Stated and Overseas Visitors. (English is the official language of these countries).

Ethnic / ATSI Population Data (continued)

Ethnic Population Data	QLD		SA		WA	
	1996	2001	1996	2001	1996	2001
Population	3,319,186	3,585,639	1,422,522	1,458,912	1,713,023	1,832,008
Overseas Born (OSB)						
Total	556,801	616,168	302,524	296,459	475,857	495,240
% of population	16.78	17.18	21.27	20.32	27.78	27.03
Non English speaking country	241,881	266,833	150,834	150,519	202,794	214,915
% of State population	7.29%	7.44%	10.60%	10.32%	11.84%	11.73%
% of State OSB	43.44%	43.31%	49.86%	50.77%	42.62%	43.40%
Australian Born						
Total	2,640,567	2,786,359	1,077,533	1,099,591	1,178,331	1,241,786
Both parents OSB	171,486		122,403		166,112	
One parent OSB	362,166		160,221		237,930	
Aboriginal / TSI						
Total	95,518	112,772	20,444	23,425	50,793	58,496
% of State population	2.88%	3.15%	1.44%	1.61%	2.97%	3.19%
% of National Indigenous Population	23.30%	27.51%	4.99%	5.71%	12.39%	14.27%

Ethnic Population Data	ACT		NT		TAS	
	1996	2001	1996	2001	1996	2001
Population	297,175	309,184	189,365	202,729	458,594	454,841
Overseas Born (OSB)						
Total	66,746	66,732	29,435	29,354	46,703	45,375
% of population	22.46	21.58	15.54	14.48	10.18	9.98
Non English speaking country	40,903	41,507	15,376	15,505	17,971	17,515
% of State population	13.76%	13.42%	8.12%	7.65%	3.92%	3.85%
% of State OSB	61.28%	62.20%	52.24%	52.82%	38.48%	38.60%
Australian Born						
Total	222,477	228,363	148,951	157,959	394,774	386,036
Both parents OSB	24,591		9,925		14,881	
One parent OSB	37,753		18,137		38,221	
Aboriginal / TSI						
Total	2,899	3,576	46,277	50,785	13,873	15,773
% of State population	0.98%	1.16%	24.44%	25.05%	3.03%	3.47%
% of National Indigenous Population	0.71%	0.87%	11.29%	12.39%	3.38%	3.85%

3.4 Ethnic / ATSI Minorities in Australian Parliaments³⁰

The following tables set out the number of ethnic (NESBI and II) and indigenous Members in Australian Parliaments, and within each party. A breakdown of details of individual representatives by Parliament, House, Ethnicity or Racial minority group, Party Affiliation and (Shadow) Ministerial status is provided at Appendix A³¹.

Ethnic Members in Australian Parliaments³²

House Members	CTH	NSW	VIC	SA	QLD	WA	NT	ACT	TAS	Total
Lower House	150	93	88	47	89	57	25	17	25	591
Upper House	76	42	44	22		34			15	233
Total House Members	226	135	132	69	89	91	25	17	40	824

Ethnic Members	CTH	NSW	VIC	SA	QLD	WA	NT	ACT	TAS	Total
Lower House	19	12	15	3	5	5	3	3	2	67
Upper House	5	7	12	5		3			0	32
Total Ethnic Minority members	24	19	27	8	5	8	3	3	2	99
(% of Total Parliament members)	10.62%	14.07%	20.45%	11.59%	5.62%	8.79%	12.00%	17.65%	5.00%	12.01%

Ethnic Members by Party	CTH	NSW	VIC	SA	QLD	WA	NT	ACT	TAS	Total
ALP / Territory Labor	9	14	23	5	4	6	2	1	1	65
Democrats	1									1
National Party	1	3								4
(Country) Liberal Party	13	1	4	2	1	2	1	2	1	27
Independent / Minor Party		1		1						2
Total	24	19	27	8	5	8	3	3	2	99

³⁰ The information in the tables in this section was up to date as of 27 November 2005. The data was compiled by the author based on information publicly available, such as Parliamentary Handbooks, newspaper articles, parliamentary websites (including biographical information on current members) and the text of inaugural speeches. While all care has been taken in compiling these figures, total accuracy cannot be guaranteed due to the limitations of the source data.

³¹ Also included is a table showing ATSI and NESB ministers as a percentage of total ministers.

³² The following members were not included as 'ethnic':

Commonwealth	Sussan Ley MP (born in Nigeria to English parents)
New South Wales	Greg Aplin MP (born in Zambia to Australian parents)
South Australia	Andrew Evans MLC (born in India to Australian parents) Rob Lucas MLC (born in Japan to ESB parents)
Western Australia	Daniel Barron-Sullivan MP (born in Malaysia to ESB parents)

ATSI Minorities in Australian Parliaments

ATSI Members	CTH	NSW	VIC	SA	QLD	WA	NT	ACT	TAS	Total
Lower House	0	1	0	0	0	1	5	0	1	8
Upper House	0	0	0	0		0			0	0
Total ATSI Members	0	1	0	0	0	1	5	0	1	8
(% of Total Parliament Members)	0.00%	0.74%	0.00%	0.00%	0.00%	1.10%	20.00%	0.00%	2.50%	0.97%

ATSI Members (by party)	CTH	NSW	VIC	SA	QLD	WA	NT	ACT	TAS	Total
ALP / Territory Labor		1				1	5		1	8
Democrats										0
National Party										0
(Country) Liberal Party										0
Independent / Minor Party										0
Total	0	1	0	0	0	1	5	0	1	8

As noted above, it is not possible to compare the total number of MPs (from NESBI and NESBII categories) to the total number of NESBI and NESBII in the general population. It is, however, possible to compare the percentage of Australians born overseas in a non-English speaking country with the percentage of MPs in each Australian parliament from the same (NESBI) category; and the percentage of indigenous Australians, with the percentage of indigenous MPs. The tables below set out the results:

NESBI in Parliaments and the Population

NESBI Members (Compared to Population)	ACT	NSW	CTH	WA	VIC	SA	QLD	TAS	NT
NESBI as Percentage of Population	13.42%	16.15%	13.33%	11.73%	16.82%	10.32%	7.44%	3.85%	7.65%
NESBI Members in Parliament	0	5	11	3	14	3	4	1	3
Total Members in Parliament	17	135	226	91	132	69	89	40	25
NESBI Members as Percentage of Total Parliament Members	0.00%	3.70%	4.87%	3.30%	10.61%	4.35%	4.49%	2.50%	12.00%
Difference between Parliamentary presence and Population presence	-13.42%	-12.45%	-8.46%	-8.43%	-6.21%	-5.97%	-2.95%	-1.35%	4.35%

ATSI in Parliaments and the Population

ATSI Members (Compared to Population)	NT	QLD	CTH	WA	SA	NSW	ACT	TAS	VIC
ATSI as Percentage of Population	25.05%	3.15%	2.18%	3.19%	1.61%	1.90%	1.16%	3.47%	0.54%
ATSI Members in Parliament	5	0	0	1	0	1	0	1	0
Total Members in Parliament	25	89	226	91	69	135	17	40	132
ATSI Members as Percentage of Total Parliament Members	20.00%	0.00%	0.00%	1.10%	0.00%	0.74%	0.00%	2.50%	0.00%
Difference between Parliamentary presence and Population presence	-5.05%	-3.15%	-2.18%	-2.09%	-1.61%	-1.16%	-1.16%	-0.97%	-0.54%

In relation to NESBI, the table reveals that the ACT has the highest “difference percentage” between NESBI in the population and their corresponding presence in Parliament. NSW, with five (3.7 per cent) NESBI members in Parliament, and 16.15 per cent of the state population, has a difference percentage of -12.45. The Northern Territory on the other hand, has a difference percentage of +4.35: indicating that NESBI are *more* than proportionately represented in Parliament when compared with their general population presence. In relation to ATSI however, the Northern Territory – though it has the most ATSI members in Parliament – has the highest “difference percentage” between ATSI in the population and their corresponding presence in Parliament. Victoria, with no ATSI members in Parliament, has the lowest “difference percentage”.

3.5 Ethnicity and Voting Behaviour³³

Australia is an ethnically heterogeneous nation and the number of overseas-born gives ‘prima facie importance’³⁴ to ethnic electoral behaviour in the country. One key question posed by Forrest³⁵ is whether, within an essentially class-based party political system, the ethnic vote is constrained along traditional, socio-structural lines, or along different lines that are specific to the migrant communities themselves? To what extent, if any, do voters favour candidates of their own ethnicity, or of particular political parties?

3.5.1 Ethnic Electorates

An ethnic electorate, explains University of Sydney’s Gianni Zappala, is the term used to

³³ In his earlier Briefing Paper, Griffith set out findings on ethnicity and voting behaviour in a broadly chronological order, the purpose of which was to give a sense of the development of thinking and research in this area (Griffith, n 19, pp 38-46). This paper will provide an update on the information given by Griffith.

³⁴ Griffith, n 20, p 39

³⁵ J Forrest, ‘Social status, urbanisation and the ethnic dimension of voting behaviour in Australia’ (1988) 11 *Ethnic and Racial Studies* 489

characterise an electorate where at least 15 per cent of the population were born in a non-English speaking country³⁶. It is common for such electorates to be comprised of people from a mixture of ethnic origins, rather than a homogenous majority. The state electoral district of Fairfield³⁷ is a good example of this. Fairfield is home to a substantial number of people born in non-English speaking countries, including Chile, China, Croatia, Germany, Iran, Iraq, Italy, Macedonia, Malta, Poland, Turkey, Vietnam and Yugoslavia³⁸. Appendix B contains information on the NESB populations within the electorates represented by ethnic members in each of the state, territory and federal parliaments. Of the 57 electorates³⁹ represented by ethnic MPs, only a little more than half (31 electorates or 54.3 per cent) qualified as 'ethnic electorates'.

Previous research revealed that ethnic constituents and organisations prefer, and are happy to have, Anglo-Australian MPs representing their electorates⁴⁰. Zappala summarises the four main reasons⁴¹:

- (i) Many believe that having an ethnic MP will lead to higher expectations among members of their ethnic community about what will be achieved for them, and consequently greater disappointment when they realise this is not the case.
- (ii) Ethnic constituents argue that an Anglo-Australian MP engenders greater trust among their communities, as there is a greater chance that the MP will be seen as neutral in the face of conflicting community demands, rather than favouring the community of his / her own ethnic background.
- (iii) Related to point (ii), it will be more difficult for a constituent of, for example, Greek origin, to visit an MP of Turkish background for instance (and vice versa), than for either of them to visit an Anglo-Australian MP.

³⁶ Zappala, n 5, p 190

³⁷ Comprising the suburbs of Wakeley, Canley Heights, Fairfield, Fairfield West, Fairfield Heights, Fairfield East, Old Guildford, Carramar, Villawood, Bass Hill, Chester Hill, Lansdowne and part of Yennora.

³⁸ Data from the 2001 Australian Census. The statistics are available from: Australian Bureau of Statistics, 2005, ABS, Canberra, viewed 9 December 2005, <<http://www.abs.gov.au>>

³⁹ The electorates include the Lower Houses of all parliaments, except Tasmania and the ACT – due to the different electoral system used in those states. Further, there were 4 Victorian electorates and 1 Northern Territory electorate with ethnic MPs for which no data could be obtained. These electorates are not included in the 57.

⁴⁰ Zappala G, 'The Political Representation of Ethnic Minorities: Moving Beyond the Mirror' in M Sawyer & G Zappala (eds), *Speaking for the People. Representation in Australian Politics*, Melbourne University Press, 2001, p 156. Zappala then notes that, curiously, most felt that there were too few MPs from ethnic backgrounds in the Federal Parliament: there was a sense in which they preferred their local MP to be an Anglo-Australian, but wanted to see more ethnic faces in the national legislature.

⁴¹ Ibid, p 156

- (iv) Finally, an ethnic MP may be compromised by their ethnicity in being able to make strong statements in favour of ethnic groups or supporting their position on any particular issue, especially relating to homeland politics, within their party or in parliament.

At the federal election of 1993, the Labor Party held the top 18 electorates containing 27.5 per cent or more constituents born in non-English speaking countries⁴². Despite the ethnic composition of the electorates, only the seat of Calwell was represented by an MP born in a non-English speaking country. James Jupp, writing for *The Australian* noted that, following the federal election in October 2004, the ALP won nearly all the electorates with high immigrant populations, including the marginal seats of Lowe and Parramatta, but it did not win them with ethnic candidates⁴³. It appears that, in assessing electoral candidates, ethnic minorities tend to place greater importance on their members' approach to constituency work than their approach to particular policy issues or how they may vote in parliament. Zappala explains:

This is often because ethnic constituents tend to live in electorates with lower socio-economic backgrounds. Constituents from such electorates often face greater problems with issues such as unemployment or social security, and may tend to visit or write to their MPs more often than constituents from higher socio-economic electorates⁴⁴.

3.5.2 *Linking the Ethnic Vote to Socio-Demographics*

A brief examination of federal electorates reveals an apparent link between high proportions of NESB constituents, and electorates held by the ALP. After the 1998 federal election, only one of the top twenty ethnic electorates was not held by the ALP. Two-thirds of all ethnic electorates were held by that party⁴⁵. Federal electorates with high NESB populations are concentrated in Sydney and Melbourne. Of thirty-two electorates⁴⁶ with more than 20 per cent of the population born in non-English speaking countries, sixteen are located in Sydney, fourteen in Melbourne and two in Perth. In 2001, 28 of these were held by the ALP and only four by the Liberals⁴⁷. According to Jupp, this 'political domination' has 'lasted for many years and embraces some of the ALP's safest electorates, including

⁴² Except for the seat of Wills, which was held by an Independent having previously been represented by Prime Minister Bob Hawke: J Jupp, 1995, "Ethnic and Cultural Diversity in Australia" Article reproduced from Year Book Australia, Cat. No. 1301.0, ABS, Canberra, viewed 7 January 2006, <<http://www.abs.gov.au/Ausstats/abs@.nsf/0/49f609c83cf34d69ca2569de0025c182?OpenDocument>>

⁴³ J Jupp, 'Changing face of parliament', *The Australian*, 28/10/04, p 13

⁴⁴ Zappala, n 40, pp 142

⁴⁵ Ibid, p 139

⁴⁶ One-fifth of the total.

⁴⁷ Including the Prime Minister's seat of Bennelong.

those of five of the party's seven leaders over the past forty years'⁴⁸. The question arises whether this is proof of an 'ethnic' vote, or whether it is the result of socio-demographic factors. This section considers the proposal that 'class', rather than ethnicity, is the main determinant of voting behaviour.

Until the 1960s, the manual working class normally only entered parliaments through a labour or socialist party usually associated with the trade unions. In recent years, however, the tertiary-educated and middle-class character of the ALP has approximated that of the other parties⁴⁹. Sawyer relates that there was only one person in the Thirty-Eighth Federal Parliament (1996-1998) who listed his occupation immediately before entering parliament as 'tradesperson' – and that was a National Party MP. Three of the new Liberal MPs also had backgrounds as fitters and turners. She concludes: 'while the middle-classing of Labor had been taking place, there was also an increase in the number of Liberal MPs of working-class background'⁵⁰. Further, according to Jupp⁵¹, until recently the great majority of NESB migrants settled in areas that were politically controlled by the ALP. However, with the raising of qualifications for immigration programs, migrant settlement has spread into more affluent Liberal areas, most notably on the North Shore.

In 1994, Economou compared key socio-demographic data drawn from the 1991 census with results from the 1993 federal election. His conclusion was that voting behaviour, whether of individuals or of geographical electorates, could best be explained in 'class' or 'occupational' terms – that 'ethnic' voting was a sub-set of blue-collar voting, and the fact that the ALP enjoyed the voter alignment of 'ethnic' Australia was the function of socio-economic factors rather than an inherently better policy approach on ethnic issues than its conservative opponents⁵². He also found that 'ethnic' voters were highly concentrated in safe electorates in Labor's industrial heartland in Melbourne and Sydney, and, that the prominence of 'ethnic' characteristics in the more affluent, Liberal-held seats of Menzies and Bruce suggested a de-alignment of the 'ethnic' vote in accordance with upward social mobility⁵³. More recently, Birrell, Healy and Allan have argued that class issues influence the voting patterns of NESB migrants with professional and higher managerial occupations. They state:

This part of the NESB stream is far more likely to be in tune with the Coalition's emphasis on enterprise. According to the sample of these voters reported by the

⁴⁸ Jupp, n 6, pp 30-31

⁴⁹ Ibid, p 23

⁵⁰ Sawyer, n 11, p 61

⁵¹ Jupp, n 6, p 6. See also C McGregor, *Class in Australia*, Ringwood, Penguin Books Australia, 1997, p 77

⁵² N Economou, 'An overstated electoral importance? A note on ethnic voting and federal electoral outcomes' (1994) 2 *People and Place* 45. See also Zappala (on the alignment point), n 5, p 191

⁵³ Economou, n 52, 46

2004 Australian Electoral Study, they are just as likely to vote for the Coalition as their Australian-born counterparts⁵⁴.

Birrell, Healy and Allan also refer to the federal seat of Menzies during the 2004 federal election. Although it had a relatively high NESB population, the two-party-preferred vote for Labor was low. They suggest that this was because a high proportion of the NESB population in the electorate were from the managerial and professional classes. They conclude: '[s]uch voters – whether in Melbourne or Sydney...tend to favour the Coalition'⁵⁵. Similarly, in the affluent northern Sydney electorates of Bennelong, Bradfield and North Sydney there are significant concentrations of persons of Chinese ancestry. An examination of voting outcomes in booths in these electorates indicated 'the strength of the link between birthplace and support for Labor is only weakly expressed compared with many lower-socio-economic areas'⁵⁶. With these results, Birrell, Healy and Allan narrowed their scope to focus on the hypothesis that birthplace shapes the voting pattern of NESB voters of blue and lower-white collar workers. This is the focus of the next section.

3.5.3 The Influence of Birthplace upon Blue and Lower-White Collar Voting

There is a paucity of research in this field, and much of the research that has been undertaken is focused on the federal level of politics. The findings set out below summarise the information presented by Birrell, Healy and Allan in support of their hypothesis:

- The Centre for Population and Urban Research looked into the reasons why the Labor Party's representation in Federal Parliament from Sydney had shrunk to a group of seats concentrated in west and southwest Sydney. All of the seats in question featured high proportions of residents from low-income, NESB backgrounds. By contrast, with the exception of the inner city electorates of Grayndler and Sydney, all other areas of Sydney, including the outer suburban areas with relatively high proportions of Australian-born blue and lower white-collar workers, were held by the Liberal party⁵⁷.
- The federal seats of Chisholm, Bruce, Hotham, Isaacs and Holt are located in South and Southeastern Melbourne. The areas are moderately affluent, with a high level of home ownership. Despite significant swings against Labor in those five seats at the 2004 election⁵⁸, Labor retained the seats. Chisholm and Bruce, in particular, are not usually thought of as part of the Labor heartland⁵⁹. Birrell, Healy & Allan explain:

⁵⁴ B Birrell, E Healy & L Allan, 'Labor's Shrinking Constituency' (2005) 13 (2) *People and Place* 50 at 52

⁵⁵ Ibid, p 54

⁵⁶ Ibid, p 65

⁵⁷ Ibid, p 51

⁵⁸ Possibly due to the high proportion of households paying off mortgages.

⁵⁹ Birrell *et al*, n 54, p 54

There are strong concentrations of NESB communities adjoining the railway line between Oakleigh and Dandenong. Chisholm, Bruce, Hotham and Isaacs each include chunks of these communities. So, is the ethnic factor the explanation? An examination of polling booth results suggests that the ethnic factor is decisive. In all the booths located in and around the NESB neighbourhoods... Labor received 60 per cent or more of the TPP [two-party-preferred] vote. This was enough to overcome the close vote elsewhere, particularly in the non-NESB booths in the electorates of Chisholm and Bruce⁶⁰.

In relation to the seat of Isaacs: there was an electoral redistribution in 2003 that added several NESB areas to the seat – all of which voted heavily for Labor⁶¹.

- The Caroline Springs area in the federal seat of Gorton, Victoria, provides a good example of the impact of NESB ancestry upon voting patterns. Caroline Springs is the location of a master planned estate. The houses are relatively expensive for the northwest, and the male residents are predominantly blue-collar⁶². It is an area of high mortgages and ‘appears to be a classic aspirational zone’⁶³. Labor won the seat at the 2004 election. A high proportion of Caroline Springs residents are born in NESB countries (30 per cent). In addition, many more of the residents who were Australian-born claimed to be of NESB ancestry. In total, 52 per cent claimed NESB ancestry⁶⁴.
- The federal electorates of Greenway and Parramatta – located in western Sydney – changed hands in the 2004 election. Greenway had been held by Labor and was won by the Coalition. Parramatta had been held by the Coalition and was won by Labor. Both seats fall mid-range between the birthplace poles, and both were held by only very narrow margins. In view of these similarities, the authors concluded:

If...they were held by only very narrow margins, then even a minor increase or decrease in the NESB-born voting population in such mid-range electorates could easily tip the balance in favour of either Labor or the Coalition respectively. This appears to have been the case with Parramatta. Between 1996 and 2001, the proportion of residents born in NESB countries in Parramatta increased from 26.4 to 30.1 per cent⁶⁵.

- An analysis of polling booths further strengthens the hypothesis that birthplace influences the voting pattern of blue and lower-white-collar workers. The federal electorate of Prospect, also located in western Sydney, contains the suburb of Fairfield

⁶⁰ Ibid, p 55

⁶¹ Ibid, pp 55-56

⁶² Especially tradesmen.

⁶³ Birrell *et al*, n 54, p 57

⁶⁴ Ibid

⁶⁵ Ibid, p 61

– one of the most multicultural suburbs in NSW. During the 2004 election, booths located in similar neighbourhoods – with more than 40 per cent of residents born in NESB countries – yielded Labor more than 60 per cent of the Two-Party-Preferred (TPP) vote. By contrast, booths in neighbourhoods with much lower proportions of NESB residents, for example in St Clair and Greystanes, where the proportion of NESB-born was less than 20 per cent in most neighbourhoods, delivered considerably lower TPP results for Labor – only in the vicinity of 48 to 54 per cent respectively⁶⁶. The Labor strongholds of Fowler, Watson, Reid, Blaxland and Prospect were found to have ‘particularly high rates of NESB-born persons’⁶⁷. Lastly, an analysis of selected polling booth results from west and southwest Sydney revealed ‘that local areas which had high proportions of NESB voters are associated with relatively high TPP outcomes for Labor. In contrast, those local areas with relatively low levels of NESB voters had markedly lower levels of support for Labor’⁶⁸.

- Finally, Birrell, Healy & Allan⁶⁹ tested four Sydney suburban fringe locations, controlling for occupation and mortgage commitment⁷⁰. All four locations had higher proportions of male blue-collar workers, and higher proportions of mortgaged dwellings, than the Sydney statistical division. Three locations (B⁷¹, C⁷² and D⁷³) had significantly lower proportions of residents born in NESB countries than Sydney as a whole. By contrast, location A⁷⁴ had much higher proportions of NESB-born persons. The question posed was did Labor lose the 2004 federal election due to fear of interest rate increases by voters with mortgage commitments? If so, birthplace composition should have been relatively inconsequential. Yet, the high ethnic areas delivered a big majority for Labor. The lower ethnic areas gave a 50/50 split. As all areas were blue-collar, mortgaged areas, the difference appears to be the ethnic makeup.

To conclude, the research to date seems to be divided on the issue of the electoral significance of the ‘ethnic’ vote, as indeed it is on the existence for the ‘ethnic’ vote. There would seem to be a need for more research in this area, dealing in particular with differences between and within the various ethnic groups, and looking, too, at ethnic voting patterns in cross-generational terms, as well as in terms of the specifics of electoral geography.

⁶⁶ Ibid, p 63

⁶⁷ Ibid, p 60

⁶⁸ Ibid, p 62 (Table 3)

⁶⁹ Ibid, pp 63-64 (Table 4)

⁷⁰ Ibid, p 63

⁷¹ Chifley, Prospect

⁷² Lindsay

⁷³ Greenway

⁷⁴ Fowler, Werriwa and Prospect

4. BARRIERS TO REPRESENTATION

4.1 Threshold barriers

The term ‘threshold’ refers to those barriers that must be overcome before participation in formal representative bodies is possible – such as the right to vote, the right to stand for election, and the ability to understand the system itself.

4.1.1 *The Right to Vote: an Indigenous Barrier*⁷⁵

The right to vote - essential for effective participation in a democracy - was originally denied to indigenous Australians living in Queensland, the Northern Territory and Western Australia. Although entitled to vote in South Australia, Tasmania, Victoria and New South Wales, enrolment was not encouraged. At the time of Federation, section 41 of the Constitution was interpreted so as to deny the vote⁷⁶ to all indigenous people, save those already on the State rolls. By 1965 all indigenous Australians had been granted the right to vote, but this early history had had a negative effect on levels of indigenous participation, and representation. In 1971 Neville Bonner became the first indigenous person to be elected to Federal Parliament. It took a further 32 years before an indigenous person was elected to the NSW Parliament.

As the tables above⁷⁷ indicate, there are only 8 parliamentary members of ATSI background, all of whom serve in the lower houses. The Northern Territory has the highest percentage (20 per cent) of ATSI representatives in its parliament. NSW has one ATSI member in the Legislative Assembly⁷⁸. All ATSI representatives are members of the ALP.

4.1.2 *Education and Systems of Government*

Differences exist between traditional indigenous systems of government, and those in place in Australia today. These differences can make it difficult for indigenous Australians to identify with and participate in contemporary representative bodies. As Tim Rowse explains:

Australian procedures of political representation are foreign and difficult to embrace. Aboriginal people are said to prefer small to large political units, and thus find Australian electorates too large to be meaningful; to rely in much of their decision-making on hierarchies constituted by birth and by ritual eminence, rather

⁷⁵ Appendix C contains a timeline of significant events in indigenous electoral history.

⁷⁶ At Commonwealth level.

⁷⁷ At section 3.4: ‘Ethnic / ATSI Minorities in Australian Parliaments’.

⁷⁸ Linda Burney MP, Member for Canterbury.

than on elected leaders; and to vary their notion of constituency according to the issue at hand. These elastic constituencies, it is said, make many of their decisions – those not resolved by senior persons’ fiat – through prolonged discussion...⁷⁹

For participation in a democratic system to be effective, it is desirable that participants understand the system and how they are able to contribute to it. Voter education has played a role in informing indigenous people about the system of government, and how to participate in that system. In 1979, the Fraser government initiated an Aboriginal Electoral Education Program. The program was limited to the remote north and centre of Australia. In 1993, it was renamed and became the Aboriginal & Torres Strait Islander Electoral Information Service. The withdrawal of Commonwealth funds in 1996 led to its closure. Current initiatives by the Australian Electoral Commission (AEC) include:

- providing information in indigenous languages relating to enrolment, voting services and how to cast a vote;
- conducting pre-election Remote Area Information Programs which involve indigenous people being employed to visit indigenous communities to explain the electoral system and how to participate; and,
- providing assistance through its Education Section to indigenous groups and communities with electoral education activities and resource materials.

The assistance available through the Education Section varies from State to State and geographical location, particularly in terms of visits to remote communities. Resource materials and information can be sent to communities throughout Australia. Remote communities requiring assistance are requested to give as much notice as possible of their requirements. The AEC also has Education Centres in Canberra, Melbourne and Adelaide. The Western Australian Electoral Commission operates an Education Centre in Perth.

4.1.3 The Right to Vote: Implications for Ethnic Minorities

4.1.3.1 Citizenship

Australian naturalisation laws are ‘among the most open and liberal in the world’⁸⁰. Legal immigrants can become citizens after a short period of time as residents⁸¹. Since the inception of the *Australian Citizenship Act 1948* (Cth) on Australia Day in 1949⁸², more than three million people born overseas have acquired Australian citizenship. Citizenship

⁷⁹ Rowse T, ‘Democratic Systems Are an Alien Thing to Aboriginal Culture’ in M Sawer & G Zappala (eds), *Speaking for the People. Representation in Australian Politics*, Melbourne University Press, 2001, p 103

⁸⁰ Zappala, n 40, p 135

⁸¹ Two years: section 13(1)(e) of the *Australian Citizenship Act 1948* (Cth)

⁸² Prior to which, Australians were British subjects.

confers certain benefits⁸³, including:

- the right (and obligation) to vote in national and State elections;
- the right to election to public office in the States and municipalities; and,
- the right to be elected to the national parliament.

The right to vote and the right to be elected to state and federal legislative bodies are clearly important to the issue of representation. By participating in elections, citizens express their preference for certain representatives, ideals or policies. By standing for election, citizens can be advocates on behalf of fellow citizens and represent minority interests.

Non-citizens do not have the right to vote, or to represent a constituency in Parliament. For an immigrant nation such as Australia, this has the potential to isolate members of many ethnic (minority) groups. The low number of ethnic representatives at all levels of government was initially due to low rates of naturalisation among NESB immigrants⁸⁴. However, data available from the Australian Bureau of Statistics⁸⁵ (ABS) indicates that, at the time of the 2001 census, almost three-quarters (74 per cent) of people born overseas, who had been resident in Australia for two years or more, were Australian citizens. The longer overseas-born people reside in Australia, and consequently the older they get, the more likely it is that they will have acquired Australian citizenship. Based on standardised rates⁸⁶, people born in the Philippines, Vietnam and China are the most likely to become Australian citizens. Unstable or changing political conditions in these countries may result in a greater desire for Australian citizenship than for people born in other countries. In contrast, people born in the United Kingdom and New Zealand are less likely to become Australian citizens. This may be because 'the shared language, and strongly similar legal, political, and industrial arrangements of Australia and the other Anglo-American countries lead these immigrants to feel less need to make a choice of national identity'⁸⁷. The following table allows citizenship rate comparisons to be made between certain non-English speaking countries, the UK and New Zealand.

⁸³ Listed by Jupp, n 6, p 17

⁸⁴ See Zappala, n 40, p 148; and D Farrell and A McAllister, *The Australian Electoral System: origins, variations and consequences*, UNSW Press, Sydney, 2006, p 23

⁸⁵ ABS, 2006, *Year Book Australia*, Chapter 5: Population (Citizenship) (cat. no. 1301.0), ABS, Canberra, viewed 4 January 2006, <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/ProductsbyCatalogue/54C4B6E54C0C737DCA2570B000368DFD?OpenDocument>>

⁸⁶ Standardising gives the rates that would be expected if a given overseas-born population had the same profile of age and period of residence in Australia as the total overseas-born population.

⁸⁷ M Evans, 'Choosing to be a citizen: the time-path of citizenship in Australia' (1988) 22(2) *International Migration Review* 243

5.67 CITIZENSHIP RATES, Overseas-born people resident in Australia for two years or more - 2001

Selected birthplace	Persons '000	Citizenship rate(a) %	Standardised citizenship rate(b) %
Philippines	90.4	90.4	92.1
Vietnam	141.8	95.3	91.5
China (excl. SARs & Taiwan Prov.)	114.2	80.3	90.1
Greece	108.3	97.1	89.2
Italy	204.6	79.5	65.2
United Kingdom	951.5	65.6	64.3
Germany	100.5	76.5	59.7
Netherlands	78.7	78.3	55.5
New Zealand	281.5	37.7	45.3
All overseas born(c)	3,560.3	74.4	74.4

(a) People for whom citizenship was not stated were excluded prior to the calculation of percentages.

(b) The rates of citizenship that would be expected if a given overseas-born population had the same age and period of residence profile as the total overseas-born population.

(c) Excludes people whose birthplace was not stated, inadequately described, n.e.c. or at sea.

Source: ABS data available on request, 2001 Census of Population and Housing.

4.1.3.2 *Permanent Residency*

Permanent residents in Australia are – like citizens – subject to Australian law and otherwise treated as part of the community. Nonetheless, they are denied the right to vote. There are approximately one million permanent residents still eligible for Australian citizenship – of which the largest number are British and New Zealanders⁸⁸. The effect of this situation is made clear when considering international rankings of voter turnout. Despite compulsory voting, Australia performs poorly: the International Institute for Democracy and Electoral Assistance (IDEA) ranked Australia 20th in a worldwide table of turnout by voting age population in the 1990s⁸⁹. Permanent residency status also has implications for ALP members due to new rules developed at the 2002 National Rules Conference aimed at branch-stacking practices. Some of the new rules include the

⁸⁸ Jupp, n 6, p 17

⁸⁹ G Orr, *Australian Electoral Systems - How Well Do They Serve Political Equality?* Report No 2 for the Democratic Audit of Australia, Australian National University, Canberra, 2004, p 7

provision that only those on the electoral roll (that is, citizens) are eligible to vote in preselections⁹⁰. Although intended to counteract false enrolments and to limit the effectiveness of stackers, this new measure may have the effect of further reducing the potential influence of ethnic party members over the outcome of pre-selections. Orr argues that franchising permanent residents is not just a matter of equal treatment, but that it fits Australia's 'condition as an immigrant country in a globalising world'⁹¹. The alternative is to retain a system where 'an increasing number of adults in the community have no electoral say, compounding problems of under-representation and marginalisation for some ethnic communities'⁹².

4.1.3.3 *Dual Nationality*

There are an estimated 5 million dual citizens in Australia⁹³. Section 44(i) of the Australian Constitution⁹⁴ prohibits any person holding dual or multiple citizenship from standing for and holding any federal parliamentary office. Although the High Court has provided that a candidate may stand for election as long as they have taken all reasonable steps to divest themselves of other citizenships⁹⁵, in effect, the section bars 'several million'⁹⁶ Australians from standing for election to Federal Parliament without going through the renunciation procedure. As immigrants and their offspring are the most likely to have multiple citizenship, it is evident that section 44(i) must impact predominantly upon them. Orr refers to Australia's 'ongoing status as an immigrant nation in a globalising world' and concludes:

it is hard to see why holders of *dual citizenship* should be ineligible to serve the Australian Parliament, especially when citizenship by birth is not a question of choice. Questions of allegiance may become acute at times of international conflict, but in such environments electors are likely to form their own views on a candidate's loyalties. In relation to other questions of conflicts of interest, the perception of conflict will arise because of a parliamentarian's substantive interests – for example, their business or family ties to another country – not their formal citizenship⁹⁷.

⁹⁰ Jupp, n 6, p 34

⁹¹ Orr, n 89, p 7

⁹² Ibid

⁹³ Zappala, n 40, p148

⁹⁴ *Commonwealth of Australia Constitution Act 1900* (Cth)

⁹⁵ *Sykes v Cleary* (1992) 176 CLR 77

⁹⁶ Jupp, n 6, p 16

⁹⁷ Orr, n 89, p 39

4.2 Structural Barriers

For the purposes of this paper, a structural barrier refers to those barriers that exist within the Australian system of government and reduce the likelihood of ethnic or racial minorities increasing their levels of representation, including party preselection, and electoral system design.

4.2.1 Preselection

Nomination for a parliamentary election generally requires joining one of the major Australian political parties, and successfully contesting a preselection process⁹⁸. Even more so than other minorities, indigenous people find it hard ‘to win preselection and majority-rules elections when the model of the parliamentarian is a 35-60 year-old white male’⁹⁹. The process by which candidates are selected differs according to party and legislative chamber. For the NSW Legislative Council, each party chooses a list of candidates to appear on the party ticket. The identity of individual candidates is, according to Van Onselen¹⁰⁰, ‘relatively unimportant’, as parties choose candidates who will be ‘loyal party servants rather than attractive electoral assets’. The option to vote ‘above the line’ at elections – thereby voting for a party – does suggest that the identity of the individual is of less importance. In both major parties, pre-selection for the upper house is highly central in its operation. For the NSW Legislative Assembly, local party branches select candidates¹⁰¹, or the branches have a significant input in the central (State-level) selection of their local members. Pre-selection for the lower house must take into account such factors as the need for internal branch support for campaigning and financing, a local profile for strong electoral prospects and media attention, and a candidate’s ability to represent a constituency.

The internal practices of political parties have a significant impact on the extent to which ethnic and racial minority members are present in parliament. Jupp explains: ‘candidate selection rests in the hands of small numbers of local party members or State-level executives dominated by the party machines and factions’¹⁰². Zappala refers to these small groups as ‘selectorates’ that tend to favour ‘white, male, Anglo-Celtic and middle-class background candidates’¹⁰³. Even in systems where local party members have a predominant say in choosing candidates, party membership in Australia is very low and rarely exceeds a

⁹⁸ Australia does not have a system of primary elections like that used in the United States of America.

⁹⁹ Orr, n 89, p 37

¹⁰⁰ P Van Onselen, ‘Pre-Parliamentary Backgrounds of Australian Major Party MPs: Effects on Representation’ (2004) 10(4) *The Journal of Legislative Studies* 84 at 92

¹⁰¹ In the NSW ALP, local party members have a predominant say in choosing candidates.

¹⁰² Jupp, n 6, p 33

¹⁰³ Zappala, n 40, p 147

few hundred in most metropolitan electoral divisions¹⁰⁴. Thus the party membership is unlikely to represent a cross-section of the local electorate in ethnic or racial terms.

A further difficulty faced by members of ethnic minority groups in attempting to secure pre-selection for the lower house, is that the localised geographical nature of electorates favours candidates with local experience and profile¹⁰⁵. According to Jupp¹⁰⁶, ‘very high proportions’ of State politicians are born in the areas they represent. A person of non-English speaking background (NESBI) – born outside Australia, and lacking a background of long residence – is naturally disadvantaged. Although these attributes work against recent arrivals, long residence or Australian birth will be attributes of children of immigrant parents, and presumably will no longer constitute a barrier to pre-selection. Indeed Jupp has noted that what is ‘gradually happening is the selection of second generation and assimilated candidates’¹⁰⁷.

4.2.2 Electoral systems

Electoral systems translate the votes cast in a general election into seats won by parties and candidates. The aim of most electoral systems is to be representative: to give a voice to minorities and to register dissent¹⁰⁸. Therefore, to treat people in a diverse society as equals requires more than a system based on ‘majority rules’. This section considers the different electoral systems used in Australian states and territories, and whether those systems have an impact on the ‘electoral fortunes’¹⁰⁹ of disadvantaged or minority groups.

Electoral systems can be grouped into families. The following table is based on the distinctions made in Farrell and McAllister’s recent book¹¹⁰.

Lower House	Upper House
Alternative Vote (Preferential Voting; Plurality / Majority Model)	
House of Representatives (Cth) <i>Compulsory Preferences</i> (Single Member Electorates ¹¹¹)	TAS Legislative Council <i>Compulsory expression of 3 Preferences</i> <i>(with Robson Rotation)</i> (15 Single Member Electoral Districts)

¹⁰⁴ Jupp, n 6, p 33

¹⁰⁵ Van Onselen, n 100, p 92

¹⁰⁶ Jupp, n 6, p 7

¹⁰⁷ Ibid, p 35

¹⁰⁸ Orr, n 89, p 3

¹⁰⁹ Zappala, n 40, p 156

¹¹⁰ Farrell and McAllister, n 84, p 11

¹¹¹ Where there is only one member elected to represent an electorate.

Lower House	Upper House
Alternative Vote (continued) (Preferential Voting; Plurality / Majority Model)	
NSW Legislative Assembly <i>Optional Preferences</i> (Single Member Electorates)	
QLD Legislative Assembly <i>Optional Preferences</i> (Single Member Electorates)	
NT Legislative Assembly <i>Compulsory Preferences</i> (Single Member Electorates)	
SA House of Assembly <i>Compulsory Preferences</i> (Single Member Electorates)	
VIC Legislative Assembly <i>Compulsory Preferences</i> (Single Member Electorates)	
WA Legislative Assembly <i>Compulsory Preferences</i> (Single Member Electorates)	
Single Transferable Vote (Preferential Voting; Proportional Representation)	
ACT Legislative Assembly <i>Compulsory expression of 5 or 7 preferences</i> <i>(with Robson Rotation)</i> (3 Multi-Member Electorates)	Senate (Cth) <i>Compulsory Preferences or</i> <i>above-the-line ticket voting</i> (Multi-Member Electorates ¹¹²)
TAS House of Assembly <i>Compulsory expression of 5 preferences</i> <i>(with Robson Rotation)</i> (5 Multi-Member Electorates)	NSW Legislative Council <i>Compulsory expression of 15 Preferences or</i> <i>above-the-line optional rank-ordering of parties</i> (Multi-Member Electorate)
	SA Legislative Council <i>Compulsory Preferences or</i> <i>above-the-line ticket voting</i> (Multi-Member Electorate)
	VIC Legislative Council <i>Compulsory expression of 5 Preferences or</i> <i>above-the-line ticket voting</i> (Multi-Member Electorate)
	WA Legislative Council <i>Compulsory Preferences or</i> <i>right-of-line ticket voting</i> (6 Multi-Member Regions)

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Where there is more than one member elected to represent an electorate.

It is important to note that a system of proportional representation will be used in elections for the Victorian Legislative Council for the first time in November 2006. Proclamation of the Royal Assent (on 8 April 2003) to the *Constitution (Parliamentary Reform) Act 2003*, enabled alteration of Victoria's *Constitution Act 1975* and its *Electoral Act 2002* to require quota-preferential proportional representation elections for the Legislative Council. Section 36 of the *Constitution (Parliamentary Reform) Act* inserted a section 93A into the *Electoral Act 2002* deeming a ballot-paper to be valid provided that the number of preferences indicated is at least equal to the number of candidates to be elected. It is also worth noting that Western Australia's Legislative Council, which adopted proportional representation in 1987, is divided into 6 multi-member electoral regions. This means that despite conducting elections on a proportional representational basis, the necessary quotas for election are among the highest in Australia.

4.2.2.1 *Preferential Voting Systems*¹¹³

Preferential systems allow voters to rank-order all the candidates from all the parties. There is a distinction made between compulsory preferential and optional preferential voting. Under compulsory preferential, a voter must indicate a preference for either:

- each candidate on the ballot paper (full preferential), or
- a certain number of candidates as determined by the legislature (partial preferential).

Under optional preferential, a valid vote may be cast by:

- expressing a single primary preference for one candidate only, leaving all other squares blank (this is called 'plumping' for one candidate)¹¹⁴;
- expressing a partial distribution of preferences by voting for some, but not all candidates on the ballot paper (for example, voting 1, 2, 3 on a ballot with five candidates);
- expressing a full distribution of preferences (that is, marking every square in order of preference).

As a majoritarian electoral system, the preferential voting system is designed to work in favour of large parties or those parties whose support is geographically concentrated. As Sharman, Sayers & Miragliotta explain: 'Voters who give their first preference to the candidate of a small party will find their vote, if second preferences need to be counted, ending up with one of the two parties with the largest vote shares through the flow of

¹¹³ Preferential voting in a majoritarian electoral system is generally found in lower houses with single seat constituencies. Candidates must poll 50 per cent + 1 of the vote (an absolute majority) to be elected.

¹¹⁴ If all voters choose to put down only one preference, the system effectively becomes first-past-the-post voting.

preferences'¹¹⁵. However, for a large party, gaining the preferences of a small party's candidates may be of critical importance in marginal seats. Deals can be made over the allocation of preferences, and in this way, a small party can gain influence over the policies of other parties, even if it is unable to secure representation for itself. In ethnically diverse political systems such as those of South Africa and Papua New Guinea, preferential systems are advocated precisely because they encourage electoral deals between parties and require compromise and accommodation¹¹⁶. Whilst Australia has no strongly ethnic parties, the potential exists for parties representing ethnic / racial minority interests to have a role in deciding policy outcomes, even without a presence in the legislative chamber.

4.2.2.2 *Preferential Proportional Representation*¹¹⁷

Under systems of preferential proportional representation, parties, groups and independent candidates are elected to parliament in proportion to their support in the electorate. Thus, the composition of the legislature will usually better reflect the proportion of votes received by candidates on a State or Territory-wide basis, than Houses where members are elected to single seat electorates.

In lower houses¹¹⁸, proportional representation is usually used in multi-member electorates, requiring compulsory preference voting and with no 'ticket-vote' option. As a result, the systems in Tasmania and the ACT tend to be candidate-centred. By contrast, upper house electorates¹¹⁹ use state-wide electorates, and permit voting above¹²⁰ or below¹²¹ the line. Party affiliation tends to assume an increased importance. Onselen has noted that 'above the line voting in the Senate largely removes the need for individual electoral appeal amongst candidates'¹²². The Australian Electoral Commission publishes details on the proportions of voters opting to vote above the line. Over time the use of this option has become virtually universal: up from 85.7 per cent in 1984 to 95.2 per cent in 2001 and 95.8 per cent in 2004. The figures are even higher for NSW: elections for the Legislative

¹¹⁵ C Sharman, A M Sayers, & N Miragliotta, 'Trading party preferences: the Australian experience of preferential voting' (2002) 21 *Electoral Studies* 543 at 544

¹¹⁶ Ibid, p 546

¹¹⁷ Preferential voting in a proportional representation system is generally found in upper houses with multi-member constituencies. Ballot papers often include an 'above-the-line' option. Candidates must poll a determined quota to be elected: Quota = (total number of valid votes / (number of vacancies + 1)) + 1

¹¹⁸ There are two lower houses using preferential proportional representation: the ACT Legislative Assembly, and the Tasmanian House of Assembly. These legislatures use the Hare-Clark system.

¹¹⁹ There are 5 upper houses using preferential proportional representation: the Commonwealth, NSW, SA, VIC, and WA.

¹²⁰ Group / party voting.

¹²¹ Candidate-centred; generally compulsory preferential.

¹²² Van Onselen, n 100, p 91

Council, held in 1999 and 2003, revealed that 96.19 per cent and 98.16 per cent of voters (respectively) opted for the ticket vote¹²³.

In relation to the impact of proportional representation on the electoral fortunes of smaller parties, it is more likely that smaller parties will gain representation in parliament, as each party or group is elected in proportion to the total number of votes it wins. It is common for minor parties and independents to hold the balance of power¹²⁴. Opponents of proportional representation argue that this frustrates the government's legislative agenda¹²⁵, allowing small parties to gain a disproportionately large amount of power. Supporters say proportional representation allows minorities to be represented and puts a check on executive dominance of parliament. For small or minority parties, proportional representation often requires large parties to negotiate with them, to make concessions or form coalitions that take their interests into account. As under a majoritarian system, the fact that parties nominate their own preferences can work positively for minor parties or those parties representing minority interests. Albeit an indirect form of political representation¹²⁶, minor parties can have an influence on the election of a representative through the allocation of second and third preferences. Zappala states that this voting system 'ensured that it was the Senate that saw the first indigenous parliamentarian in Australia and facilitated the increase in the number of women and ethnic members of parliament'¹²⁷. However, proportionality in and of itself is not a 'panacea for fairer representation'¹²⁸. Other influences include parties selecting and supporting candidates from under-represented groups¹²⁹, and the number of votes needed for election (the quota).

4.2.2.3 *District Magnitude, the Quota and Proportional Representation*

District magnitude refers to how many representatives a district / electorate elects to the legislature. The size of the district magnitude is generally accepted as 'the most important feature in determining the overall proportionality of an electoral system'¹³⁰. This is because the size of the district magnitude directly affects the quota – the number of votes required

¹²³ Farrell and McAllister, n 84, p 129 (for the Senate information). For the NSWLC, see A Green, *New South Wales Legislative Council Elections 2003*, Briefing Paper 8/03, NSW Parliamentary Library Research Service, 2003, p 16

¹²⁴ In upper houses. The 2004 federal election was the first time since the 1977 election that a government has secured a majority in the Senate.

¹²⁵ A Reynolds, B Reilly and A Ellis, *Electoral System Design: The New International IDEA Handbook*, International Institute for Democracy and Electoral Assistance, Stockholm, 2005, p 59

¹²⁶ Orr, n 89, p 20

¹²⁷ Zappala, n 4, p 5

¹²⁸ Ibid, p 20

¹²⁹ Discussed as a structural barrier at 4.2.1 'Preselection'.

¹³⁰ Farrell and McAllister, n 84, p 59. Also Reynolds *et al*, n 125, p 57

for election. As explained above, the quota equals: (total number of valid votes / (number of vacancies + 1)) + 1. For example, in a district in which there are only three members to be elected, a party must gain at least 25 per cent + 1 of the vote to be assured of winning a seat. In a nine-seat district, by contrast, 10 per cent + 1 of the vote would guarantee that a party wins at least one seat¹³¹. A large district magnitude will reduce the percentage of the final count required for election, and, in this way ‘something much more representative than “majority rules” is achieved’¹³². Reynolds, Reilly and Ellis¹³³ suggest that electoral systems which use reasonably large district magnitudes encourage parties to nominate candidates from minorities on the basis that balanced tickets will increase their electoral chances.

In terms of results, at different times over the last three decades, outside the major parties, the Senate has welcomed representatives of the Democratic Labor Party, the Australian Democrats, two different Greens’ parties, the Nuclear Disarmament Party, Pauline Hanson’s One Nation and independents. Yet ‘in the same period, no minor party was able to win a seat in the House of Representatives until the Greens broke through in a by-election in 2002’¹³⁴. Opponents of proportional representation do not dispute the ability of the system to achieve greater inclusiveness for minor parties. However, they do warn that ‘inclusive’ does not necessarily equate to ‘representative’¹³⁵. A good example is the 1999 NSW Legislative Council election. Eighty parties and groups fielding between them 264 candidates contested the 21 available seats. The ballot paper measured 1m by 70 cm, earning it the title of the ‘tablecloth ballot-paper’. Farrell and McAllister explain:

Micro parties took advantage of what transpired to be the lowest electoral threshold in Australia...combined with a lax party registration and candidate nomination regime. For many of them, their sole purpose was to act as ‘preference-funnels’, soaking up first preference votes that would transfer through ticket-voting deals to other parties¹³⁶.

As a result, the Carr Labor government introduced legislation reforming the electoral procedures to make it more difficult for micro-parties to win seats. The legislative reforms included tightening up the party registration and candidate nomination rules, and a change to the rules on ticket voting. Under the new procedures, voters are able to rank the party lists above the line and there are no ticket preference deals that lead to the transfer of preferences¹³⁷.

¹³¹ Reynolds *et al*, n 125, p 82

¹³² Orr, n 89, p 21

¹³³ Reynolds *et al*, n 125, p 122

¹³⁴ Orr, n 89, p 21

¹³⁵ *Ibid*, p 23

¹³⁶ Farrell and McAllister, n 84, p 66

¹³⁷ However, Farrell and McAllister add: ‘Technically, there is a ticket-deal between parties, because the parties are obliged to nominate a second party to receive preferences (ie,

Currently the Senate has representatives from 7 parties¹³⁸. There are no independent or indigenous Senators. There are only 5 Senators of ethnic background¹³⁹. The NSW Legislative Council has representatives from 11 parties¹⁴⁰. There are no indigenous MLCs. There are 7 MLCs of ethnic background¹⁴¹. As the table entitled 'Ethnic Members as a Proportion of Total Members' below shows, although legislatures employing proportional representation constitute the two of the top three¹⁴² Houses in terms of the proportion of members with an ethnic background, they also constitute two of the lowest five Houses. However, preferential majoritarian electoral systems – that rely exclusively on single-member districts – cannot guarantee any proportional representation or even a minimal percentage of seats for minority political parties or for ethnic, racial or religious minority groups in the population. In single member districts presence is most easily achieved where minorities are geographically concentrated and 'of sufficient size to control the majority of votes in a requisite number of districts'¹⁴³. Most minority parties and minority groups, however, do not achieve this level of proportionality in representation in single-member districts – particularly indigenous minorities. Unlike ethnic minorities, whose geographical concentration in particular areas, albeit from diverse backgrounds, enables the creation of 'ethnic electorates', it is difficult to speak of 'indigenous electorates'. Apart from the Northern Territory, and one or two electorates in Queensland and Western Australia, indigenous Australians are generally concentrated in relatively small pockets in safe National Party seats, where 'their ability to bring pressure to bear on individual MPs is limited'¹⁴⁴. In other state and territory electorates the Anglo-Australian population is normally in the majority. Jupp concludes:

One continuing consequence of this has been the consistent 'under representation' of the quarter of the population which is not derived from the British Isles, and

those not otherwise allocated by those voters who opt to express more than one preference above the line). This is in order to ensure that a vote is not declared invalid if, for example, a voter has expressed just one preference above the line and the party in question loses its 15th candidate due to an unexpected death' (Farrell and McAllister, n 84, p 188, fn 28).

¹³⁸ The Australian Democrats, the Australian Greens, the ALP, the Country Liberal Party, Family First, the Liberal Party of Australia, and the Nationals.

¹³⁹ 6.6 per cent of all Senate members.

¹⁴⁰ The Australian Democrats, the Christian Democratic Party (Fred Nile Group), the ALP, the Liberal Party, One Nation, the Outdoor Recreation Party, the Shooters Party, the Greens, the Nationals, Unity and an independent member.

¹⁴¹ 16.67 per cent of NSW Legislative Council members.

¹⁴² Refer to the rows labeled 'Ranking'.

¹⁴³ L Handley 1999, *Boundary Delimitation: Fairness for Political Parties and Minority Groups*, The International Foundation for Election Systems, the International Institute for Democracy and Electoral Assistance and the United Nations Department of Economic and Social Affairs, viewed 10 October 2005, <<http://www.aceproject.org/main/english/bd/bdb05d.htm>>

¹⁴⁴ Zappala, n 4, p 20

particularly of the 15 per cent who were born in non-English speaking countries¹⁴⁵.

Ethnic Members as a Proportion of Total Members

Ethnic Members ¹⁴⁶	CTH	NSW	VIC	SA	QLD	WA	NT	ACT	TAS	Total
Lower House	19	12	15	3	5	5	3	3	2	67
(% of Lower House members)	12.67	12.90	17.05	6.38	5.62	8.77	12.00	17.65	8.00	11.34
Ranking	7	6	4	13	14	9	8	3*	11*	
Upper House	5	7	12	5		3			0	32
(% of Upper House members)	6.58	16.67	27.27	22.73		8.82			0.00	13.73
Ranking	12*	5*	1	2*		10*			15	

4.2.2.4 *Mixed Member Proportional Representation¹⁴⁷ - the New Zealand Experience*

In December 1986, the New Zealand Royal Commission published its report on electoral systems. It recommended the adoption of the German-style Mixed Member Proportional system (MMP). In 1992, New Zealand held a non-binding referendum regarding the future of the electoral system. Although only 55 per cent of electors took part, an overwhelming 85 per cent voted to change their electoral system. In the second part of the poll, 70 per cent favoured MMP. It established that there was a popular desire for change to the electoral system and showed that MMP was the most preferred alternative. A further binding referendum was held at the time of the general election in 1993. The turnout was much higher – 85 per cent - and the result much closer than in 1992. The introduction of MMP as proposed in the *Electoral Act 1993* (NZ) was approved by a margin of 54 per cent to 46 per cent. The first MMP election was held in 1996. Since then elections have been held in 1999, 2002 and 2005.

Under MMP, each voter has two votes – a ‘party’ vote and an ‘electoral’ vote. The party vote determines how many of parliament’s 120 seats a party can claim: a party’s share of the total seats in parliament is proportional to the percentage of party votes it receives. The threshold for party parliamentary representation is 5 per cent of the list vote or one electoral constituency. Every voter in every general and every Maori electorate has the same selection of parties to choose from. The electoral vote helps decide who becomes a local

¹⁴⁵ Jupp, n 6, p 22

¹⁴⁶ The legislatures employing an electoral system of proportional representation are marked by an asterisk (*). As mentioned previously, a system of proportional representation will be used in elections for the Victorian Legislative Council for the first time in November 2006. Thus, in this table the 12 Ethnic Members of the Victorian Upper House were elected using the majoritarian “alternative vote” electoral system. The Upper House was divided into 22 electoral provinces with two councillors representing each province. A candidate had to poll 50 per cent + 1 of the vote to be elected (rather than the quota system used for proportional representation).

¹⁴⁷ See Griffith for a comprehensive history of Maori political representation, including the establishment and preservation of Maori reserved seats (Griffith, n 20, pp 31-35).

MP. Candidates for electoral seats are elected on a first-past-the-post basis (FPP). The number of South Island general constituencies has been fixed at 16. After each census this number is divided into the South Island population to provide a quota by which the number of North Island and Maori constituencies can be determined. The arrangement for Maori representation is set out in section 45 of the *Electoral Act 1993* (NZ), which provides that the Maori electoral population is to be divided by the quota for General electoral districts in the South Island, and ‘the quotient so obtained shall be the number of Maori electoral districts’ (s 45(3)(a)).

A common criticism of MMP is that the system results in a lack of strong government. Although single-party majority governments are possible under MMP, they are less likely. The 1996 election produced a close and indecisive result. After two months of negotiations a coalition government was formed between the previously hostile National and New Zealand First parties. The break-up of the National-NZ First government in August 1998 led to a National-led minority government

which relied on a fragile collection of votes from independents, Maori Pacific, ACT and United to retain the confidence of the House. Every major issue had to be negotiated between National and its supporters amongst the independents and minor parties...Policy bargaining and trade-offs became the order of the day¹⁴⁸.

The most recent New Zealand election was held on 17 September 2005. Prime Minister Helen Clark formed her third successive minority government after the Labour Party won 41 per cent of the vote. Labour has a formal coalition with the Progressive Party and confidence and supply deals with New Zealand First and United Future. Prime Minister Helen Clark has successfully led two minority governments, and Labour held its share of the party vote, which suggests that its support base remains strong. Coalition government need not necessarily be unstable government.

The five minor parties that won a significant share of the vote in the 2002 election saw their vote drop 16.7 percentage points in total — almost as much as the National Party gained. Two of these parties plunged in the polls to below the 5 per cent threshold that guarantees parliamentary seats. They returned to parliament by virtue of winning an electorate seat. Despite the fall in vote share for the minor parties, a sixth party — the new Maori Party — won four of the seven Maori electorates. The tables¹⁴⁹ below illustrate the results of the 2005 election.

¹⁴⁸ F Barker & E McLeay, ‘How Much Change? An Analysis of the Initial Impact of Proportional Representation on the New Zealand Parliamentary Party System’ (2000) 6(2) *Party Politics* 131 at 143

¹⁴⁹ Source: S Miskin, *New Zealand Election: 17 September 2005*, Research Note No 17, Commonwealth Parliamentary Library Information and Research Service, Canberra, 2005, pp 1, 2

Election Results by Breakdown of Seats

Results 2005 (2002)	Party vote (%)	Electorate seats	List seats	Total seats
Labour	41.1 (41.3)	31 (45)	19 (7)	50 (52)
National	39.1 (20.9)	31 (21)	17 (6)	48 (27)
NZ First	5.7 (10.4)	0 (1)	7 (12)	7 (13)
Green Party	5.3 (7.0)	0 (0)	6 (9)	6 (9)
Maori Party	2.1 (–)	4 (–)	0 (–)	4 (–)
United Future	2.6 (6.7)	1 (1)	2 (7)	3 (8)
ACT NZ	1.5 (7.1)	1 (0)	1 (9)	2 (9)
Progressive	1.1 (1.7)	1 (1)	0 (1)	1 (2)
Total	98.5 (95.1)	69 (69)	52 (51)	121 (120)

Vote Share Percentage of Major / Minor Parties

Vote Share Percentage of Individual Minor Parties

Vote share (%)	Major Parties	Minor Parties	Vote share (%)	2002	2005
1990	82.9	17.1	NZ First	10.4	5.7
1993	69.8	30.2	Green	7	5.3
1996	62	38	Maori	—	2.1
1999	69.2	30.8	United Future	6.7	2.6
2002	62.2	37.8	ACT NZ	7.1	1.5
2005	80.2	19.8	Progressive	1.7	1.1

According to Lisa Handley, mixed electoral systems such as MMP – because they combine single-member districts with seats that are allocated to political parties on the basis of a party list – ‘may not have to institute special provisions to provide minority representation’¹⁵⁰. If Handley is correct, the effect of MMP on the New Zealand party system should be the increased presence of minor parties within the legislature. This was also an argument put forward by the 1986 Royal Commission on Electoral Reform, which argued that the MMP system would be ‘a much more effective way to ensure all parties and parliamentary representatives were responsive to Maori interests’¹⁵¹.

The introduction of MMP in 1996 has certainly had the effect of making the New Zealand parliament far more ethnically representative than ever before, with all parties standing Maori candidates in winnable positions on their party lists¹⁵². Barker and McLeay agree¹⁵³ that MMP, by facilitating the entry of more Maori into parliament, has made Maori issues a policy dimension that all parties will have to consider when competing for votes. Further, until the September 2005 election, parties have always won fewer electorate seats than the

¹⁵⁰ Handley, n 143

¹⁵¹ Sawyer, n 11, p 45

¹⁵² Ibid

¹⁵³ Barker & McLeay, n 148, p 148

total number of seats to which they have been entitled according to their share of the party vote. However, in 2005 the Maori party won 2.1 per cent of the party vote, which entitled it to three seats, but it won four electorate seats. Because seats cannot be taken away from a party, the NZ parliament now has an ‘overhang’¹⁵⁴ – 121 members instead of 120.

The MMP system was partly designed to increase Maori representation, and was not aimed at ‘mirror representation’ by ethnicity¹⁵⁵. However, there has been positive change in the ethnic composition of the New Zealand parliament since its introduction. It is beyond contention that – in absolute terms – the representation of ethnic minorities has improved under MMP¹⁵⁶. In terms of the proportion of the total population, the improvements are less spectacular. At the time of the 2001 Census, people of Pacific background comprised 6.5 per cent¹⁵⁷ of the population, yet constituted only 2.5 per cent of the 2002¹⁵⁸ parliament. People of Asian background comprised 6.6 per cent¹⁵⁹ of the population, yet constituted only 1.7 per cent of the 2002 parliament. The Maori alone – comprising 14.7 per cent¹⁶⁰ of the population, and constituting 15.8 per cent of parliament – are proportionately represented.

Percentage of MPs: Group Representation in NZ Parliament¹⁶¹

Election Year	Maori Members (%)	Pacific Members (%)	Asian Members (%)
1987	5.2	-	-
1990	6.2	-	-
1993	7.1	1	-
1996	12.5	2.5	0.8
1999	13.3	2.5	0.8
2002	15.8	2.5	1.7
2005	17.4		

¹⁵⁴ Miskin, n 149, p 2

¹⁵⁵ Jupp, n 6, p 29

¹⁵⁶ See the table below entitled ‘Percentage of MPs: Group Representation in NZ Parliament’.

¹⁵⁷ Statistics New Zealand 2005, *Census of Population and Dwellings 2001*, Reference Report: Ethnic Groups (Highlights), viewed 20 January 2006, <<http://www.stats.govt.nz/census/2001-ethnic-groups/highlights.htm>>

¹⁵⁸ The election closest in time to the Census date.

¹⁵⁹ Statistics New Zealand 2005, *Census of Population and Dwellings 2001*, Reference Report: Asian People (Highlights), viewed 30 January 2006, <<http://www.stats.govt.nz/census/2001-asian-people/highlights.htm>>

¹⁶⁰ Statistics New Zealand 2005, *Census of Population and Dwellings 2001*, Reference Report: Maori (Highlights), viewed 30 January 2006, <<http://www.stats.govt.nz/census/2001-maori/highlights.htm>>

¹⁶¹ S Church & E McLeay, ‘The Parliamentary Review of MMP in New Zealand’ (2003) 39(4) *Representation* 245 at 246 (Figure 1: Group representation in the NZ Parliament 1966-2002). The author of this paper added the figures for Maori members in 2005.

5. THEORIES OF REPRESENTATION

Gianni Zappala has noted that members of parliament face conflicting pressures from the ‘rather unholy trinity of their constituents, their party and their conscience’¹⁶². To whom do they owe their allegiance? And what should the role of a political representative be? In addition to the proper role of elected members, this section considers the composition of parliament: should parliament be concerned with the politics of physical presence (the notion that actual presence in the legislative chamber is fundamental to authentic representation) or only the politics of ideas (representing citizens’ opinions and policy preferences)? How important are issues of equality, recognition and symbolism in determining the make-up of legislatures? These questions are at the centre of theories of representation.

5.1 Microcosmic representation

Microcosmic, or ‘mirror’, representation theory is concerned with ensuring that elected representatives reflect social groups on a proportional basis. It is based on the belief that members of certain groups or with certain experiences cannot be sufficiently represented by members of another group. It focuses on who has the legitimacy to speak on behalf of others, and the limitations of one-vote, one-value systems in plural societies. It answers the question ‘Does it matter who the representatives are?’ with a resounding ‘yes’.

One of the earliest examples of mirror representation in Australia – as applied to class difference – is the founding of the Australian Labor Party. The ALP was created at the beginning of the 1890s ‘with the idea that the labour movement needed working-class representatives in parliament; that in a crisis middle-class radicals were always likely to side with the employers’¹⁶³. The aim was to ensure the representation of workers, by workers. At the heart of mirror representation theory therefore is the assumption that similarity – between the represented and the representative – of class / race / ethnicity (or some other combination), is required for that representation to be authentic. Well-known author and former journalist, Craig McGregor, refers to the ‘emotional and moral force’¹⁶⁴ existing in the experience of members of any (class) group ‘which cannot be reproduced or represented by members of another class group’¹⁶⁵.

Zappala has explained the importance of parliamentary presence in relation to ethnicity as follows:

First it provides the political system with a sense of legitimacy in the eyes of all the citizenry. Second, elected representatives from an ethnic background may be more responsive and empathetic to the wishes of the constituents from ethnic

¹⁶² Zappala, n 5, p 189

¹⁶³ Sawer, n 11, p 46

¹⁶⁴ McGregor, n 51, pp 90-91

¹⁶⁵ Ibid

backgrounds than representatives who are not. To [use an analogy] ‘spaghetti’ *should* rejoice if ‘linguine’ are elected because they are both pasta and can therefore more ‘authentically’ represent issues of concern to pasta... Finally, and related to the legitimacy argument, is the symbolic importance of having members from ethnic groups visible in the various legislatures, especially in countries like Australia, where the process of mass migration has challenged traditional views of national identity. Struggles over identity politics are essentially about appropriate symbols and who has the power to define those symbols. As key institutions where symbolic struggles often take place, parliaments should contain representatives of different ‘interpreters’ of the symbols of nation¹⁶⁶.

In recent times, calls for reserved seats for indigenous Australians, have been based on the same principle: the politics of presence¹⁶⁷.

5.1.1 *Legitimacy / Authenticity*

In the quote by Zappala given above, reference is made to the legitimacy or authenticity derived by parliament when its members share similar characteristics with their constituents. Professor Marian Sawer, Visiting Fellow with the Political Science Program at ANU, has also identified the strengthening of legitimacy as a consequence of ‘mirror’ representation:

Already in 1996 about half of the federal parliamentarians I interviewed mentioned the importance of representing some aspect of their identity shared with others in the broader community, in addition to more traditional party and electorate representation. These parliamentarians believed that some degree of ‘mirror’ representation was important in strengthening the legitimacy of parliament and ensuring that the interests of different sections of the community were not overlooked. Examples given of under-represented groups included Australians from non-English speaking backgrounds, Australians of Asian backgrounds, Indigenous Australians, people with disabilities, young people, people of low socio-economic status and women¹⁶⁸.

She concludes: ‘When people can look and see people like themselves, they are much more likely to identify with an institution and have a sense of ownership’¹⁶⁹.

¹⁶⁶ Zappala, n 40, p 137

¹⁶⁷ The title of Phillips’ book: n 3

¹⁶⁸ Sawer, n 11, p 57

¹⁶⁹ Ibid, p 58

5.1.2 *Responsiveness: An Erroneous Assumption?*

Another feature of mirror representation mentioned by Zappala is the expectation of greater responsiveness by members. That is, the notion that nobody can better express the distinctive perspectives of a group than someone who is a group member. He writes:

Microcosmic representation is considered to be important...because it is assumed that an elected representative who is also from a particular group in society will be more responsive and empathetic to the wishes of constituents from that same group than a representative who is not¹⁷⁰.

Anne Phillips, Professor of Gender Theory at LSE¹⁷¹, draws the distinction between policies worked out *for* rather than *with* a politically excluded constituency, concluding that the former are ‘unlikely to engage with all relevant concerns’¹⁷².

As mentioned above, mirror representation theory has at its centre an assumption: the assumption that similarity between the represented and the representative – of class / race / ethnicity (or some other combination) – will increase the responsiveness of members. Some have questioned that assumption. Sawyer and Zappala remind us that: “‘Standing for’ is not the same as ‘acting for’...and we cannot assume that those who embody group characteristics will necessarily act in the interests of that group”¹⁷³. Phillips, discussing dedicated seats for Maori in the New Zealand parliament, makes the point that, lacking an explicit chain of command, members with similar experiences / characteristics of minority groups are under no compulsion to speak for that group:

If they are not elected by or linked in any formal way to the group, there is no obvious way of ensuring that Maori will speak for the needs or concerns of Maori, women for the needs or concerns of women, or African Americans for the needs or concerns of African Americans. Whatever links individuals may happen to feel with their identity group, whatever responsibilities they may choose to assume for raising group priorities and concerns, there is no explicit chain of command requiring them to do so¹⁷⁴.

Finally, the assumption upon which the theory is based postulates a homogeneity of opinion amongst minority groups that fails to account for the variety of opinions and ideals that must exist within any cultural or ethnic group. For example, differences of opinion and

¹⁷⁰ Zappala, n 5, p 193

¹⁷¹ The London School of Economics and Political Science

¹⁷² Phillips, n 3, p 13

¹⁷³ Sawyer M & Zappala G, ‘Introduction: Representation in Australian Politics’ in M Sawyer & G Zappala (eds) *Speaking for the People. Representation in Australian Politics*, Melbourne University Press, 2001, p 9

¹⁷⁴ Phillips A, ‘Representation Renewed’ in M Sawyer & G Zappala (eds) *Speaking for the People. Representation in Australian Politics*, Melbourne, 2001, p 33

outlook would be expected between indigenous Australians of urban or rural, and traditional or professional backgrounds. The Legal, Constitutional and Administration Review Committee of the Legislative Assembly of Queensland, in relation to participation by indigenous people in parliament, recognised: ‘Greater participation of Indigenous people in the current system will not necessarily ensure that the broad variety of interests of Indigenous peoples are effectively represented in Parliament’¹⁷⁵. This is a critique also raised by Phillips:

Does this more rely on an implausible essentialism which presumes that all women have identical interests, or that all black people think the same way? And if not, in what sense are we more fairly represented when we see our representatives as more like ourselves? Accountability is always the other side of the coin in any discussion of representation, and it is hard to conceive of accountability except in terms of policies and programmes and ideas. What then is added by an additional insistence on equal numbers of women and men, or a fairer balance between ethnic groups?¹⁷⁶

5.1.3 *Symbolism and the Effect on Other Members*

Where minority groups have historically been excluded from legislatures, ‘mirror’ representation advocates that presence in the legislative chamber is a powerful symbol of acceptance and inclusion. For Phillips, presence in the legislative chamber also marks an end to paternalism in policy making:

When those charged with making the political decisions are predominantly drawn from one of the two sexes or one of what may be numerous ethnic groups, this puts the others in the category of political minors. They remain like children, to be cared for by those who know best. However, public-spirited their mentors may be, this infantilization of large segments of the citizenry is hardly compatible with modern-day democracy...¹⁷⁷

Phillips further argues:

Where there has been a long history of subordination, exclusion or denial, it is particularly inappropriate to look to individuals without such experience as spokespeople for the group in question: not because such individuals can never be knowledgeable or never be trusted, but because, failing the direct involvement of those with the relevant experiences, the policy process will be inherently paternalistic and the policy outcomes almost certainly skewed¹⁷⁸.

¹⁷⁵ QLD, Parliament, Legislative Assembly, Legal, Constitutional and Administration Review Committee, “Hands on Parliament. A Parliamentary Committee Inquiry into Aboriginal and Torres Strait Islander Peoples’ Participation in Queensland’s Democratic Process, Issues Paper, December 2002” (2003) 8(2) *Australian Indigenous Law Reporter* 65 at 70

¹⁷⁶ Phillips, n 3, pp 23-24

¹⁷⁷ Ibid, p 39

¹⁷⁸ Phillips, n 174, p 26

The value to minority groups of acquiring a presence in parliament is disputed. A criticism of ‘mirror’ representation theory is that representatives who do not share the characteristics of the minority group are then absolved of responsibility to raise, or consider, issues on behalf of that group. This is a type of segmentation where, if the ‘mirror representative’ does not raise minority issues, they are not raised at all. The fact that one vote in a majority-led chamber does not yield much power is also pointed to as evidence of the limited benefit acquired by minority groups through mere presence. Conversely, however, Phillips views the potential effect on other legislators of the presence of members of minority groups in a positive light. She writes: ‘By their very presence, they also make it more likely that members of dominant groups will recognise and speak to their concerns’¹⁷⁹, and, ‘[a]t least threshold presence of those who are different means that representatives have to “speak to” difference, even if they are unable to “speak for” it’¹⁸⁰. Thus, the presence of a minority representative may have an influence on parliamentary proceedings that is disproportionate to the pure numerical value of that representative’s vote.

5.1.4 Equality

Proponents of mirror representation view levels of participation in parliamentary assemblies as a reflection of the exclusion or inequality of social structures. Although mirror representation theorists accept that policies, programs or ideals may be advocated by parliamentarians who are themselves unaffected by them, they question why those who *are* affected are not represented by a member of that same group / class. Phillips explains this approach as follows:

Politicians are elected on party commitments, which might include any number of policies relating to sexual or racial equality or the fairer treatment of minority groups. If there is a clear mandate for these policies, does it really matter who the politicians are? ... Part of the answer to this refers back to symbolic representation, for there is something distinctly odd about a democracy that accepts a responsibility for redressing disadvantage, but never sees the disadvantaged as the appropriate people to carry this through¹⁸¹.

According to Phillips:

Men may conceivably stand in for women when what is at issue is the representation of agreed policies or programmes or ideals. But how can men legitimately stand in for women when what is at issue is the representation of women *per se*? White people may conceivably stand in for those of Asian or African origin when it is a matter of representing particular programmes for racial equality. But can an all-white assembly really claim to be representative when those

¹⁷⁹ Ibid

¹⁸⁰ Sawyer & Zappala, n 173, p 8

¹⁸¹ Phillips, n 3, pp 43-44

it represents are so much more ethnically diverse¹⁸².

For mirror representatives, political equality is not sufficiently guaranteed by a system of ‘one person, one vote’. Minorities need to be actively consulted and protected. One way to reverse previous histories of exclusion would be ‘to break the link between social structures of inequality or exclusion and the political reflection of these in levels of participation and influence’¹⁸³.

5.1.5 *Some Criticisms*

The main critiques of ‘mirror’ representation, as canvassed by Phillips, are:

1. *Creation of Tension*

‘Mirror’ representation will lead to the creation of tensions and entrenched positions, thereby compromising cooperation and negotiation between advocates of opposing opinions:

Too much emphasis on group difference threatens to propel citizens out of [the] realm of unifying ideas, and the prospects for cross-group co-operation then become more bleak. A politics that gives increased weight to social identities may block the very alliances that are necessary for change¹⁸⁴.

2. *A Novelty*

The race or ethnicity of ‘mirror’ representatives will be a novelty to be focused on, distracting attention from the issues of the day:

The fact that female leaders of political parties or female Ministers are still a ‘novelty’ makes it the easier for the media to play on gendered or ethnicised ‘representations’ of them. Portrayal of their actions and policies tends to be filtered through their sex or ethnicity, or rather, stereotypical images of these, precisely because they are seen as ‘different’, irrespective of whether the ‘difference’ is pertinent to the issue at hand¹⁸⁵.

3. *The Floodgates Argument*

Promoting ‘mirror’ representation may lead to the opening of floodgates with all manner of groups sharing certain characteristics demanding formal representation in parliament:

Once the characteristics of the people are acknowledged as relevant, there is said to

¹⁸² Ibid, p 6

¹⁸³ Ibid, p 40

¹⁸⁴ Ibid, p 23

¹⁸⁵ Zappala, n 4, p 7

be a potentially endless list of groups that will all claim the same kind of attention, and no legitimate basis for distinguishing between some of these groups and the others¹⁸⁶.

5.2 Normative Theories of Representation

Normative theories of representation are concerned with the proper role of elected representatives - what the relationship should be between representatives and represented. These theories ask: To whom should representatives feel primarily accountable? And, where should their representational focus lie? Normative theories seek to recommend one approach over another by considering how things should or ought to be, how to value them, and which things are good or bad.

In terms of representation, normative theory offers a choice between the ‘trustee / independent’ model and the ‘mandate / delegate’ model¹⁸⁷. As Jane Mansbridge of Harvard University explains: ‘In the “mandate” version of the model, the representative promises to follow the constituents’ instructions; in the “trustee” model the representative promises to further their interests’¹⁸⁸.

5.2.1 *Trustee (Independent)*

According to Sawyer, ‘The trustee...is a man of judgment who will act in the national interest or in the best interests of those he represents, but without their detailed supervision’¹⁸⁹. The trusteeship model of representation promotes the politics of ideas (representing citizens’ opinions and policy preferences), rather than of presence. Proportional representation of sectional interests in society – vital in mirror representation – is not crucial in the trusteeship model. Sawyer affirms this:

The concept of trusteeship is often associated with a rejection of the ‘mirror’ as well as the ‘mouthpiece’ versions of representation. In order to safeguard their interests, voters should select representatives who are superior in civic virtue and competence to themselves rather than being statistically representative of them or their opinions¹⁹⁰.

Zappala offers a different viewpoint, agreeing with Phillips that the more autonomous (or free of mandates) our political representatives are, the more it matters ‘who’ they are:

¹⁸⁶ Phillips, n 3, p 46

¹⁸⁷ The proper role of the representative is ‘generally believed to fall somewhere between these two poles’: Zappala, n 5, p 188

¹⁸⁸ J Mansbridge 1998, *The Many Faces of Representation*, Working Paper, Politics Research Group, JFK School of Government, Harvard University, viewed 12 November 2005, <<http://www.ksg.harvard.edu/prg/mansb/faces.htm>>

¹⁸⁹ Sawyer & Zappala, n 173, p 4

¹⁹⁰ Sawyer, n 11, p 39

If politicians are there solely to implement a pre-determined mandate, then their social composition is less important. If, on the other hand, representatives have greater autonomy of judgment, then the different ‘life experiences’ and perspectives that a more diverse legislature may bring to bear on policy-making becomes more critical... The presence of particular groups who have been previously excluded in parliaments is important for getting their perspective into the chamber, requiring others to internalise their point of view and hence change the nature of how the ‘others’ think¹⁹¹.

5.2.2 *Mandate (Delegate)*

In representative terms, a delegate is a representative acting upon a given (party) mandate and closely bound by those they represent. Accountability is seen as more democratic than allowing people to strike out on their own: ‘If representatives are not to be bound by the policies or manifestos on which they were elected, there seems little point describing what they do as representation. Either there is some notion of party mandates or there is no representation at all’¹⁹².

Canadian MP Monique Guay has written about the tension between party discipline, representation of voters and a representative’s personal beliefs. Essentially, proponents of party discipline argue that it has a dual objective: first, ‘to ensure a clear distinction between the government and the opposition in Parliament’, and second, ‘to provide a measure of ideological certainty on which voters can count’¹⁹³. These objectives are reflected in the writing of British political scientist, A H Birch¹⁹⁴, as he explains the assumptions underlying the concept of the party mandate, and the delegate-style of representation:

- that at elections voters will be given a choice between two or more alternative programs of action, knowing that the winning party will do its best to put the program into effect during the next parliament;
- that the party which wins a parliamentary majority is not only entitled but obliged to carry out its stated aims, having a mandate from the people for this purpose;
- that individual parliamentarians are obliged to support their party in parliament, as they were elected on a party platform and their individual opinions are largely irrelevant.

¹⁹¹ Zappala, n 4, p 4

¹⁹² Phillips, n 174, p 27

¹⁹³ M Guay, ‘Party Discipline, Representation of Voters and Personal Beliefs’ (2002) Spring *Canadian Parliamentary Review* 8

¹⁹⁴ As summarised in Sawer, n 11, p 49

What are the implications of the mandate / delegate approach for ethnic representation? There may be a limit on the freedom to speak out on issues about which a representative feels strongly, but which are not endorsed by the party generally. Examples may include strong support for multiculturalism or for ethnic and indigenous rights. Possible ‘punishments’ could include withholding support for preselection, reordering the party list on a ballot paper, or a ministerial reshuffle. In 1983, indigenous Senator, Neville Bonner, lost his seat after being moved from first to third place on the Liberal Party’s Senate ticket. Bonner had been critical of Coalition policy in the area of indigenous rights and on several occasions had voted with the Opposition on indigenous issues.

5.3 Case Study: Ethnic MPs and Ethnic Electorates

This section focuses on the findings of a study carried out by Gianni Zappala in 1998. The study was concerned with the ethnicity of MPs and constituents, and the influence, if any, this characteristic had upon the representative style of the MP at the parliamentary level. Zappala identified two questions:

- (1) does the ethnicity of the electorate influence the behaviour of MPs at the parliamentary level; and
- (2) what other factors influence the degree of parliamentary responsiveness on the part of MPs to their ethnic constituents¹⁹⁵.

The study examined:

- 12 ‘ethnic’ electorates (8 from NSW, 4 from Victoria; 7 held by the ALP, 4 predominantly by the Liberal Party and one held evenly by both parties);
- 10 non-ethnic electorates (chosen randomly from two categories: non-ethnic urban and non-ethnic rural); and,
- the electorate of Bowman (to study the effect of having an ethnic MP in a non-ethnic electorate).

In total, Zappala considered only 15% of all federal electorates and acknowledged that this was ‘by no means a representative sample’¹⁹⁶.

5.3.1 Ethnic Interventions

Interested in the representative style of MPs at the parliamentary level, Zappala used Hansard records to see how many interventions (eg, questions and speeches) were made by the members for each of the relevant electorates over a certain period. An annual denominator was calculated by tallying up the interventions. ‘Ethnic’ interventions were

¹⁹⁵ Zappala, n 5, p 188

¹⁹⁶ Ibid

then classified according to whether they were predominantly:

- (a) a general ethnic issue (eg, a speech on multiculturalism or immigration);
- (b) a constituency ethnic issue (eg, a reference to matters which directly related to the MP's ethnic constituents in his or her electorate); or,
- (c) a homeland politics issue (eg, interventions which related to some aspect of an overseas country because that MP's electorate contained a significant number of people from that country)¹⁹⁷.

In terms of the types of ethnic issues raised, Zappala found:

First, although general ethnic issues are the most frequent type of intervention in both groups, there is a much stronger constituency focus in the group of ethnic electorates (42% of all interventions) than in the non-ethnic group (20% of all interventions). This greater constituency focus is consistent with the high proportion of ethnic constituents in these electorates... Third, interventions relating to homeland politics are primarily an issue in ethnic electorates... Finally... the findings... support the hypothesis that the ethnicity of the MP does make a difference. The dominance of the general ethnic issue type for both Calwell in the ethnic group (the highest at 83%) and Bowman in the non-ethnic group (100%) further supports the idea... that ethnic representatives take on an 'areal' as opposed to a constituency-based role to representation. They become (willingly or not) national representatives and symbols for Australians of ethnic background¹⁹⁸.

The final two sentences above identify ethnic representatives as trustee-like in their representational style. It is a view echoed by Sawyer who states that – in raising general ethnic issues such as multiculturalism or ethnic rights – these legislators transcend their geographical electorates, and often their party mandates¹⁹⁹. Elsewhere Zappala refers to ethnic MPs 'taking on representational roles which extend beyond the geographical confines of their immediate electorates', and further, that these roles are 'more often that not... self-imposed by the MPs themselves who feel they have a duty to represent *all* people from ethnic backgrounds'²⁰⁰.

This is not a phenomenon at the federal level only. In 2001, in relation to representation by ethnic MPs at State level, Zappala wrote: 'anecdotal evidence suggests that many MPs of ethnic background at State level have a higher degree of parliamentary responsiveness to ethnic constituents and issues'²⁰¹. A well-known example of State MPs of ethnic

¹⁹⁷ Ibid, p 196

¹⁹⁸ Ibid, pp 203-204

¹⁹⁹ Sawyer, n 11, p 39

²⁰⁰ Zappala, n 5, p 203

²⁰¹ Zappala, n 40, p 141

backgrounds publicly defending multiculturalism was the reaction to Pauline Hanson's One Nation. Among those who protested were Senator Helen Sham-Ho in NSW, and Joe Scalzi and Carmelina Zollo in South Australia.

At local government level, in a survey conducted in 1982, 49 councillors in Sydney and Melbourne revealed that 76 per cent of them felt they had a special relationship with their immigrant constituents that Australian-born representatives did not share. It was also suggested that at least one-third of ethnic councillors had been drawn into local politics in order to help the ethnic community²⁰².

5.3.2 *Ethnic Reference Ratio*

In the 1998 study, in order to measure the responsiveness of representatives from ethnic electorates in comparison to those from non-ethnic electorates, Zappala developed an ethnic reference ratio. The ratio divided (weighted) ethnic references by non-portfolio related interventions – the larger the outcome, the more responsive the Member. The results were as follows:

[I]t would appear that representatives from ethnic electorates... have higher degrees of responsiveness with respect to their ethnic constituents as measured by the ethnic reference ratio compared with the representatives from the non-ethnic electorates. In other words there appears to be an ethnic electorate effect on the parliamentary behaviour of MPs²⁰³.

5.3.3 *Ethnic Distance Ratio*

The development of an ethnic distance ratio²⁰⁴ enabled a proportional analysis to be made of the number of ethnic interventions as compared to the number of people from NESB in each electorate. Thus, a 'perfect congruence between the proportion of ethnic references and the proportion of ethnic constituents would mean that dividing the former by the latter would give a score of one'²⁰⁵. Zappala elaborated:

The further from 'one' is this measure, which is termed the *ethnic distance ratio*, the less responsive (in parliamentary terms), it can be argued, is the electorate's representative/s to their ethnic constituents... Two of the three most ethnically responsive seats... have a relatively small proportion of people born in NESBs. In contrast, seven of the twelve ethnic electorates are all to the right-hand side (lower responsiveness) of the median... This suggests that not all the representatives of the so-called ethnic electorates are reflecting their ethnic constituents in proportion to

²⁰² Ibid, p 142

²⁰³ Zappala, n 5, p 198

²⁰⁴ This involved dividing the ethnic reference ratio by the proportion of people from NESB in the electorate.

²⁰⁵ Zappala, n 5, p 198

their numbers in the electorate²⁰⁶.

5.3.4 *Non-Ethnic Electorates*

The presence of a strong and tight-knit ethnic community in a non-ethnic electorate was found to be an important influence on representational behaviour in parliament. In the context of the study, Zappala reported:

Within the non-ethnic electorates, a somewhat surprising result is the strong performance of the National Party, with two of the three most responsive electorates (Riverina and Dawson) being held by representatives from the National Party. The result of Riverina can perhaps be explained by the fact that although it has only 5% of its population born in a NESC, there is a strong and long-settled Italian community concentrated in and around the town of Griffith... The result for Riverina once again lends support to the idea that a minority group in a single-member electorate is likely to have a bigger influence on the elected representative when that group is a significant force in the electorate. This finding also suggests that it may not be the ethnicity of the electorate (in terms of absolute proportions) that is important in influencing representational behaviour, but the relative importance (both numerical and economic) of any one particular ethnic group relative to the rest of the electorate²⁰⁷.

5.3.5 *Summary*

Zappala gives a summary of the findings of the 1998 study:

Firstly, the ethnicity of the electorate does have an influence on ethnic responsiveness in absolute terms but less so in relative terms. In other words, MPs from ethnic electorates generally make more ethnic-related interventions than MPs from non-ethnic electorates, but not as many as the proportion of ethnic constituents in these electorates would suggest they should make. The ethnicity of the electorate also influences the type of ethnic interventions MPs make, with those from ethnic seats more likely to make constituency-related interventions. Second, the marginality of the seat, especially in ethnic electorates, would appear to have a bigger influence on the degree and type of responsiveness than the political party to which the representative belongs. Finally, the ethnicity of the MP does have an influence in both the degree and type of ethnic responsiveness. The findings suggest, albeit tentatively, that spaghetti should rejoice when linguine are elected!²⁰⁸.

²⁰⁶ Ibid, pp 199, 200

²⁰⁷ Ibid, pp 201, 202

²⁰⁸ Ibid, p 205

6. SECURING REPRESENTATION

6.1 Direct Input – Indigenous Options

A strong assumption behind the politics of difference seems to be that our elected assemblies should, to a reasonable degree, represent the community in a microcosmic sense, being constituted as something of a sample of the community at large. That is, presence and direct input in the legislative process. The understanding is that a system of direct input would ensure ‘that issues relevant to Indigenous peoples are considered in Parliament and that the implications of legislation and government policy for Indigenous peoples are fully considered’²⁰⁹. The section below explores two options for indigenous representation based on methods of direct input – an ATSI assembly (to operate alongside established parliaments), and dedicated parliamentary seats for ATSI representatives.

6.1.1 An ATSI Assembly

In 1998 the NSW Parliamentary Standing Committee on Social Issues published its report inquiring into the issue of dedicated seats for indigenous representatives in Parliament²¹⁰. Government members of the Committee believed that an ATSI assembly, to meet in the NSW Parliament, should be established as an interim measure²¹¹ to further ATSI representation at all levels of government²¹². In 2002, the Queensland Legal, Constitutional and Administrative Review Committee²¹³ also suggested the establishment of a representative body such as an indigenous assembly, as a means of direct input. The assembly would:

- report to Parliament on the implications of bills for Aboriginal peoples and Torres Strait Islanders;
- speak to Parliament on bills directly affecting ATSI interests;
- provide a regular report to parliament on matters relevant to the state / Commonwealth which were of significance to Aboriginal and Torres Strait Islander peoples;
- seek reports from Government on aspects of their policies, programs and service

²⁰⁹ QLD, Parliament, Legislative Assembly, Legal, Constitutional and Administration Review Committee, n 175, pp 70-71

²¹⁰ NSW, Parliament, Legislative Council, Standing Committee on Social Issues, *Enhancing Aboriginal Political Representation: Inquiry into Dedicated Seats in the New South Wales Parliament* (J Burnswoods MLC, Chair) NSW Parliament, 1988

²¹¹ Since dedicated seats would require a great deal of further research and development.

²¹² NSW, Parliament, Legislative Council, Standing Committee on Social Issues, n 210, p (v)

²¹³ QLD, Parliament, Legislative Assembly, Legal, Constitutional and Administration Review Committee, n 175, p 71

delivery relevant to ATSI people; and

- ask questions on notice of ministers about certain aspects of their portfolio.

It was envisaged that such an assembly would meet a few times a year to discuss government policy, programs and legislation relevant to indigenous people, and then report back to Parliament for the purpose of making comments and submissions on matters before the legislature.

Proponents of an ATSI assembly contend that this option would allow the diverse interests of indigenous people to be represented in a formal, direct manner; raise public awareness about issues significant to indigenous people, and provide a training ground for indigenous people interested in politics. Difficult issues associated with the establishment of such a body include the level of authority of the assembly and the extent to which it would be more than purely advisory. Those opposed to an ATSI assembly focus on the perceived lack of power of such a body, suggesting it would add little to existing processes, and may overlap with existing ATSI organisations – such as the Torres Strait Regional Authority, the National Indigenous Council, and various state departments responsible for indigenous affairs. However, proponents of an ATSI assembly argue that these organisations do not involve the election of indigenous people by indigenous people to represent indigenous interests at a level of direct input. The purpose of an ATSI assembly would be to overcome the limitations of government-run advisory bodies, and allow indigenous people to initiate policy advice and submissions. Of course, if there is no legal obligation on ministers to respond to reports of an ATSI assembly, the capacity of the assembly to influence government decisions will be limited, and may lead to the perception that the process does not influence government decision-making.

6.1.2 *Dedicated Seats*

Aboriginal and Torres Strait Islander individuals and organisations are not prevented from political activism or involvement in decision-making and other democratic processes. Indigenous adults can vote, stand as candidates in elections, visit their local Member to raise issues of concern, petition State or Federal parliaments and provide input into consultation the government conducts regarding matters of public policy. However, the history of indigenous alienation from systems of government continues to have an impact on the extent to which indigenous peoples exercise these rights, and as the Queensland Legal, Constitutional and Administration Review Committee has noted: ‘this activity has not translated into Indigenous people being elected to Parliament...in sufficiently representative numbers’²¹⁴.

Parliaments determine the policies and legislation that directly affect indigenous Australians – particularly issues affecting their day-to-day lives, such as housing, health, crime, and domestic violence. Where an indigenous assembly has no direct involvement in the decision-making process, the creation of dedicated seats would ensure some level of

²¹⁴ QLD, Parliament, Legislative Assembly, Legal, Constitutional and Administration Review Committee, n 175, p 71

representation and policy input for indigenous Australians. Calls for dedicated seats for indigenous people have been made and rejected in Australia since the 1930s²¹⁵. They are seen as ‘a means of overcoming the problems of representation for a group that is numerically small...yet whose importance for the very legitimacy of the nation-state is critical’²¹⁶. It has been argued that ‘there can be no reconciliation without representation’²¹⁷.

In 1998 the Standing Committee on Social Issues (NSWLC) issued a report²¹⁸ recommending that a detailed proposal for a system of dedicated seats be developed and put to a state referendum²¹⁹. The report recommended further consultation with Aboriginal people about how the dedicated seats would operate; an education campaign; and an assessment of the level of support for dedicated seats in the existing political parties and community²²⁰. In 2003 a Queensland Parliamentary committee of inquiry recommended that the issue of dedicated seats be considered in the future if other less extreme measures failed to improve indigenous peoples’ political participation in the state²²¹. Outstanding issues include the method of selection of members, who would vote for the dedicated seats, whether additional seats would be created or existing seats used, and whether the States would need to be divided into indigenous electoral districts.

6.1.2.1 *Pro-Dedicated Seats*

As for an ATSI assembly, dedicated seats would provide an avenue for issues specifically relevant to indigenous people to be raised and considered, but this time as part of the formal Parliamentary process. Representatives would not be limited to advisory opinions or submissions, but would be able to raise and debate indigenous issues within the chamber. Other contributions could include chairing / serving on indigenous committees and influencing legislative and policy proposals relating to the needs and rights of indigenous Australians; guiding Parliament towards outcomes that will benefit the indigenous community, and introducing Private Member’s Bills. It would ensure that the ‘voices and views’²²² of indigenous people are represented when governments make laws and regulations affecting their lives. Proponents of dedicated seats point to the impact of an

²¹⁵ See NSW, Parliament, Legislative Council, Standing Committee on Social Issues, n 210, pp 11-14

²¹⁶ Zappala, n 4, p 20

²¹⁷ Ibid, p 1 (Zappala quotes from *The Australian* 21/01/98)

²¹⁸ NSW, Parliament, Legislative Council, Standing Committee on Social Issues, n 210

²¹⁹ See Griffith, n 20, pp 24-27 for a comprehensive history of the proposal for dedicated seats up until 1995.

²²⁰ NSW, Parliament, Legislative Council, Standing Committee on Social Issues, n 210, p (v)

²²¹ QLD, Parliament, Legislative Assembly, Legal, Constitutional and Administration Review Committee, n 175, (recommendation 24 on ‘Dedicated Seats’)

²²² Ibid, p 73

indigenous presence in established legislative chambers, as having a ‘significance out of all proportion to the actual power such representatives may exercise. This is because such representation symbolises the recognition of the status and political rights of the group concerned’²²³. Dedicated seats emphasise the unique position of Aboriginal and Torres Strait Islander peoples as the indigenous peoples – and original owners – of Australia. Improved awareness of indigenous issues both in the general community and amongst non-indigenous members of Parliament is likely to occur.

A further positive aspect of dedicated seating is that it provides indigenous representatives with greater freedom to speak on indigenous issues without falling foul of party loyalties. In 1983, Neville Bonner – the first indigenous Australian to secure a seat in the Federal Parliament – lost his seat after being moved from first to third place on the Liberal Party’s Senate ticket. Zappala explains:

This effective ‘dumping’ occurred as a result of Bonner’s strong stance in support of indigenous rights and his growing criticism of Coalition policy in the area. Indeed, on several occasions he voted with the Opposition on indigenous issues and became increasingly radical and outspoken on indigenous rights²²⁴.

In November 2000, a former director of the Central Land Council and prospective Labor Party candidate (in the Northern Territory), Tracker Tilmouth, commented: ‘The Labor Party up here is a strange beast. It likes pet niggers and I’m counted as a pet nigger. I’m allowed to mow the lawns, but I’m not allowed on the verandah’. It has been claimed that those comments ‘reignited the debate for reserved indigenous seats in parliament and even a separate political party’²²⁵. At present, all eight indigenous parliamentarians are members of the Australian Labor Party²²⁶.

6.1.2.2 *Anti-Dedicated Seats*

Opponents of dedicated seats raise the theoretical objection that such seats are undemocratic. Reserved seats contradict the strict electoral equality of one-vote, one-value and challenge the ‘liberal, individualist notion of political equality’²²⁷. The fear for upper houses is that a representative holding a dedicated seat may control the balance of power – a scenario seen as lending too much power to a minority group. It is also a scenario capable of causing division within the community, particularly if it is possible for a member to be elected to a dedicated seat with fewer votes than are needed to be elected to a general seat.

²²³ Sawyer, n 11, p 44

²²⁴ Zappala, n 4, p 10

²²⁵ M Saunders, P Toohey & S Rintoul, ‘Pet Nigger label reinforces calls for black seats’, *The Australian*, 9/11/00, p 10

²²⁶ All members are in the lower houses of their respective states: Linda Burney (NSW), Carol Martin (WA), Kathryn Hay (TAS), Alison Anderson (NT), Matthew Bonson (NT), Elliott McAdam (NT), Barbara McCarthy (NT), and Marion Scrymgour (NT).

²²⁷ Orr, n 89, p 37

It has been argued that allocating seats on the basis of ‘skin colour, ethnicity or any other trait, by definition threatens democracy’s principles... it threatens to encourage tokenism and discrimination’²²⁸. Prime Minister Howard has also been quoted as being of the view that ‘special indigenous seats’ would be ‘seen very widely by the community as being quite divisive’²²⁹. And there is an additional issue: what of other minority groups? Some members of the community might consider it unfair to dedicate seats to indigenous people, but not to other minority groups.

Outside the Northern Territory, the indigenous population is small in percentage terms. As Orr explains:

In pure population terms, there would only be three Indigenous seats reserved in the House of Representatives. Three sounds better than none, if they ensured a career path for role models and if their voices were paid heed. But the number would be even more tokenistic than in NZ²³⁰.

The House of Representatives has 150 members. Indigenous representatives would comprise only a small minority of the whole Parliament, and are likely to lack any real political power. It may also be unrealistic to expect that indigenous representatives could represent the diverse interests of all Aboriginal and Torres Strait Islander peoples throughout Australia. The very diversity of indigenous interests would put great pressure on their representatives. A further consequence of dedicated seats is that other members of parliament may feel less responsible for issues concerning indigenous people. The potential for relegating indigenous issues to indigenous representatives is high, particularly if mainstream political parties neglect to ensure that indigenous Australians are recruited to their parties as members and candidates. There is also the possibility that the views of members in dedicated seats would be given less recognition in debate on issues not specifically concerned with indigenous people.

6.2 Indirect Input

This section explores indirect representation options – in the sense of being outside the formal legislative processes – for both indigenous and ethnic minorities.

6.2.1 Political Parties – Affirmative Action

Formally, affirmative action ‘involves the devising of preventative or prophylactic measures designed to alter the sexual, racial and/or physical impairment profile of a place of employment or educational institution...It is intended to foreclose the possibility of future harm to women and/or designated stigmatised groups on a class-wide basis’²³¹.

²²⁸ ‘Black seats won’t solve representation’, *The Australian*, 2/6/00, p 10

²²⁹ R McGuirk, ‘Howard rejects black seats’, *The Daily Telegraph*, 1/6/00, p 2

²³⁰ Orr, n 89, pp 37-38

²³¹ M Thornton, *The Liberal Promise. Anti-Discrimination Legislation in Australia*, Oxford University Press, Melbourne, 1990, p 217

Political parties are not unfamiliar with the concept of affirmative action. The ALP has a Labor women's network, women's conferences, target-setting for women and EMILY's List to further the election of women candidates. The Liberal Party has a structure reserved for women at most levels of the party, and Liberal women's conferences. Nor have these policies been restricted to women alone: in the mid-1950s the Victorian ALP²³² formed ancillary committees to organise and appeal to newly enfranchised European immigrants. During 1975, Greeks in Northcote, Victoria, pioneered ethnic-specific ALP branches. As Jupp comments²³³, such branches have the advantage of operating in a language other than English, which helps recruitment of recent arrivals. Although recommended throughout the ALP by its committee of enquiry of 1978, ethnic-specific branches were not generally adopted at State level, nor were they attempted at the national level.

The following affirmative action programs are currently in existence:

- The ACT Liberal Party allows the formation of 'interest' branches 'based on community of interest that binds these people together as a group'. In 2001, there were branches for the Australian National University Liberals, Defence and Foreign Affairs, Speaker's Club, Women's Forum and Constitutional Affairs.
- The New South Wales Liberal Party also allows the formation of special branches based on 'community, cultural, occupational or other interests rather than geographical area'²³⁴.
- The Victorian Democrats allow members to 'form a group on the basis of shared or common interest' provided that the initial membership is at least 2 per cent of the total membership.

There is potential for the further development of affirmative action policies to increase participation by, and representation of, members of ethnic minority groups. However, Zappala states that 'no political party in Australia seems to have adopted a deliberate policy of encouraging NESB members to seek office, or introduced affirmative action measures for NESB members'²³⁵. A recent report by Jaensch, Brent & Bowden contends that '[o]nly one reference is made to [ethnic membership] by any of the parties'²³⁶. One of those is the Multicultural Committee of the South Australian branch of the Liberal Party, whose purpose it is to discover 'ways to increase the ethnic membership of the Division'²³⁷. Similarly, the authors found only one reference to a specific affirmative action policy for

²³² And the NSW Liberal Party.

²³³ Jupp, n 6, p 34

²³⁴ D Jaensch, P Brent & B Bowden, *Australian Political Parties in the Spotlight* Report No 4 for the Democratic Audit of Australia, Australian National University, Canberra, 2005, p 8

²³⁵ Zappala, n 40, p 147

²³⁶ Jaensch *et al*, n 234, p 62

²³⁷ *Ibid*

indigenous members: the Administrative Committee of the Northern Territory branch (ALP) has a requirement that there should be ‘at least two Aboriginal members’²³⁸.

Affirmative action policies have the potential to increase the number of indigenous Australians in state and national legislatures. The Queensland Legal, Constitutional and Administration Review Committee identified a number of ways in which major political parties could assist indigenous people to become involved²³⁹. These include:

- the active recruitment of indigenous people;
- providing internal party support for indigenous people interested in greater involvement in the party;
- developing mentoring programs for indigenous people;
- introducing quotas for running indigenous candidates in winnable seats (eg, seats that the party considers ‘safe’); and,
- ensuring that party processes are appropriate for indigenous people.

If established parties provide greater encouragement to members of indigenous communities to seek party endorsement, and then support the nomination of Aboriginal and Torres Strait Islander persons to stand for election, particularly in areas with significant Aboriginal and Torres Strait Islander populations, it would appear inevitable that the number of indigenous representatives in State and Federal parliaments will increase.

6.2.2 *Peak Bodies*

6.2.2.1 *Theoretical Objections – Public Choice Theory*

Theoretical critique of peak bodies centres on the question of whether they should be allowed to influence policy when they do not represent the community at large and are often not publicly elected. Public choice theorists view interest groups as ‘irredeemably self-seeking, possessing no larger interests than the preservation of sectional interests’²⁴⁰. They believe that the process of political representation should primarily take place between the elected representative and the constituent. Are peak bodies, NGOs and other like organisations necessary to the representational process? For public choice theorists the answer is ‘no’: peak bodies and interest groups ‘only act to interfere...much like monopolies or trade unions are seen to distort the optimal workings of the free market’²⁴¹.

²³⁸ Ibid

²³⁹ QLD, Parliament, Legislative Assembly, Legal, Constitutional and Administration Review Committee, n 175, p 69

²⁴⁰ Zappala, n 4, p 13

²⁴¹ Ibid

However, state support for the political representation of vulnerable groups in the community shows an acceptance of the real need of governments and bureaucracies to be able to deal with a single or a few organisations with respect to particular policy issues. According to Zappala, the state ‘has long played an active role as a catalyst for the establishment of peak bodies to represent emerging social movements in Australia’²⁴². Peak bodies act as the authoritative and representative voice on many and various issues, providing a valuable method of representation – albeit in the form of indirect input.

6.2.2.2 *Ethnic Organisations*

Although there is no official information concerning how many ethnic organisations there are, nor how strong and representative they might be, Jupp distinguishes ethnic pressure groups as follows:

- those selected by government and subsidised to represent immigrant or ethnic opinion. These are normally pan-ethnic and conduct their affairs in the common language of English. (Examples include the Federation of Ethnic Communities’ Councils of Australia (FECCA) at the national level and Ethnic Communities’ Councils at the State and Territory level);
- those which try to represent an ethnic group on the basis of affiliations and federations (for example the Federal Council of Polish Organisations);
- those who receive official subsidies for the provision of ‘ethnic specific’ welfare and information services (for example Australian Jewish Welfare);
- those which are not supported by the state but which may be consulted in the formulation of policy or its administration (for example the Greek Orthodox communities);
- those which mainly exist for social, cultural or sporting purposes (for example, the Veneto or Castellorizan clubs); and
- a variety of small organisations which may or may not have an interest in the political process²⁴³.

Some are created to ‘assimilate and co-opt ethnics into existing structures’ (for example, government departments), and others (voluntary organisations) to ‘press demands or change in existing structures, policies and practices’²⁴⁴. The following paragraph considers the example of the Federation of Ethnic Communities’ Councils (FECCA) of Australia.

Established in 1979, FECCA is the peak, national body representing Australians from

²⁴² Ibid

²⁴³ Jupp, n 6, p 38

²⁴⁴ Zappala, n 40, p 152

culturally and linguistically diverse backgrounds. FECCA's role is to advocate, lobby and promote issues on behalf of its constituency to government, business and the broader community. This includes the promotion of multiculturalism, community harmony and social justice. Essentially it acts as a conduit to the Federal government on behalf of the State councils. Since 1983 FECCA has received substantial grants from the Commonwealth. Its State counterparts also receive most of their funding from government. According to Zappala, this reliance on funding 'makes them as much "clients" of the government as effective and independent lobby groups'. He writes: 'Although most community-based peak bodies receive government funding in Australia, not having an independent subscription based membership has weakened FECCA's ability to act as a lobby'²⁴⁵. Zappala points to FECCA's silence during a period of attacks on ethnic communities and multiculturalism by government and new political parties such as One Nation, concluding that 'some of the answers to more effective representation may still lie with voluntary associations, often more locally based and ethnic specific, created by ethnic communities'²⁴⁶.

6.2.2.3 *The Aboriginal and Torres Strait Islander Commission (ATSIC)*

Problems relating to autonomy are also experienced by most indigenous organisations that rely for their funding on annual discretionary grants from a variety of State or Territory and Commonwealth government agencies. According to Sanders: 'The grants are often for quite small amounts of money and can be quite large in number, as well as being fairly narrowly directed to the substantive policy concerns of particular programs and funding agencies'²⁴⁷.

This section considers the impact of funding issues and autonomy upon ATSIC.

In 1989, the *Aboriginal and Torres Strait Islander Commission Act 1989* (Cth) established ATSIC, which became operational in March 1990. The objects of the Commission as set out in section 3 of the *Act* were:

- (a) to ensure maximum participation of Aboriginal persons and Torres Strait Islanders in the formulation and implementation of government policies that affect them;
- (b) to promote the development of self-management and self-sufficiency among Aboriginal persons and Torres Strait Islanders;
- (c) to further the economic, social and cultural development of Aboriginal persons and Torres Strait Islanders; and

²⁴⁵ Ibid, p 150

²⁴⁶ Ibid, p 153

²⁴⁷ W Sanders, *Towards an Indigenous order of Australian government: Rethinking self-determination as Indigenous affairs policy*, Discussion Paper No. 230, Centre for Aboriginal Economic Policy Research, Australian National University, Canberra, 2002, p 11

(d) to ensure co-ordination in the formulation and implementation of policies affecting Aboriginal persons and Torres Strait Islanders by the Commonwealth, State, Territory and local governments, without detracting from the responsibilities of State, Territory and local governments to provide services to their Aboriginal and Torres Strait Islander residents.

ATSIC was the first national representative body for indigenous people working in both an advisory and decision-making capacity. The dual task provided ATSIC with a legitimate role in determining direction and priorities in respect of Commonwealth policy, albeit within fairly tight constraints²⁴⁸. ATSIC was also influential within the Coalition of Australian Governments (COAG), putting forward the National Commitment to Improved Service Delivery to Aboriginal and Torres Strait Islander People, and promoting active involvement with the COAG Reconciliation Agenda.

In structural terms, ATSIC consisted of 60 elected regional councils and a 20-member national board of commissioners who, together with the Minister, had executive control over many Commonwealth-funded indigenous affairs programs. Sanders refers to it as:

a hybrid corporatist organisation which could be seen, alternately, as bringing large numbers of Indigenous representatives (almost 800 in all) into government, or as delegating some elements of Indigenous affairs governance to elected Indigenous representatives²⁴⁹.

The Regional Councils were responsible for improving the social, economic and cultural life of indigenous people in their regions. They had a legislative obligation to formulate a regional plan, to receive and pass on to ATSIC the views of their constituents about the activities of government bodies in their region, and to represent and to advocate on their behalf. The Australian Electoral Commission conducted elections for the Regional Councils. Voting was not compulsory and participation was low: a turnout of 42 per cent in 1996 was an increase of almost 18 per cent since the last election²⁵⁰. In November 2002, the Federal government announced a review of ATSIC's roles and functions. A year later, the review panel published its final report, stating that ATSIC was 'in urgent need of structural change'. On 15 April 2004, the Prime Minister and the Minister for Indigenous Affairs, Amanda Vanstone, announced the government's intention to abolish ATSIC.

The Federal Coalition Government introduced the Aboriginal and Torres Strait Islander Commission Amendment Bill on 27 May 2004, which provided for ATSIC to be replaced with an appointed board of advisors. The bill was referred to a Senate Select Committee on the Administration of Indigenous Affairs²⁵¹. The bill lapsed when Federal Parliament was

²⁴⁸ L Behrendt, *The abolition of ATSIC - Implications for democracy*, Paper for the Democratic Audit of Australia, Australian National University, Canberra, 2005, p 2

²⁴⁹ Sanders, n 247, p 4

²⁵⁰ NSW, Parliament, Legislative Council, Standing Committee on Social Issues, n 210, p 15

²⁵¹ The Committee tabled its report on 8 March 2005: Commonwealth, Parliament, Senate, Select Committee on the Administration of Indigenous Affairs, *After ATSIC – Life in the*

prorogued for the 2004 elections, but was reintroduced in December 2004. Minister for Indigenous and Multicultural Affairs, Senator Amanda Vanstone, explained some of the changes:

No longer will governments persist with the ATSIC experiment that has achieved so little for Indigenous people. No longer will we see precious funds diverted and wasted on meaningless symbolic gestures or to indulge the personal whims of ATSIC Commissioners... We want more of the money to hit the ground. We are stripping away layers of bureaucracy to make sure that local families and communities have a real say in how money is spent²⁵².

However, according to former indigenous Senator, Aden Ridgeway, 'the passage of the ATSIC Amendment Bill marks the end of elected Indigenous Affairs on policy issues'.

Although the Senate Select Committee²⁵³ recommended that 'the Government give active support and funding to the formation of a national Indigenous elected representative body, and provide it with ongoing funding'²⁵⁴ and that such a body be publicly acknowledged by the Government as the primary source of advice on indigenous advocacy and views, the Prime Minister adhered to a statement made at a joint press conference in 2004:

We believe very strongly that the experience in separate representation, elected representation, for Indigenous people has been a failure. We will not replace ATSIC with an alternative body. We will appoint a group of distinguished Indigenous people to advise the Government on a purely advisory basis in relation to aboriginal affairs²⁵⁵.

A National Indigenous Council (NIC) has been established. The NIC is a government appointed body comprising 15 individuals. Opponents of the NIC argue that the appointed members have no mandate, no responsibility to represent broader indigenous interests, and are not accountable to the indigenous community.

What were the limitations faced by ATSIC and how did these impact on its ability to

Mainstream? (2005) 9(2) *Australian Indigenous Law Reporter* 89

²⁵² A Vanstone, Minister for Immigration and Multicultural Affairs, 'Australian Government Changes to Indigenous Affairs Services Commence Tomorrow', *Media Release*, 30/06/04

²⁵³ Recommendation 4.43

²⁵⁴ Commonwealth, Parliament, Senate, Select Committee on the Administration of Indigenous Affairs, n 251, p 89. See also D Barnes, 'After ATSIC - Which Way?' (2004) 8(4) *Australian Indigenous Law Reporter* 13

²⁵⁵ Quoted by P Jull, 'Powerful Trouble. Australian Politics in the Cauldron of Aboriginal Administration' (2004) 8(4) *Australian Indigenous Law Reporter* 20 at 22. Full text of interview available: J Howard MP and A Vanstone, 2004, *Transcript of Joint Press Conference (15 April 2004)*, Commonwealth Government, Canberra, viewed 20 November 2005, <<http://www.pm.gov.au/news/interviews/Interview795.html>>

autonomously develop policy directions and submissions? Barnes²⁵⁶ lists the following factors as limiting ATSIC's independence and its ability to represent issues on behalf of indigenous Australians:

- ATSIC was created by the government by way of enabling legislation with minimal input from indigenous Australians;
- ATSIC was constrained by the enabling legislation and could not represent indigenous Australia outside the parameters imposed by the legislation;
- ATSIC functions were subject to alteration by Parliament by amendment of the enabling legislation and regulations. Such amendments tended to be driven by the political climate of the day, and reflected only minor input from indigenous Australians; and,
- ATSIC was, to varying degrees, inadequately funded by the government.

Behrendt adds that ATSIC never had fiscal responsibility for education, it lost responsibility for health in 1995, and had only supplementary responsibility for areas such as housing and domestic violence²⁵⁷. It was further impeded by a lack of executive authority. Behrendt explains:

ATSIC was given the function to monitor the effectiveness of other agencies, to coordinate the development and implementation of policies and to formulate and implement program proposals. To fulfil this responsibility ATSIC needed the active cooperation and involvement of Commonwealth agencies and State and Territory governments. This in turn required an interface backed by executive authority from the Department of Prime Minister and Cabinet. This authority was never given to ATSIC and the activities of Prime Minister and Cabinet were often...contrary to ATSIC's stated policies and intentions²⁵⁸.

Certainly the lack of a state/territory interface provision in the legislation impeded ATSIC's ability to work on issues that were shared between the state/territory and federal governments, such as housing, health and education.

²⁵⁶ Barnes, n 254, p 14

²⁵⁷ Behrendt, n 248, p 2

²⁵⁸ Ibid, p 3

7. ADDRESSING MINORITY REPRESENTATION: INTERNATIONAL EXAMPLES

7.1 Redistricting in the United States

The end of the American Civil War in 1865 heralded the end of slavery in the South. But for African Americans it was the beginning of a long struggle for enfranchisement and representation. For almost 90 years, Southern states successfully excluded African Americans from voting and holding elected offices. In 1965, with the passage of the *Voting Rights Act* (US), the Federal government gained control of elections in Southern states. For the first time since Reconstruction, African Americans were able to vote freely.

The limitations of a political system based on majority rule were soon apparent. Whites preferred white candidates and blacks preferred black candidates. Whites were in the majority and consistently prevailed. Further, by holding ‘at-large’ elections – whereby candidates for seats on a county board ran in county-wide campaigns – Southern states ensured that minority populations remained outside the legislature. Enfranchisement had been granted, but it was no more than a formal equality.

The *Voting Rights Act 1965* (US) gave the US Justice Department the right to approve the voting procedures of states with a history of voting discrimination. Believing at-large elections to be unfair, the Justice Department ordered Southern cities, counties, and states to divide at-large districts into smaller, separate districts. The voters in each district would then elect their own representative. This assured the election of African Americans who ran for office in districts with black majorities. But state legislatures often drew district boundaries that put black voters into districts with white majorities.

The *Voting Rights Act* was amended in 1982 to cover Hispanic as well as African-American voters in the South. The amended law granted these voters the right ‘to elect representatives of their choice’. Although not entitled to proportional representation, the combination of the Act and the amendments:

have established that a redistricting plan that dilutes the voting strength of minority voters by dividing the minority community among different districts may be invalid. Protected minority groups (blacks and Hispanics, for the most part) must meet three conditions to qualify for this protection:

- the group must be sufficiently large and geographically compact to form a majority in a single-member district;
- the group must be politically cohesive (they must share common political interests);
- the group must be able to demonstrate that the majority population votes as a bloc against the minority community’s preferred candidates and that the minority-preferred candidates usually lose.

If a minority group is able to satisfy all three of these conditions, a redistricting plan must be fashioned such that minority voters constitute a majority of voters in one or

more districts²⁵⁹.

In the Australian context, it is unlikely that ethnic minority groups could satisfy the conditions listed above. Although some ethnic communities are geographically concentrated in particular areas, most ‘ethnic electorates’ feature a diversity of backgrounds, and lack a common political purpose. It is also difficult to speak of ‘indigenous electorates’. In terms of population distribution, the indigenous population is widely spread. While the total population is contained within the most densely settled areas of the continent, the indigenous population lives in areas covering more of the continent. Apart from the Northern Territory, and one or two electorates in Queensland and Western Australia, indigenous Australians are generally concentrated in relatively small pockets – unlikely to be able to form a majority in a single-member district.

Following the 1990 census, redistricting throughout the country increased the number of African-American and Hispanic majority districts. After the 1992 elections, the number of African-American members of the House of Representatives increased from 26 to 39. Largely as a result of new ‘minority-majority’ districts, Alabama, Florida, North Carolina, South Carolina, and Virginia elected black congressmen for the first time since the turn of the century. The table below sets out the number of seats held by certain minority groups in the 109th Congress²⁶⁰:

Minority Representation in the 109th Congress

Minority Group	Percentage of National Population ²⁶¹	Seats in Congress	Percentage of Seats in Congress
Black or African American	12.9	43	7.9
Hispanic or Latino	12.5	29	5.4
American Indian or Alaska Native	1.5	1	0.2

Although the increase in seats since the 1992 elections has been of a modest nature, it is clear that redistricting has had a positive effect on the number of African-American representatives present in Congress. Anne Phillips – in considering all elected offices in the USA – is less positive in her assessment of the gains made by redistricting:

If we consider the very large number of elected offices in the USA, the results have hardly been spectacular: by the beginning of the 1990s, when black Americans

²⁵⁹ Handley, n 143

²⁶⁰ The term ‘Congress’ refers to both the US House of Representatives and the Senate. There are 539 seats. The data in the table is correct as at 17 January 2006.

²⁶¹ Data taken from US Census 2000: United States Census 2000, 2006, US Census Bureau, Washington, viewed 10 January 2006, < <http://www.census.gov/main/www/cen2000.html>>

made up 12.4 per cent and Latino Americans 8 per cent of the total population, they occupied only 1.4 per cent and 0.9 per cent respectively of the total elected offices. Measured in absolute terms, the change is more dramatic, with total numbers of black representatives leaping from roughly 500 in the early 1970s to over 6,800 by 1988, and it has been most remarkable of all at the level of city government and state legislature²⁶².

Phillips is also concerned with the social and political effects of the creation of black-majority districts. She points to the racially polarised voting characteristic of American voters, and fears it may 'make the boundaries between majority and minority communities even more impermeable'²⁶³. In relation to political effects, Phillips agrees with Lani Guinier, the first black woman tenured Professor at Harvard Law School. Phillips writes (with quotes from Guinier):

the exclusive focus on securing more black representatives encourages the belief that black politicians *are* representative merely by virtue of being black. Issues of accountability drop out of the picture, and this is partly because of 'the message already conveyed to black officials by the authenticity assumption', which seems to relieve them of the burden of 'developing appropriate agendas or articulating community demands'²⁶⁴.

7.2 Indigenous Groups: A Third Order of Government?

An account of the subject of self-determination for indigenous peoples is found in the work of Dr William Sanders, Fellow at the Centre for Aboriginal Economic Policy Research, ANU. He argues for the recognition of a third order of government that has continued to exist alongside the State and Commonwealth orders. Just as *Mabo* identified a system of land title that had survived colonisation, Sanders suggests that there may be an Indigenous order of Australian government that pre-dates the other two orders by many thousands of years. He writes:

Indigenous Australians lived in autonomous self-governing societies before colonial times and never explicitly gave up that right. There is, one can argue, a repressed third order within Australian government, alongside the State and Commonwealth orders...It is not, however, too late to reinvigorate this third order...This does not mean Indigenous separatism, since shared jurisdiction is as much a hallmark of Australian as of Canadian federalism. But it does mean that the organisations of the contemporary Indigenous sector should be recognised as somewhat more than either just government advisory bodies or societal pressure groups. They are the contemporary manifestations of an Indigenous order of Australian government; and a contemporary expression of Indigenous rights to self-

²⁶² Phillips, n 3, p 87

²⁶³ Ibid, p 96

²⁶⁴ Ibid, p 102

government and self-determination²⁶⁵.

Dr. Erica-Irene Daes, Special Rapporteur of the United Nations Sub-Commission on the Promotion and Protection of Human Rights, offers the following explanation of the modern concept of self-determination:

While understood to no longer include a right to secession or independence (except for a few situations or under certain exceptional conditions), nowadays the right to self-determination contains a range of alternatives including the right to participate in the governance of the State as well as the right to various forms of autonomy and self-governance...The use of the term in relation to Indigenous peoples does not place them on the same level as States or place them in conflict with State sovereignty...In fact, Indigenous peoples have long been recognized as being sovereign by many countries in various parts of the world²⁶⁶.

Daes then referred to (among others) the indigenous Maori of New Zealand, and the Sámi of Norway. These groups are discussed below.

7.2.1 *New Zealand - an update*²⁶⁷

From 1867 until 1996, Maori have had four reserved seats in the New Zealand parliament. The seats were initially granted to overcome electoral eligibility rules that required males to hold a certain amount of private property. Most Maori owned property communally, rather than individually, and were ineligible to enrol. The *Maori Representation Act 1867* (NZ) was intended to last only five years, but was consequently extended in 1872 (for a further five years) and then extended indefinitely in 1876.

New Zealand is divided into Maori electorates as well as general electorates. Persons of Maori descent can choose whether they wish to vote for a member of Parliament elected to represent one of the Maori electorates (by enrolling on the Maori roll), or whether they wish to vote for a member of Parliament representing a general electorate (by enrolling on the General roll). The purpose in maintaining the reserved seats is, according to Graeme Orr, ‘to ensure a “seat at the table” of government, that is, representation of a unique voice, in recognition not only of historical dispossession but also that Indigenous populations are not simply another ethnic group’²⁶⁸. Though not a traditionally Maori system – but rather a

²⁶⁵ Sanders, n 247, p 11

²⁶⁶ E Daes 2004, ‘Indigenous Peoples Permanent Sovereignty Over Natural Resources’ Paper presented at the National Native Title Conference, Adelaide, Australian Human Rights and Equal Opportunity Commission, Sydney, viewed 12 January 2006, <http://www.hreoc.gov.au/speeches/social_justice/natural_resources.html>

²⁶⁷ See Griffith, n 20, for a comprehensive history of Maori political representation, including the origin and preservation of reserved seats for Maori representatives. This section will provide a brief overview of this history, and an update of Maori representation since the introduction of the Mixed Member Proportional electoral system.

²⁶⁸ Orr, n 89, p 37

‘mainstream system for choice of the Maori seat representatives’²⁶⁹ – there is evidence that Maori perceive the system of reserved seats to play an important part in their self-determination²⁷⁰.

The following is a list of advantages to Maori deriving from the system of reserved seats as identified by the NSWLC Committee on Social Issues in 1998²⁷¹:

- Maori seats ensure that a Maori voice is heard;
- Maori members in the dedicated seats can afford to devote themselves wholeheartedly to Maori issues, unlike Maori members who represent general electorates who have to be sensitive to the interests of the non-Maori majority; and,
- Symbolic importance (this argument played a central role in successfully arguing against the abolition of the Maori seats as recommended by the 1996 Royal Commission on Electoral Reform).

The Committee also identified the following limitations²⁷²:

- The seats rarely give full effect to Maori concerns and may even reinforce their political independence;
- The small number of Maori MPs makes it difficult for them to scrutinise all relevant legislation resulting in some laws being passed which disadvantage Maori;
- Maori members experience difficulties representing their constituents due to the large size of their electorates; and
- The constraints of party allegiance make it difficult to speak out strongly on Maori issues for fear of alienating the non-Maori supporters of their party.

The introduction of the MMP electoral system saw an increase in Maori representatives in the New Zealand Parliament. Rather than a fixed number of seats, the number of Maori seats is now proportional to the Maori electoral population. After the 1996 Census, an increased number of Maori opted for the Maori roll and there were six Maori seats at the next election. Catherine Magallanes of Victoria University of Wellington provides the following overview of the impact of MMP on Maori representation:

²⁶⁹ C Magallanes, ‘Dedicated Parliamentary Seats for Indigenous Peoples: Political Representation as an Element of Indigenous Self-Determination’ (2003) 10(4) E-law (*Murdoch University Electronic Journal of Law*) at paragraph [26], viewed 15 December 2005, <<http://www.murdoch.edu.au/elaw/issues/v10n4/iorns104.txt>>

²⁷⁰ Ibid

²⁷¹ NSW, Parliament, Legislative Council, Standing Committee on Social Issues, n 210, p 22

²⁷² Ibid

Whereas, before the introduction of MMP there were only 7 Maori MPs (7.1% of the Parliament), after both the 1996 and 1999 MMP elections there were 16 Maori elected (13.3%), six of whom were from the dedicated Maori seats. In 2002, that increased to 18 Maori MPs (15% of the Parliament), seven of whom are holding Maori seats. The proportion of Maori MPs is now almost identical with the proportion in the general population. Moreover – and possibly most importantly – Maori MPs have been placed in positions of power within political parties and in all three MMP governments, including being given Ministerial portfolios. Overall, the Maori MPs are widely regarded as having raised the profile of Maori issues within New Zealand / Aotearoa. Through this publicity and their numbers and positions in government and the House, they have achieved improvements to laws and policies that relate to Maori interests, and to the actual living conditions of Maori generally. They are said to have achieved some of the goals of Maori self-determination²⁷³.

7.2.2 *Norway – an Indigenous Assembly*²⁷⁴

The Sámi are a minority group indigenous to coastal and northern Norway, Sweden, Finland and Russia. No exact numbers are available regarding the size of the Sámi population in Norway, but estimates place it somewhere between 60,000 and 100,000 (or approximately 70% of all Sámi). They are largely concentrated in Finnmark in the north of the country. Whilst they do not have any legally settled rights to lands or resources in Norway, Norway's constitution requires that the State provide the conditions necessary for the Sámi to protect their language, culture and society.

In 1984, the Norwegian Parliament (Storting) created the Sámi Assembly (Sámediggi). Approximately 11,000 people have registered on the Sámi electoral roll, which comprises a list of all Sámi people over the age of 18 who have registered to vote and take part in elections to the Sámediggi. Voting takes place on the same day as elections to the Storting are held. The Assembly meets four times a year for one week at a time and reports annually to the Storting.

In addition to its role as a political institution, it is responsible for a number of cultural, linguistic and educational programs which are managed through four councils within the Sámediggi: the Sámi Heritage Council, the Sámi Language Council, the Sámi Cultural Council and the Sámi Development Fund²⁷⁵.

There is no obligation on the government to respond to the annual report prepared by the Sámediggi, and the Assembly has generally had more success in terms of cultural and linguistic preservation, than on issues such as land and water rights, and self-determination

²⁷³ Magallanes, n 269, paragraph [31]

²⁷⁴ For further information, refer to NSW, Parliament, Legislative Council, Standing Committee on Social Issues, n 210, pp 23-24

²⁷⁵ Information obtained from NSW, Parliament, Legislative Council, Standing Committee on Social Issues, n 210, p 24

in health and education. The Sámediggi is also fiscally dependant upon the Storting, which allocates the budget for the Sámediggi and its activities each year. As highlighted by the NSWLC Standing Committee on Social Issues in 1998²⁷⁶: ‘This dependence limits the freedom of the Assembly to develop new initiatives and gain appropriate funding’²⁷⁷. Despite these limitations, there are advantages to the creation of the Sámediggi, including:

- the unification of the Sámi community;
- raising the political profile of the Sámi in the broader community;
- enabling the formulation of a fully developed Sámi policy on major issues affecting the Sámi people, through the annual report; and
- by raising issues, often creating the impetus for action.

The NSWLC Standing Committee on Social Issues identified the following arguments both for and against the value of tribal representatives²⁷⁸:

The Value of Tribal (Indigenous) Representatives

Arguments For	Arguments Against
Tribal representatives have been able to educate other members and the community about tribal issues and have been able to incorporate aspects of tribal culture into the parliamentary process.	Participation in state legislatures by indigenous people compromises their sovereignty.
Non-voting members have gained invaluable experience in politics and leadership.	It is frustrating to be able to contribute to debate but be unable to vote.
Tribal representatives have been able to draw attention to important native issues through their work on committees.	

²⁷⁶ Ibid, p 22

²⁷⁷ Ibid, p 24

²⁷⁸ Ibid, p 23

9. CONCLUSION

This purpose of this paper has been to highlight some of the complex historical, theoretical and structural aspects hindering the capacity of parliaments to reflect the cultural diversity of the Australian community. At present, ethnic and racial minorities remain disproportionately under-represented in legislatures around Australia. The debate surrounding the appropriate level of presence of ethnic and racial minorities in legislative chambers revolves around questions of democracy, equality and recognition. It gives rise to the threshold question of which groups deserve representation, and how are these groups to be defined? There are no simple answers and matters are complicated further by the fact that many people have multiple group identifications and that groups can come into being and then fade away. Essentially it is a question of the balance that needs to be struck between the representation of minorities, and the maintenance and development of an overarching sense of national identity and purpose.

APPENDIX A

Breakdown of Ethnic / Indigenous Members

Appendix A: Breakdown of Ethnic / Indigenous Members

A member of an ethnic minority is taken as being someone born in a non-English speaking country (NESBI); or someone born in Australia but with at least one parent born in a non-English speaking country (NESBII). A member of a racial minority is taken as being someone from Aboriginal or Torres Strait Islander background (ATSI).

The information in the tables was up to date as at 5 December 2005. The data was compiled by the author based on information publicly available, such as Parliamentary Handbooks, newspaper articles, parliamentary websites (including biographical information on current members) and the text of inaugural speeches. While all care has been taken in compiling these figures, total accuracy cannot be guaranteed due to the limitations of the source data.

The following members were not included as 'ethnic':

Commonwealth	Sussan Ley MP (born in Nigeria to English parents)
New South Wales	Greg Aplin MP (born in Zambia to Australian parents)
South Australia	Andrew Evans MLC (born in India to Australian parents) Rob Lucas MLC (born in Japan to ESB parents)
Western Australia	Daniel Barron-Sullivan MP (born in Malaysia to ESB parents)

Members who are also Ministers or Shadow Ministers are marked by an asterisk (*).

New South Wales Parliament				
Lower House	NESBI, NESBII or ATSI	Party	Name	Ethnicity / Racial Minority
	ATSI	ALP	Burney Linda	Indigenous
	NESB I	ALP	Aquilina John	Maltese
	NESB II	ALP	D'Amore Angela	Italian
		ALP	lemma Morris	Italian
		ALP	Nori Sandra	Italian
		ALP	Orkopoulos Milton	Greek
		ALP	Perry Barbara	Lebanese
		ALP	Sartor Frank	Italian
		ALP	Tripodi Joseph	Italian
		Liberal	Berejiklian Gladys	Armenian
		National	George Thomas	Lebanese
		National	Piccoli Adrian	Italian
		National	Souris George	Greek
Upper House				
	NESB I	ALP	Catanzariti Tony	Italian
		ALP	Obeid Eddie	Lebanese
		ALP	Tsang Henry	Chinese
		Unity	Wong Peter	Chinese
	NESB II	ALP	Costa Michael	Greek
		ALP	Hatzistergos John	Greek
		ALP	Rozendaal Eric	Dutch

Parliament of Victoria				
Lower House	NESBI, NESBII or ATSI	Party	Name	Ethnicity / Racial Minority
	NESB I	ALP	Haermeyer Andre	German
		ALP	Helper Jochen	German
		ALP	Languiller Telmo	Uruguayan
		ALP	Lim Hong	Cambodian
		ALP	Perera Jude	Sri Lankan
		ALP	Seitz George	Croatian
		Liberal	Kotsiras Nicholas	Greek
	NESB II	ALP	Bracks Stephen	Lebanese
		ALP	Carli Carlo	Italian
		ALP	D'Ambrosio Liliana	Italian
		ALP	Eckstein Anne	German
		ALP	Merlino James	Italian
		ALP	Nardella Donato	Italian
		ALP	Pandazopoulos John	Greek
		ALP	Stensholt Bob	Norwegian
Upper House				
	NESB I	ALP	Argondizzo Lidia	Italian
		ALP	Eren John	Turkish
		ALP	Nguyen Sang	Vietnam
		ALP	Scheffer Johan	Indonesia
		ALP	Somyurek Adem	Turkish
		ALP	Theophanous Theo	Greek
		Liberal	Vogels John	Dutch
	NESB II	ALP	Lenders John	Dutch
		ALP	Mikakos Jenny	Greek
		ALP	Thomson Marsha	Polish
		Liberal	Dalla-Riva Richard	Italian
		Liberal	Olexander Phillip	Mother from Ukraine, father from Hungary

Parliament of Western Australia				
Lower House	NESBI, NESBII or ATSI	Party	Name	Ethnicity / Racial Minority
	ATSI	ALP	Martin Carol	Indigenous
	NESB I	Liberal	Castrilli Giovanni	Italian
	NESB II	ALP	D'Orazio John	Italian
		ALP	Hughes Judith	Dutch
		ALP	Kucera Robert	Welsh mother, Czechoslovakian father
		Liberal	Hodson-Thomas Katina	Greek mother and German father
Upper House				
	NESB I	ALP	Catania Vincent	Italian
		ALP	Ravlich Ljiljanna	Croatian
	NESB II	ALP	Farina Adele	Italian

Commonwealth Parliament				
Lower House	NESBI, NESBII or ATSI	Party	Name	Ethnicity / Racial Minority
	NESB I	ALP	George Jennie	Born in Italy to Russian parents
		ALP	Ripoll Bernie	French
		ALP	Vamvakinou Maria	Greek
		Liberal	Gash Joanna	Dutch
		Liberal	Georgiou Petro	Greek
		Liberal	Somlyay Alexander	Hungarian
		Liberal	Johnson Michael	Born in Hong Kong to Chinese mother and English father
		Liberal	Barresi Phillip	Italian
	NESB II	ALP	Danby Michael	German
		ALP	Georganas Steve	Greek
		ALP	Melham Daryl	Lebanese
		ALP	Plibersek Tanya	Slovenia
		ALP	Albanese Anthony	Italian
		Liberal	Ciobo Steven	Italian
		Liberal	Draper Trish	German
		Liberal	Gambaro Teresa	Italian
		Liberal	Hockey Joe	Armenian father from Palestine
		Liberal	Panopoulos Sophie	Greek
		National	Hartsuyker Luke	Dutch
Upper House				
	NESB I	ALP	Wong Penny	Born in Malaysia to Australian mother and Chinese-Malay father
		Liberal	Abetz Eric	German
		Liberal	Santoro Santo	Italian
	NESB II	Democrats	Stott Despoja Natasha	Croatian
		Liberal	Fierravanti-Wells Concetta	Italian

ACT Parliament				
Lower House	NESBI, NESBII or ATSI	Party	Name	Ethnicity / Racial Minority
	NESB II	ALP	McDonald Karin	German
		Liberal	Seselja Zed	Croatian
		Liberal	Stefaniak Bill	Polish

Parliament of Tasmania				
Lower House	NESBI, NESBII or ATSI	Party	Name	Ethnicity / Racial Minority
	ATSI	ALP	Hay Kathryn	Indigenous
	NESB I	Liberal	Hidding Marinus	Dutch
	NESB II	ALP	Kons Steven	Greek

Northern Territory Parliament

Lower House	NESBI, NESBII or ATSI	Party	Name	Ethnicity / Racial Minority
	ATSI	ALP	Anderson Alison	Indigenous
		ALP	Bonson Matthew	Indigenous
		ALP	McAdam Elliott	Indigenous
		ALP	McCarthy Barbara	Indigenous
		ALP	Scrymgour Marion	Indigenous
	NESB I	ALP	Henderson Paul	French
		ALP	Vatskalis Konstantine	Greek
		Liberal	Lim Richard	Malaysian

Parliament of Queensland

Lower House	NESBI, NESBII or ATSI	Party	Name	Ethnicity / Racial Minority
	NESB I	ALP	Choi M W	Hong Kong
		ALP	Fouras D	Greek
		ALP	Palaszczuk H	Born in Greece to Polish parents
		Liberal	Langbroek J H	Dutch
	NESB II	ALP	Reilly D A	Hungarian mother and Yugoslavian father

Parliament of South Australia

Lower House	NESBI, NESBII or ATSI	Party	Name	Ethnicity / Racial Minority
	NESB I	ALP	Ciccarello Vini	Italian
	NESB II	ALP	Caica Paul	Romanian
		ALP	Koutsantonis Tom	Greek
Upper House				
	NESB I	ALP	Zollo Carmel	Italian
		Liberal	Stefani Julian	Italian
	NESB II	ALP	Gazzola John	Italian
		Liberal	Lensink Michelle	Greek
		Independent	Xenophon Nick	Dutch

ATSI and NESB ministers as a percentage of Total Ministers

Parliament	Government Ministry			Shadow Ministry		
	Portfolios	ATSI	NESB I / II	Portfolios	ATSI	NESB I / II
Commonwealth	30	0	2	50	0	3
		0%	6.67%		0%	6.00%
ACT	18	0	0	30	0	2
		0%	0%		0%	6.67%
NT	35	2	2	34	0	1
		5.71%	5.71%		0%	2.94%
NSW	49	0	8	53	0	3
		0%	16.33%		0%	5.67%
QLD	23	0	1	30	0	1
		0%	4.35%		0%	3.33%
SA	50	0	1	50	0	0
		0%	2.00%		0%	0%
TAS	18	0	1	19	0	1
		0%	5.56%		0%	5.26%
VIC	43	0	6	32	0	3
		0%	13.95%		0%	9.38%
WA	44	0	2	62	0	2
		0%	4.55%		0%	3.23%

APPENDIX B

Ethnic MPs and their electorates: size of NESBI populations

Ethnic MPs and their electorates: size of NESBI populations

The tables below show the NESBI populations within the electorates represented by ethnic members in each of the state, territory and federal parliaments. The information in this appendix comes from the 2001 Australian Census. The NESBI data is derived from the Census category: 'Birthplace (Countries) By Sex'. The final figure of people born in non-English speaking countries is obtained by subtracting from the 'Total' column under 'Persons', the amounts of those born in Australia, Canada, Ireland, New Zealand, South Africa, the United Kingdom, the United States, Not Stated and Overseas Visitors. (English is the official language of these countries).

Of the 57 electorates represented by ethnic MPs, only a little more than half (31 electorates or 54.3 per cent) qualified as 'ethnic electorates'. The electorates include the Lower Houses of all parliaments, except Tasmania and the ACT – due to the different electoral systems used in those states. Further, there were 4 Victorian electorates (Brunswick, Derrimut, Ferntree Gully and Kororoit)²⁷⁹ and 1 Northern Territory electorate (Wanguri) with ethnic MPs for which no data could be obtained. These electorates are not included in the 57.

Electorates of Ethnic Members in the Parliament of New South Wales							
Electorate	Name	NESBI / NESBII	Party	Ethnicity / Racial Minority	Electorate Population	NESBI Electorate Population	NESBI Percentage of Electorate Population
Auburn	Perry, Barbara	II	ALP	Lebanese	77,852	34,738	44.62%
Drummoyne	D'Amore, Angela	II	ALP	Italian	68,483	16,439	24.00%
Fairfield	Tripodi, Joseph	II	ALP	Italian	70,245	33,351	47.48%
Lakemba	Iemma, Morris	II	ALP	Italian	66,006	25,517	38.66%
Lismore	George, Thomas	II	Nat	Lebanese	64,263	2,042	3.18%
Murrumbidgee	Piccoli, Adrian	II	Nat	Italian	66,022	4,435	6.72%
Port Jackson	Nori, Sandra	II	ALP	Italian	105,429	18,842	17.87%
Riverstone	Aquilina, John	I	ALP	Maltese	81,682	16,041	19.64%
Rockdale	Sartor, Frank	II	ALP	Italian	64,891	21,041	32.43%
Swansea	Orkopoulos, Milton	II	ALP	Greek	63,297	2,145	3.39%
Upper Hunter	Souris, George	II	Nat	Greek	62,133	1,499	2.41%
Willoughby	Berejiklian, Gladys	II	Lib	Armenian	68,743	20,914	30.42%

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Midway through 2001, a redivision of Victoria's electoral boundaries took place. The NESBI electoral population data comes from the 2001 Census, which took place on 7 August 2001. Consequently, there is no data available for the new electoral divisions. The following is a list of the new electoral areas and, in brackets, the old areas from which they are derived: BRUNSWICK (Coburg, Melbourne, Richard), DERRIMUT (Sunshine), FERNTREE GULLY (Knox & Pakenham), and KOROROIT (Keilor, Melton, Sunshine).

Electoraltes of Ethnic Members in the Parliament of the NT							
Electorate	Name	NESBI / NESBII	Party	Ethnicity / Racial Minority	Electorate Population	NESBI Electorate Population	NESBI Percentage of Electorate Population
Casuarina	Vatskalis, Konstantine	I	Labor	Greek	6,944	1,198	17.25%
Greatorex	Lim, Richard	I	Lib	Malaysia	11,594	637	5.49%
Wanguri	Henderson, Paul	I	Labor	French			

Electoraltes of Ethnic Members in the Parliament of the Queensland							
Electorate	Name	NESBI / NESBII	Party	Ethnicity / Racial Minority	Electorate Population	NESBI Electorate Population	NESBI Percentage of Electorate Population
Ashgrove	Fouras, D	I	ALP	Greek	37,609	2,352	6.25%
Capalaba	Choi, M W	I	ALP	Hong Kong	42,083	2,502	5.95%
Inala	Palaszczuk, H	I	ALP	Born in Greece to Polish parents	40,302	8,476	21.03%
Mudgeeraba	Reilly, D A	II	ALP	Hungarian mother and Yugoslavian father	45,971	3,584	7.80%
Surfers Paradise	Langbroek, J H	I	Lib	Dutch	65,051	7,952	12.22%

Electoraltes of Ethnic Members in the Parliament of the South Australia							
Electorate	Name	NESBI / NESBII	Party	Ethnicity / Racial Minority	Electorate Population	NESBI Electorate Population	NESBI Percentage of Electorate Population
Colton	Caica, Paul	NESB II	ALP	Romanian	28,633	5,171	18.06%
Norwood	Ciccarello, Vini	NESB I	ALP	Italian	30,874	5,021	16.26%
West Torrens	Koutsantonis, Tom	NESB II	ALP	Greek	30,492	5,653	18.54%

Electoraltes of Ethnic Members in the Parliament of the Western Australia							
Electorate	Name	NESBI / NESBII	Party	Ethnicity / Racial Minority	Electorate Population	NESBI Electorate Population	NESBI Percentage of Electorate Population
Ballajura	D'Orazio, John	II	ALP	Italian	42,762	9,630	22.52%
Bunbury	Castrilli, Giovanni	I	Lib	Italian	18,630	1,129	6.06%
Carine	Hodson-Thomas, Katina	II	Lib	Greek mother and German father	32,790	2,995	9.13%
Kingsley	Hughes, Judith	II	ALP	Dutch	35,644	3,199	8.97%
Yokine	Kucera, Robert	II	ALP	Welsh mother, Czech father	33,525	7,047	21.02%

Electoralates of Ethnic Members in the Parliament of the Victoria							
Electorate	Name	NESBI / NESBII	Party	Ethnicity / Racial Minority	Electorate Population	NESBI Electorate Population	NESBI Percentage of Electorate Population
Brunswick	Carli, Carlo	II	ALP	Italian			
Bulleen	Kotsiras, Nicholas	I	Liberal	Greek	44,537	13,245	29.74%
Burwood	Stensholt, Bob	II	ALP	Norwegian	48,475	7,928	16.35%
Clayton	Lim, Hong	I	ALP	Cambodian	55,248	24,492	44.33%
Cranbourne	Perera, Jude	I	ALP	Sri Lankan	69,209	5,411	7.82%
Dandenong	Pandazopoulos, John	II	ALP	Greek	87,959	23,982	27.26%
Derrimut	Languiller, Telmo	I	ALP	Uruguayan			
Ferntree Gully	Eckstein, Anne	II	ALP	German			
Keilor	Seitz, George	I	ALP	Croatian	66,269	24,722	37.31%
Kororoit	Haermeyer, Andre	I	ALP	German			
Melton	Nardella, Donato	II	ALP	Italian	83,290	18,717	22.47%
Mill Park	D'Ambrosio, Liliana	II	ALP	Italian	64,963	19,396	29.86%
Monbulk	Merlino, James	II	ALP	Italian	49,780	3,682	7.40%
Ripon	Helper, Jochen	I	ALP	German	43,983	1,293	2.94%
Williamstown	Bracks, Stephen	II	ALP	Lebanese	49,085	10,511	21.41%

Electoralates of Ethnic Members in the Parliament of the Commonwealth							
Electorate	Name	NESBI / NESBII	Party	Ethnicity / Racial Minority	Electorate Population	NESBI Electorate Population	NESBI Percentage of Electorate Population
Banks (NSW)	Melham, Daryl	II	ALP	Lebanese	116,063	25,604	22.06%
Calwell (VIC)	Vamvakinou, Maria	I	ALP	Greek	162,530	48,716	29.97%
Cowper (NSW)	Hartsuyker, Luke	II	Nat	Dutch	120,012	4,244	3.54%
Deakin (VIC)	Barresi, Phillip	I	Lib	Italian	113,640	17,558	15.45%
Fairfax (QLD)	Somlyay, Alexander	I	Lib	Hungarian	131,438	6,146	4.68%
Gilmore (NSW)	Gash, Joanna	I	Lib	Dutch	116,555	5,319	4.56%
Grayndler (NSW)	Albanese, Anthony	II	ALP	Italian	131,101	38,435	29.32%
Hindmarsh (SA)	Georganas, Steve	II	ALP	Greek	112,576	16,648	14.79%
Indi (VIC)	Panopoulos, Sophie	II	Lib	Greek	122,534	5,940	4.85%
Kooyong (VIC)	Georgiou, Petro	I	Lib	Greek	122,323	21,583	17.64%
Makin (SA)	Draper, Trish	II	Lib	German	122,490	12,221	9.98%

Electorates of Ethnic Members in the Parliament of the Commonwealth (continued)							
Electorate	Name	NESBI / NESBII	Party	Ethnicity / Racial Minority	Electorate Population	NESBI Electorate Population	NESBI Percentage of Electorate Population
Melbourne Ports (VIC)	Danby, Michael	II	ALP	German	131,351	26,062	19.84%
Moncrieff (QLD)	Ciobo, Steven	II	Lib	Italian	166,373	17,780	10.69%
North Sydney (NSW)	Hockey, Joe	II	Lib	Armenian father from Palestine	133,127	24,260	18.22%
Oxley (QLD)	Ripoll, Bernie	I	ALP	French	135,563	15,559	11.48%
Petrie (QLD)	Gambaro, Teresa	II	Lib	Italian	127,642	9,765	7.65%
Ryan (QLD)	Johnson, Michael	I	Lib	Born in Hong Kong to Chinese mother and English father	129,323	18,572	14.36%
Sydney (NSW)	Plibersek, Tanya	II	ALP	Slovenia	176,612	33,750	19.11%
Throsby (NSW)	George, Jennie	I	ALP	Born in Italy to Russian parents	121,636	16,843	13.85%

APPENDIX C

Timeline of Significant Events in Indigenous Electoral History

Timeline of Significant Events in Indigenous Electoral History²⁸⁰

Timeline of Significant Events in Indigenous Electoral History	
Year	Event
1843	First parliamentary elections in Australia (for New South Wales Legislative Council) were held. The right to vote was limited to men with a freehold valued at £200 or a householder paying rent of £20 per year.
1850 +	The Australian colonies become self governing – all adult (21 years) male British subjects were entitled to vote in South Australia from 1856, in Victoria from 1857, New South Wales from 1858, and Tasmania from 1896. This included indigenous people but they were not encouraged to enrol. Queensland gained self-government in 1859 and Western Australia in 1890, but these colonies denied Indigenous people the vote.
1885	<i>Queensland Elections Act</i> excluded all Indigenous people from voting.
1893	Western Australian law denied the vote to Indigenous people.
1894	All adult women in South Australia, including Indigenous women, won the right to vote.
1901	Commonwealth Constitution became operative – Section 41 was interpreted to deny the vote to all Indigenous people, except those on state rolls.
1901, 9 May	The first sitting of the Commonwealth Parliament. The House of Representatives had 75 members, and the Senate had 36, six for each State.
1902	The first Commonwealth Parliament passed the <i>Commonwealth Franchise Act</i> of 1902, which was progressive for its time in granting the vote to both men and women. It did however specifically exclude 'any aboriginal native of Australia, Asia, Africa or the Islands of the Pacific, except New Zealand' from Commonwealth franchise unless already enrolled in a state. The Aboriginal franchise was further reduced in practice by admitting only those Aboriginal people already enrolled in a state in 1902.
1915	Queensland introduced compulsory voting. This was later introduced in all other jurisdictions.
1922	Regulations in the Northern Territory excluded Indigenous people from voting. Officials had the power to decide who was Indigenous.
1948	<i>Nationality and Citizenship Act</i> established that all Australian born people are citizens of Australia rather than British subjects.
1949	The right to vote in federal elections was extended to Indigenous people who had served in the armed forces, or were enrolled to vote in state elections. Indigenous people in Queensland, Western Australia, and the Northern Territory still could not vote in their own state/territory elections.
1957	Under the <i>Northern Territory Welfare Ordinance</i> , almost all Indigenous people in the Northern Territory were declared to be "wards of the state" and denied the vote.
1962	<i>Commonwealth Electoral Act</i> provided that Indigenous people should have the right to enrol and vote at federal elections, including Northern Territory elections, but enrolment was not compulsory. Despite this amendment, it was illegal under Commonwealth legislation to encourage Indigenous people to enrol to vote. Western Australia extended the State vote to Aboriginal people. Voter education for Aborigines began in the Northern Territory. 1,338 Aborigines enrolled to vote in Northern Territory elections.
1965	Queensland allowed Aborigines to vote in State elections. Queensland was the last State to grant this right.

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Australian Electoral Commission, 2005, *Electoral Milestones / Timeline for Indigenous Australians*, Australian Electoral Commission, viewed 6 January 2006, <http://www.aec.gov.au/_content/when/history/ab_time.htm>

Timeline of Significant Events in Indigenous Electoral History (continued)	
Year	Event
1967	A Referendum approved Commonwealth Constitutional change. Section 127 of the Constitution was struck out in its entirety. This amendment allowed Indigenous people to be counted in the Commonwealth Census. Section 51 of the Constitution was amended to allow the Commonwealth to make special laws for Indigenous people. Both Houses of the Parliament passed the proposed Act unanimously; consequently a 'No' case was not submitted. More than 90% of Australians registered a YES vote with all six states voting in favour.
1968	The Commonwealth Department of Aboriginal Affairs was established to implement support schemes for the advancement of the interests of Aboriginal people.
1971	Neville Bonner AO (1922 – 1999) was the first Indigenous person to be appointed to Federal Parliament in Australia. Neville Bonner was born on Ukerbagh Island in the Tweed River in New South Wales. After many years of itinerant work, he stood unsuccessfully as a candidate for the half Senate election in 1970. In 1971 Neville Bonner was appointed by the Queensland Parliament to replace the Queensland Liberal Senator, Dame Annabel Rankin, who had retired from Federal Parliament. At the 1972 election he was returned as a Liberal Senator for Queensland. Senator Bonner continued to represent Queensland as a Liberal Senator until 1983. At the 1983 election he stood as an Independent candidate but was not re-elected.
1973	First national elections for Indigenous people to elect 41 members of the National Aboriginal Consultative committee. More than 27,000 Indigenous people voted. Minimum voting age lowered from 21 to 18.
1974	Hyacinth Tungutalum (Country Liberal Party), from Bathurst Island was elected to the Northern Territory Legislative Assembly, representing the electorate of Arafura. Eric Deeral (National Party), became the first Indigenous person to be elected to the Queensland Parliament representing the electorate of Cook
1977	Neville Perkins (Australian Labor Party) was elected to the Northern Territory Legislative Assembly. He became the first Indigenous person to hold a shadow portfolio, and was appointed deputy leader of the Northern Territory Australian Labor Party.
1979	Australian Electoral Commission began the Aboriginal Electoral Education Program.
1980	Ernie Bridge (Australian Labor Party) became the first Indigenous member of the Parliament of Western Australian when he won the seat of Kimberley. He later became the first Indigenous person to hold a Ministerial office. Mobile polling first used in remote Northern Territory and Western Australia for state/territory election.
1983	Wesley Lanhupuy (Australian Labor Party), from central coastal Arnhem land was elected to the Northern Territory Legislative Assembly representing the electorate of Arnhem.
1984	Mobile polling first used in remote Northern Territory and Western Australia for Commonwealth elections. Enrolment and voting in Commonwealth elections made compulsory for Indigenous people.
1987	Stanley Tipiloura (Australian Labor Party), from Bathurst Island, was elected to the Northern Territory Legislative Assembly, representing the electorate of Arafura.
1990	ATSIC (Aboriginal and Torres Strait Islander Commission) created – elected regional councils and a board of commissioners made decisions on policy and funding. ATSIC elections were conducted by the Australian Electoral Commission.
1992	Maurice Rioli (Australian Labor Party), from Melville Island was elected to the Northern Territory Legislative Assembly representing the electorate of Arafura.
1993	The AEC's Aboriginal Electoral Education Program became Aboriginal & Torres Strait Islander Electoral Information Service.
1995	John Ah Kit (Australian Labor Party), from Darwin was elected to the Northern Territory Legislative Assembly representing the electorate of Arnhem.
1996	Aboriginal & Torres Strait Islander Electoral Information Service was abolished due to withdrawal of Commonwealth funds.

Timeline of Significant Events in Indigenous Electoral History (continued)	
Year	Event
1998	Aden Ridgeway was the second Indigenous person elected to the Australian Federal Parliament. He was born in 1962 at Macksville, New South Wales. Aden Ridgeway took his seat in the Senate as an Australian Democrat for New South Wales on 1 July 1999 following his election at the October 3, 1998 federal election. His term expired on 30 June 2005.
2001	Carol Martin (Australian Labor Party), became the first Indigenous woman to be elected to a State Parliament when she won the seat of Kimberley in the Parliament of Western Australia. Matthew Bonson (Darwin), Elliot McAdam (Tennant Creek) and Marion Scrymgour (Melville Island), were elected to the Northern Territory Legislative Assembly representing the electorates of Millner, Barkly and Arafura respectively. They join John Ah Kit as members of the first Labor Government in the Northern Territory.
2002	Kathryn Hay (Australian Labor Party), elected to the Tasmanian House of Assembly representing the electorate of Bass.
2003	Linda Burney (Australian Labor Party) is the first Indigenous person elected to the New South Wales Parliament. She represents the electorate of Canterbury.
2005	Following the Northern Territory Legislative Assembly election, Barbara McCarthy (Territory Labor) was elected to represent the electorate of Arnhem, and Alison Anderson (Territory Labor) was elected to represent the electorate of Macdonnell. They join Matthew Bonson, Elliot McAdam and Marion Scrymgour in the Northern Territory Government. One fifth of the Northern Territory Legislative Assembly electorates are represented by indigenous Australians.
2005	Legislation was enacted to dissolve the Aboriginal and Torres Strait Islander Commission and Regional Councils at the end of the 2005 financial year.

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