

Nicholas Stephanopoulos
University of Chicago Law School

Our Electoral Exceptionalism

CDDRL Workshop on Electoral System Reform
March 15, 2014

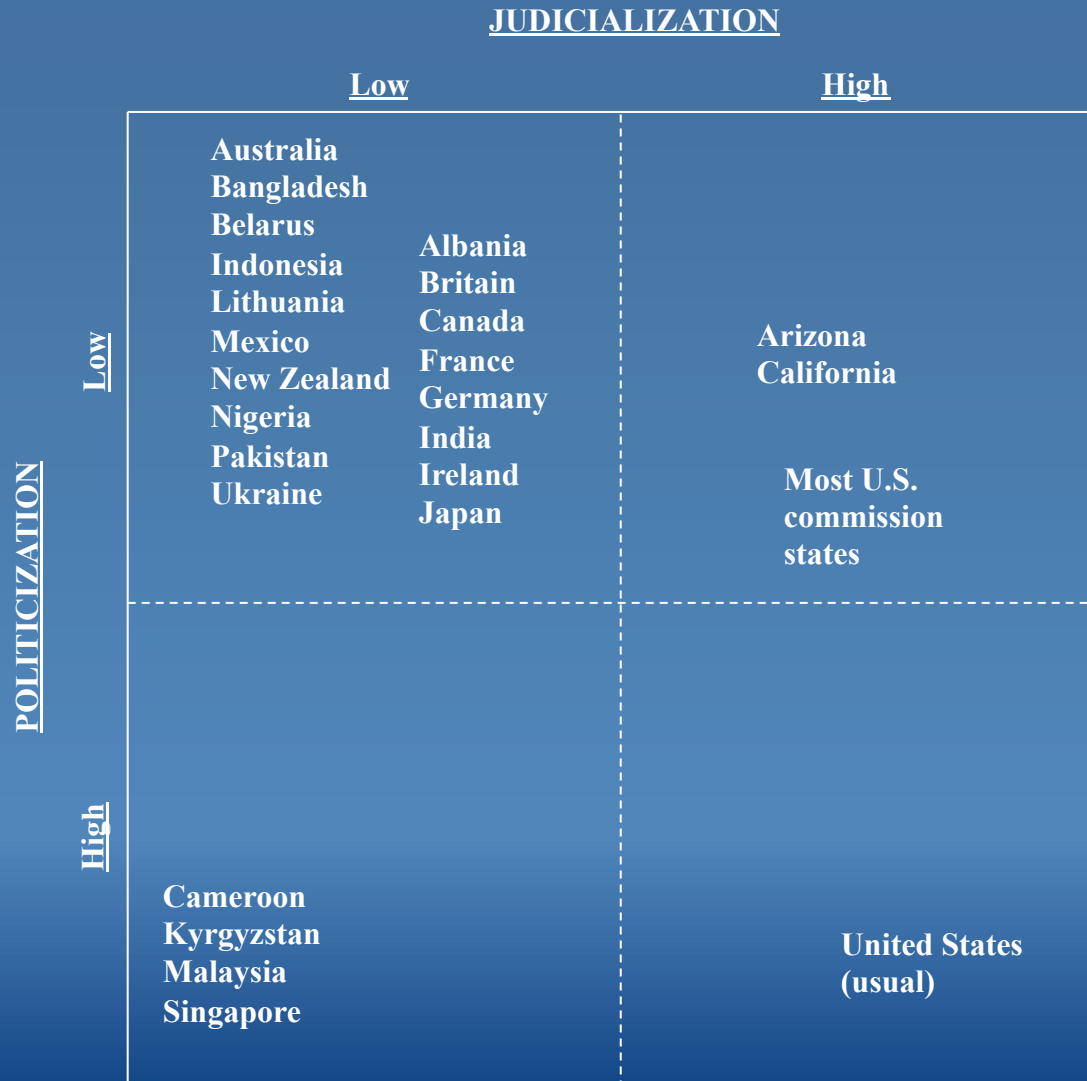
Elements of district design

1. Redistricting institutions
2. Redistricting criteria
3. Minority representation

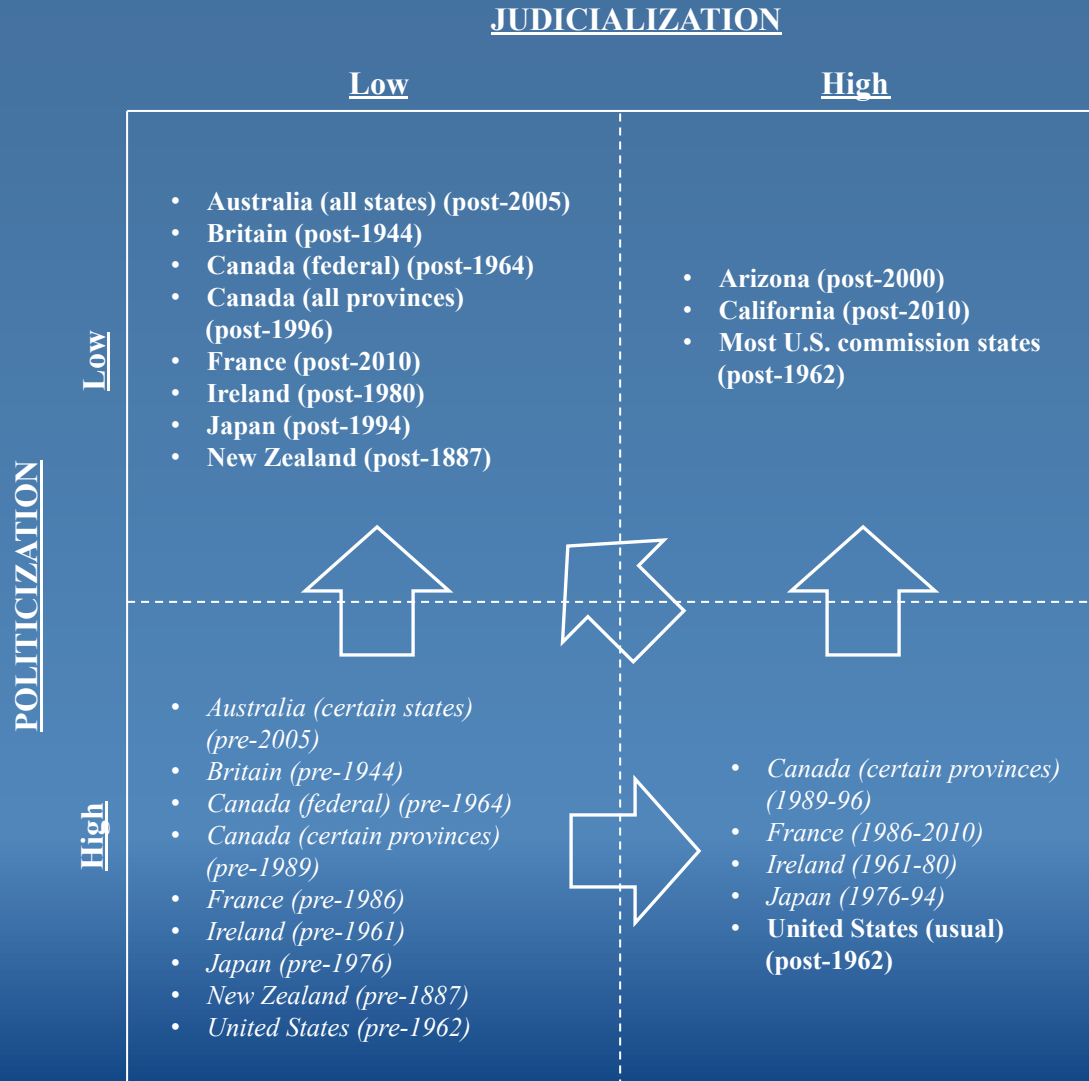
Redistricting institutions (1/4)

	United States	Abroad
<i>Elected Branches</i>	Full control in most cases.	Either no control or only power to approve / reject.
<i>Courts</i>	Frequently involved and very aggressive. 190+ suits in 40 states, 10 plans struck down, in 2010 cycle	Rarely involved and very deferential.
<i>Commissions</i>	Usually bipartisan. 7/50 for Congress, 13/50 for state legislatures.	Usually non-partisan. Ex officio or appointed members. Extensive consultation process.

Redistricting institutions (2/4)



Redistricting institutions (3/4)



Redistricting institutions (4/4)

Advantages of low politicization-low judicialization position	Objections to low politicization-low judicialization position
No deliberate gerrymandering	Commissions susceptible to partisan capture
Lower partisan bias	Redistricting as generic public policy matter
Higher electoral responsiveness	
Higher competitiveness	
Less judicial involvement	

Elements of district design

1. Redistricting institutions

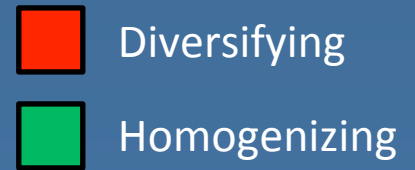
2. Redistricting criteria

3. Minority representation

Redistricting criteria (1/3)

	United States	Abroad
<i>Equal population</i>	Yes. Extremely strict (especially for Congress).	Yes. Substantially more relaxed.
<i>Political advantage</i>	Yes.	No.
<i>Majority-minority districts</i>	Yes. Under Section 2 of Voting Rights Act.	No. Except for handful of exceptions.
<i>Ban on racial gerrymandering</i>	Yes. Under Equal Protection Clause.	No.
<i>Respect for political subdivisions</i>	No at federal level. Often yes at state level.	Yes.
<i>Respect for communities of interest</i>	No at federal level. Often yes at state level.	Yes.
<i>Compactness/Contiguity</i>	No at federal level. Often yes at state level.	Yes.
<i>Attention to geographic features, means of communication/travel, and population density</i>	No.	Yes.

Redistricting criteria (2/3)



	United States	Abroad
<i>Equal population</i>	Yes. Extremely strict (especially for Congress).	Yes. Substantially more relaxed.
<i>Political advantage</i>	Yes.	No.
<i>Majority-minority districts</i>	Yes. Under Section 2 of Voting Rights Act.	No. Except for handful of exceptions.
<i>Ban on racial gerrymandering</i>	Yes. Under Equal Protection Clause.	No.
<i>Respect for political subdivisions</i>	No at federal level. Often yes at state level.	Yes.
<i>Respect for communities of interest</i>	No at federal level. Often yes at state level.	Yes.
<i>Compactness/Contiguity</i>	No at federal level. Often yes at state level.	Yes.
<i>Attention to geographic features, means of communication/travel, and population density</i>	No.	Yes.

Redistricting criteria (3/3)

Advantages of homogenizing criteria	Objections to homogenizing criteria
Far more popular worldwide than U.S. approach	Less debate within districts
Reduced gerrymandering	Commitment to representatives as trustees
Higher participation	Appearance of segregation
Better representation	
Lower polarization	
More popular with public	
More consistent with geographic districting	

Elements of district design

1. Redistricting institutions
2. Redistricting criteria
3. Minority representation

Minority representation (1/3)

	United States	Abroad
<i>Majority-minority districts</i>	Yes. Section 2 of VRA.	Canada, Panama, Ukraine
<i>Floors for minority representation</i>	Formerly yes. Section 5 of VRA.	
<i>Reserved seats in specific locations</i>		India, Jordan, Palestinian Territories
<i>Reserved seats in parallel electoral systems</i>		Fiji, New Zealand, Pakistan
<i>Party slating requirements</i>		Lebanon, Singapore
<i>Multimember districts with alternative voting rules</i>	Yes. Some local jurisdictions.	Australia, Ireland, Japan, Scotland, Spain, South Korea

Minority representation (2/3)

ALLOCATION OF SEATS

		<u>Implicit</u>	<u>Explicit</u>
<u>GROUPS REPRESENTED</u>	<u>Concentrated</u>	<p><u>Minority-Heavy Single-Member Districts</u></p> <ul style="list-style-type: none"> • Canada (certain provinces) • Panama • Ukraine • United States (VRA Section 2) 	<p><u>Floors for Minority Representation</u></p> <ul style="list-style-type: none"> • United States (VRA Section 5) <p><u>Reserved Seats in Specific Locations</u></p> <ul style="list-style-type: none"> • India • Jordan • Palestinian Territories
	<u>Diffuse</u>	<p><u>Multimember Districts with Alternative Voting Rules</u></p> <ul style="list-style-type: none"> • Afghanistan • Australia (Senate; certain states) • Indonesia (upper house) • Ireland • Jordan • Kuwait • Malta • Spain (Senate) • United States (local elections) • Others 	<p><u>Reserved Seats in Parallel Electoral Systems</u></p> <ul style="list-style-type: none"> • Fiji • New Zealand • Pakistan • Others <p><u>Party Slating Requirements</u></p> <ul style="list-style-type: none"> • Britain (voluntary) • Canada (voluntary) • Lebanon (mandatory) • Singapore (mandatory)

Minority representation (3/3)

Advantages of MMDs with alternative voting rules	Objections to MMDs with alternative voting rules
Represent diffuse minorities	Too unfamiliar
No explicit recognition of race	Voter confusion
Higher levels of representation	Coordination difficulties
Less litigation	Legislative fragmentation
More dynamic elections	