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Minority Representation and Reserved Legislative Seats in Romania

Ronald F. King

San Diego State University, USA

Cosmin Gabriel Marian

Babes-Bolyai University, Romania

Approximately 32 nations currently use reservation of legislative seats for minority voices, whether by race, ethnicity, language, religion, or territory. Romania has among the most extensive and complicated arrangement of reserved seats, with 18 different ethnic minorities currently provided special parliamentary representation. This paper addresses two key political issues: how is it determined that there exists a valid ethnic minority deserving of recognition with a reserved seat? What are the political consequences from the broad allocation of reserved seats? The paper understands a reserved legislative seat as a distributive good over which rival claimants assert contested title. The state has incentive to avoid controversial choices although this is not always possible. Incumbent interests have incentive to restrict competitive entry without appearing to violate the principles of open inclusion. As seen through the Romanian case, the regime consequence from this dynamic tends to be clientele politics, in which minority organizations emerge segmented, dependent, and relatively powerless, yet simultaneously satisfied that they can guarantee by means of state subsidies the foundations for group identity.

Keywords: *distributive politics; minority representation; reserved seats; Romania*

The protection of ethnic minorities has increasingly become prominent within international requirements on human rights. For instance, the Copenhagen criteria governing accession to the European Union mandates that a candidate country “must have achieved stability of institutions guaranteeing democracy, the rule of

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law, human rights and respect for and protection of minorities.”¹ Most established principles² concern so-called negative rights, those that entail prohibitions against behaviors discriminatory or deleterious to the interests of recognized minorities. Provisions exist to safeguard the survival of ethnic, linguistic, cultural, and religious minorities; to guarantee that individuals belonging to recognized minorities can participate in their own culture without disadvantage or prejudice; and to insure the ability of minorities to use their own language in public or in private. A few articles of international law, however, address issues of positive rights, entailing active obligations to promote minority identity and establish effective equality between persons belonging to the national majority and those belonging to various minorities.

A number of states have extended the notion of positive rights promotion to the political realm, taking affirmative action to facilitate minority voice, access, and representation. Romania is among the countries that have established special legislative seats for recognized minorities. At present, there are eighteen such seats occupied in the lower house of parliament. Guaranteed by the Constitution, the Romanian system of reserved mandates has been praised by its defenders for contributing to accommodation and integration. In fact, it won distinct notice from the European Union by the commission evaluating Romania’s candidacy for admission.³ This article intends to examine in detail the practice of special minority reserved legislative seats in Romania. We will discuss the reasons why Romania adopted such a system and the particular form of reserved seats that has been implemented. We will examine the political dynamic inherent to the Romanian format, involving contrasting incentives for expansion and contraction of the number of seats, and the awkward controversies that resulted. Moreover, we will situate this dynamic within a theoretical context in which Romania serves as a useful case study for comparative political analysis. Our conclusions are not fully optimistic. As distributive goods, minority reserved seats in Romania have tended to promote acquiescence to the government in power, fostering narrow and separate clientele benefits to the neglect of unifying concerns over essential justice.

Explanatory Framework: Reserved Seats as Distributive Goods

In politics, rules tend to affect results. The design of electoral institutions matters regarding the quality and quantity of democratic empowerment. Approximately 32 nations currently utilize reservation of legislative seats for minority voices, whether by race, ethnicity, language, religion, or territory.⁴ The fundamental assertion is that electoral engineering potentially can affect conflict management in ethnically divided societies.⁵ Special provision of reserved seats gives to minority organizations ensured parliamentary access, allegedly helping them protect against discrimination and

advance group interests. For the society, the gain is enhanced social stability and legitimacy. For the group, descriptive representation⁶ is a welcome symbol of recognition and inclusion, carrying demonstrable psychological benefits⁷ as well as a degree of real political power. These claims, however, remain controversial.

Viewed comparatively, reserved legislative seats exist in a variety of institutional formats.⁸ Countries vary regarding the number of reserved seats awarded, how representatives are selected to fill them, and the relationship between the representative and his or her constituency. This article adds to the literature on the topic by addressing two key issues: How is it determined that there exists a valid ethnic minority deserving of recognition with a reserved seat? What are the political consequences from the broad allocation of reserved seats among many small ethnic minorities? The findings will help us to understand the practice of special minority parliamentary representation as a mechanism of social intervention.

Imagine, at one extreme, a hypothetical country with an official list of designated minorities justified by their historical presence over many decades, during which time they have to a great extent preserved their identity, customs, and traditions, thus forming distinctive subcommunities. Each designated minority then serves as a self-contained electoral constituency responsible for electing one or more members to parliament. Individuals register to vote as minority group members. Candidates for a minority legislative seat must be certified as legitimately belonging to the community and its recognized cultural associations. Elections are conducted only among registered minority members for carefully identified minority parliamentary representatives. In Petra Maier's phrase, such a system is remarkable for its "essentializing" features.⁹

Romania provides an important case study because it is the furthest extreme away from this essentializing ideal. Its system of supplemental representation was designed intentionally to permit virtually any self-organized minority to obtain a seat in parliament on the minimum condition that it surpasses a low electoral threshold; any Romanian voter has the discretion to cast his/her ballot for a minority organization. Largely as a consequence, Romania has a most extensive and complicated arrangement of reserved seats, with eighteen different ethnic minorities virtually guaranteed special parliamentary representation in the Chamber of Deputies. (This is in addition to the seats won by the Hungarian alliance, which competes as a normal political party and consistently receives more than enough votes to surpass the ordinary legislative threshold, entitling it to a proportional allocation of conventional mandates.)

Theoretically, a reserved minority legislative seat can be understood as a distributive good,¹⁰ entailing concentrated benefits yet broadly diffuse costs. To the recipient, it is a valuable property, a source of patronage and funding essential for building group identity and maintaining of constituency support. The state might seek to constrain the range of distribution, but the consequence could well be complaint and controversy among rival claimants each asserting legitimate title. Instead, the state might attempt to escape zero-sum political controversy, by taking a generally accommodating position when deciding the minority groups eligible for reserved seats and

in awarding state subsidies to those groups as a result of their election. This has been Romania's choice, an approach satisfying to European observers and international human rights organizations that often have been critical of Romanian politics and practices. Nevertheless, the approach is not without problems. Permissive rules can allow suspect organizations to mobilize and claim representative status. They allow new minority groups to form with potential overlap into the domain of more established groups. There might eventually be concern over the increasing presence of minority representatives in parliament. Thus the state, despite its efforts to avoid them, could still become embroiled in uncomfortable disputes and might not always be able to maintain its intended neutrality across rival claimants.

On the other hand, whereas the state should lean politically toward permissiveness, recognized minority beneficiaries should, in the pursuit of narrow distributive benefits, instead advocate restrictions on competitive entry. Hypothetically, to the extent that represented minority organizations think collectively, they possibly could prefer the kind of permissive rules that allow more members to be elected, giving increased voice to the campaign for generalized human rights. Yet to the extent that each represented minority prioritizes its own, particularistic gain, incumbent organizations should prove aggressive in defense of established possessions and material rewards. They should advocate complicating the rules regarding the recognition of new groups, deterring their formation. They should seek constraints on the ability of alternative organizations to challenge democratically within their own minority.

The interplay of these tendencies, concerning both state and societal actors, is used to explain the politics of reserved legislative seats in Romania. There is also a wider, regime dimension inherent to the story. Distributive benefits are segmental in nature and thus tend to keep the various beneficiaries divided rather than unified. The groups become heavily dependent on the state and reluctant to stand against the dominant parties in government. As a consequence, minority representation should become tamer over time, more acquiescent, and less threatening to established party coalitions. The Romanian example, in its extreme, is presented as a valuable case illuminating a situation inherent to the politics of special reserved seats more generally. Some of the stories told below might be familiar to readers versed in the literature on Romania, but the framework for analysis is novel. This article begins with necessary background regarding the particular Romanian arrangement of reserved seats before considering the entailed distributive politics of inclusion-as-cooptation.

The Romanian System of Reserved Seats: Historical and Legal Context

Romania, like many countries formed during the age of nationalism, consistently has felt a tension between the construction of a single national identity and the

recognition of multiple nationalities within its borders. The problem was compounded after the end of World War I, when the Old Kingdom of Romania was enlarged by the annexation of territories that previously belonged to the Austro-Hungarian and Russian empires. Two provinces, Transylvania and Bessarabia, were particularly heterogeneous. As a consequence, by the end of 1918, approximately 28 percent of the country's population belonged to minority ethnicities. The subsequent Romanian Constitution of 1923 officially guaranteed fundamental political rights irrespective of ethnic origin, language, or religion. Nevertheless, as a matter of state-building, the government in practice gave priority to the majority Orthodox religion and to the promotion of Romanian culture. Reciprocally, those ethnic groups that previously had held dominant positions were uncomfortable as mere subordinate minorities within an explicitly Romanian state. There were regular complaints, especially regarding education policy, from groups feeling politically and socially aggrieved—often with support from the cultural mother countries—which in turn triggered claims of disloyalty from Romanian authorities.¹¹

Those minorities with a strong regional presence and a history of established power during the interwar years organized separate political parties in the effort to mobilize opinion and gain representation. Despite formal guarantees of electoral rights, minority success at the national level came only through patronage. For example, in the 1922 and 1926 elections, Hungarian and German candidates managed to win seats in the Assembly of Deputies only by negotiated incorporation onto the proportional representation lists of the leading Romanian parties. Under the 1923 Constitution, interestingly, part of the Romanian Senate was designated to members by right, including the heir to the throne, the president of the Romanian Academy, former ministers with six years of seniority, and former presidents of the High Court of Cassation and Justice. The Orthodox Metropolitan and the Bishops of the Orthodox and Greco-Catholic churches were automatically granted seats, as were the leaders of all religions recognized by the state with more than 200,000 faithful.¹² In effect, this insured Senate representation for certain ethnic minorities, as the Calvinist and Unitarian populations were overwhelmingly Hungarian in nationality, the Lutheran population was German, and the Muslims were either Turkish or Tatars. A similar provision was found in the corporatist 1938 Romanian Constitution. A version of reserved minority legislative mandates thus existed historically in Romania, available for adaptation for more secular purposes upon the restoration of democracy after 1989.

Minority relations changed dramatically with the advent of communism, replacing the problem of separate ethnic minorities by the unified fight of the revolutionary proletariat. Over time, even the language of "cohabitating nationalities," once emphasized from Moscow, was transformed in official declarations into "Romanian workers of Hungarian/German/Serb/Bulgarian/etc. origin."¹³ Romanian communism under Ceausescu was expressly chauvinistic and xenophobic, a tactic used to enforce political solidarity and social conformity.¹⁴ Romanian textbooks were

rewritten to emphasize a single and unique history. Romanian cultural and scientific achievements supposedly surpassed those of the West. Anti-Hungarian and anti-Semitic prejudices flourished. Forced relocations were intended to reduce regional concentrations with ethnic minorities. Despite repression, minority resentments grew and international protests multiplied. In mid-1989, the Romanian representative to the UN Commission on Human Rights, Dumitru Mazilu, was placed under house detention for a report critical of domestic abuses.¹⁵ Thus, following the revolution of December 1989, the new post-communist regime was under strong obligation to produce a visible change in minority policies as a matter fundamental to establishing democratic credentials.

According to Article 6 of the 1991 Romanian Constitution, "The State recognizes and guarantees the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity." Article 62 on the election of the legislature guarantees that "organizations of citizens belonging to national minorities, which fail to obtain the number of votes for representation in Parliament, have the right to one Deputy seat each, under the terms of the electoral law. Citizens of a national minority are entitled to be represented by one organization only."¹⁶ Although the Constitution was revised in 2003, both provisions without change in wording remain in effect.

The 1991 Constitution codified a practice established for the first post-communist parliamentary elections in Romania, held in May 1990.¹⁷ Politically, it was useful for the new Romanian government to solicit minority inclusion. Approximately 90 percent of the country's present inhabitants are of Romanian nationality, 7 percent are Hungarian, and 2 percent are Roma. The Romanian census also lists 23 other nationalities. For most, there has been a long history of distinct ethnic and cultural residence in the territory now governed by the Romanian state,¹⁸ in part the consequence of centuries of Hapsburg and Ottoman imperial occupation. Extensive minority representation immediately after 1989 was a symbol to the West indicating a commitment to human rights. It would imply a rejection of the nationalist chauvinism of the Ceausescu regime, promising recognition to wide range of ethnic voices.

There were also valuable short-term political benefits. Minority incorporation in parliament would help establish legitimacy for the government of the National Salvation Front despite the dominance of former communists in key positions. It would help to allay serious international concerns following the March 1990 ethnic violence in Tirgu Mures and the growing visibility of ultranationalist organizations such as *Vatra Romaneasca*,¹⁹ signaling that Romania would not become destabilized as happened in neighboring Yugoslavia.

Equally important, guaranteed representation for numerous small minorities would help counterbalance the presence of the Hungarian Alliance, with its antisimilationist program and radical advocates for regional autonomy.²⁰ The Hungarian Alliance had emerged as one of the principal opposition parties to the NSF within

the rapidly disintegrating post-revolutionary coalition. It was useful for the regime to ensure the political presence of multiple, non-Hungarian minority organizations, protected through positive-discrimination electoral procedures. Broad inclusion, even if established by extraordinary pathways, would signal a regime commitment to full minority responsiveness while simultaneously preventing the Hungarians from claiming that they represented all minority interests.

The 1992 Romanian election law implemented the new constitutional provisions regarding reserved seats.²¹ There was no limit to the number of minority seats potentially awarded. There was no list specifying which minorities were eligible. There were no restrictions on the electoral organizations that could contest for a minority seat as long as they were registered NGOs affiliated with a given minority. There were no conditions regarding the candidates these organizations could advance. There was no constraint on who within the entire Romanian electorate could cast a vote for a minority electoral organization. If more than one organization contested for the same minority, the candidate elected would be the first name on the list for the organization that received the largest total vote. Implicitly, the Romanian position was that nationality was a matter of individual self-declaration. The electoral system, as a consequence, maximized accessibility and flexibility. The law remained in effect for the 1992, 1996, and 2000 parliamentary elections.

The only revision introduced by the 1992 election law was a requirement that, to qualify for a reserved minority seat, an organization must receive at least five percent of the average number of valid votes needed to elect an MP through the normal proportional representation system. This was truly a minimal requirement. In the September 1992 elections for the Chamber of Deputies, for example, there were 10,880,252 valid votes cast according to the Biroul Central Electoral; the average valid vote per Deputy seat was 26,540; the special minority electoral threshold to receive a reserved seat was five percent of that amount—only 1,327 total votes nationwide. The special minority threshold in 1996 was 1,494 votes (out of more than 12.2 million valid ballots cast). The special minority threshold in 2000 was 1,273 votes (out of 10.8 million valid ballots).

Romanian electoral law contains the distinction between an ethnic minority and the organization(s) that seek to represent it. Each minority could possess only one seat. The requirement regarding the 5 percent special electoral threshold, however, applied to any legally constituted NGO affiliated with that minority. Quite possibly, those who wrote the law anticipated that each ethnic minority would be represented only by a single, legally constituted organization. Yet minorities in Romania, although often small, are not automatically homogeneous. Moreover, the attractiveness of a legislative seat encouraged entrepreneurial fragmentation.

The possibility existed, for a minority with a substantial population but numerous competing organizations, that none of them would individually surpass the special threshold despite a strong aggregate turnout; as a consequence, the minority might

not be represented in parliament at all. There was also confusion in the law about the right granted to minority organizations to compete electorally with the status of political parties. Parties were prohibited from running the same candidate list in more than one geographic constituency. If forced to follow this rule, a disbursed minority might be faced with a proliferation of regionally based organizations that could have trouble obtaining enough votes to surpass the threshold; it might not be able to control which of its candidates would obtain the seat in parliament. The confusion was ended starting with the 2000 election, when a provision was introduced specifically permitting minority organizations to offer the same list of candidates in multiple constituencies.²²

In 1993, the Romanian government established a Council for National Minorities,²³ reorganized in 2001 and placed within the Department for Interethnic Relations.²⁴ Part of the motivation for this institutionalization was international, as Romania increasingly viewed itself as a potential candidate for European Union accession. The Council was established as an advisory body composed by the minority organizations with elected representation in the Romanian Parliament. It could propose new legislation or comment on pending draft bills, government decrees, and ministers' orders that affect minority relations in Romania. It would maintain contact with affiliated NGOs, with citizens belonging to national minorities, and with international human rights organizations. In practice, however, the Council primarily has served as a body that proposes the allocation of public subsidy funds among recognized minorities to support their organizational, cultural, and educational activities.

The number of minority representatives occupying reserved seats in the Romanian Chamber of Deputies climbed from thirteen in 1992 to eighteen in 2000. The number of organized associations competing for those seats also increased substantially. To a large extent, this was a consequence of the attractiveness of a reserved parliamentary seat and the openness of the rules for winning one.

Some degree of constraint, however, was introduced into the rules governing the 2004 and 2008 parliamentary elections.²⁵ The special minority vote threshold was raised from 5 to 10 percent of average valid votes cast to elect a Deputy. This proved not especially significant, as the threshold was still only 2,841 votes (out of approximately 9 million) in 2004 and only 2,177 votes (out of approximately 6.5 million) in 2008. Potentially more effective were the provisions affecting eligibility to run for office. A national minority for parliamentary election purposes was defined, for the first time, as an ethnicity "represented in the National Council of Minorities." The National Council was constituted of those minorities with representation in parliament. The logical circularity implied that no additional ethnic minority seats were expected.

In addition, the new law privileged those particular minority associations that had won reserved seats in the previous parliament. These were automatically considered electoral competitors, allowed without restraint to put forward candidates. All other

legally constituted minority electoral associations had to submit a list of members to the Biroul Central Electoral composed of at least 15 percent of the total number of citizens who, at the last census, claimed to belong to that minority. Based on 2002 census data, it meant that a challenge could be mounted within the Armenian minority with 267 membership signatures and within the Italian minority with only 500, but it would require more than 3,300 signatures for an opposition Serb or Tatar group to mobilize and more than 9,000 for an opposition German or Ukrainian group. The law continued that a prospective electoral organization for any minority for which the 15 percent rule produces a number larger than 25,000 (lowered to 20,000 in 2008) must prove broad geographic distribution. This provision directly affected only the Roma minority, virtually ensuring dominance for the incumbent "Roma Party" with its close connections to the Social Democratic government, but it also could have a deterrent effect on any potential Szekler electoral secession from the Hungarian minority. The 2008 election law also required that any minority organization without current parliamentary representation that seeks electoral participation achieve "public utility" status, granted by the General Secretariat of the government only to organizations that perform the common good and have been operating for at least three years as demonstrated by annual activity reports and financial statements. The provision would hinder the ability of newly formed organizations to compete in elections.

The electoral laws for 2004 and 2008 thus introduced restrictions affecting the degree of competition for Romanian minority reserved seats, operating as a complex set of administrative barriers to new entry but not as a forceful prohibition. As seen in Table 1, the number of minorities represented in special reserved seats stabilized during those years. It also created new possibilities for protests and challenges, as there exists no official registry of names by minority to help determine which individuals are eligible to subscribe as members for any proposed competitive NGO association.

The overall effect of the Romanian legal framework on the representation of national and ethnic minorities can be calculated (Table 2). In the 2004 parliamentary election, for each 100 persons of (nonminority) Romanian origin as enumerated in the preceding census, (nonminority) Romanian political parties received about 47.5 votes. The ratio is not exceptional, as children are not qualified to vote and some others, especially the elderly, cannot get to the polls. In the 2008 parliamentary election, for each 100 persons of Romanian origin, nonminority political parties received nearly 32 votes. (There was substantially lower aggregate voter turnout in 2008, when the parliamentary election for the first time was held separately from the first round of presidential balloting.) Approximately the same vote/population ratios applied to the Hungarian minority, for its political organization (UDMR) did not utilize the special reserved seat system but instead competed as a normal party and received its seat allocation from the calculations of proportional representation.

Table 1
Minority Organizations and Their Reserved Seats

	Parliamentary Election					
	1990	1992	1996	2000	2004	2008
Albanians			Yes	Yes	Yes	Yes
Armenians	Yes	Yes	Yes	Yes	Yes	Yes
Bulgarians	Yes	Yes	Yes	Yes	Yes	Yes
Croats		(No)	(No)	Yes	Yes	Yes
Czechs				(No)		
Germans	Yes	Yes	Yes	Yes	Yes	Yes
Greeks	Yes	Yes	Yes	Yes	Yes	Yes
Hutuls			(No)	(No)		
Italians		Yes	Yes	Yes	Yes	Yes
Jews			Yes	Yes	Yes	Yes
Lippovans	Yes	Yes	Yes	Yes	Yes	Yes
Macedonian-Slavs				Yes	(No)	
Macedonians					Yes	Yes
Poles	Yes	Yes	Yes	Yes	Yes	Yes
Roma	Yes	Yes	Yes	Yes	Yes	Yes
Ruthenians				Yes	Yes	Yes
Serbs and Carasovenians	Yes	Yes	Yes			
Serbs				Yes	Yes	Yes
Slovaks and Czechs	Yes	Yes	Yes	Yes	Yes	Yes
Szeklers			(No)			
Tatars-Turks		Yes	Yes	Yes	Yes	Yes
Turks	Yes	Yes	Yes	Yes	Yes	Yes
Ukrainians	Yes	Yes	Yes	Yes	Yes	Yes
Total	11	13	15	18	18	18

Source: Romanian Chamber of Deputies (www.cdep.ro).

Note: Yes = sought and obtained a special minority seat; No = sought a special minority seat yet failed to obtain one; Blank = did not seek a special minority seat in that election.

Results for other minorities were quite different, consistent across elections. Roma electoral organizations received only about 10 votes for each 100 persons enumerated in the census (and the census most likely underestimates the total Roma population). Most of the larger minorities also had lower than normal vote/population ratios. Yet all of the smaller minorities, those with fewer than 10,000 individuals, received more votes than the total population, in both 2004 and 2008. Polish electoral organizations received more than twice as many votes as the number of presumed Polish inhabitants; Armenians more than five times as many votes. Especially striking are the results for the Macedonians, Albanians, and Ruthenians, with greater than ten times more votes than presumed inhabitants. Not surprisingly, these minority seats have been subject to political controversy. The vote/population results for smaller minorities are remarkable but not necessarily illegitimate, as there is no constraint under Romanian law on nonminority voters casting ballots for minority electoral organizations.

Table 2
Vote/Population and Representation Ratios for Romanian Minorities

	2002 Census		2004 Election		2008 Election		2004 Election		2008 Election		2004 Election		2008 Election	
	Population		Votes Cast		Votes Cast		Votes/Population		Votes/Population		Represent. Ratio ^a		Represent. Ratio ^a	
Romanian	19,409,400		9,214,269		6,198,521		0.475		0.319		0.983		0.984	
Hungarian	1,434,377		628,125		425,008		0.438		0.296		1.002		0.996	
Roma	535,250		56,076		44,037		0.105		0.082		0.122		0.121	
Ukrainian	61,091		10,888		9,338		0.178		0.153		1.070		1.063	
German	60,088		36,166		23,190		0.602		0.386		1.088		1.081	
Lippovan-Russian	36,596		10,562		9,203		0.290		0.253		1.796		1.784	
Turk	32,596		21,628		9,481		0.664		0.291		2.005		1.993	
Tatar	24,137		6,452		11,868		0.267		0.492		2.708		2.691	
Serb	22,518		6,643		10,878		0.295		0.483		2.902		2.885	
Slovak and Czech	21,137		5,950		15,373		0.281		0.727		3.092		3.074	
Bulgarian	8,092		25,588		14,039		3.162		1.735		8.077		8.028	
Croat	6,786		18,100		9,047		2.667		1.333		9.631		9.573	
Greek	6,413		7,161		8,875		1.099		1.363		10.035		9.974	
Jew	5,870		8,449		22,393		1.439		3.815		11.134		11.067	
Pole	3,671		10,632		7,670		2.896		2.089		17.803		17.697	
Italian	3,331		11,349		9,567		3.407		2.872		19.602		19.503	
Chinese	2,249													
Armenian	1,780		9,810		13,829		5.511		7.769		36.717		36.497	
Ceangai	1,370													
Macedonian (Slav)	731		25,689		11,814		35.142		16.161		89.406		88.871	
Albanian	520		5,011		8,792		9.637		16.908		125.684		124.932	
Ruthenian	262		2,871		4,514		10.958		17.229		249.450		247.957	
Carasovenian	207													
Slovenian	175													
Gagauti	45													
Other	13,653													
Not Specified	5,935													
Total	21,698,181		10,146,460		6,858,437		0.468		0.316					

Sources: Romanian Census (www.recensamant.ro); Romanian Electoral Authority (www.roep.ro); Romanian Electoral Bureau (www.bec2004.ro and www.becparlamentare2008.ro).

a. Representation ratio: seat percentage/population percentage.

More significant is the index of overrepresentation also reported in Table 2, comparing by ethnicity the share of total population to the share of parliamentary seats obtained.²⁶ The normal system of proportional representation resulted, for both 2004 and 2008, in approximate equivalence (share of population divided by share of seats = 1.0) for the Romanian and Hungarian ethnicities. The Roma minority, by contrast, was enormously under-represented (coefficient = 0.12) whereas all other national minorities were overrepresented (coefficient > 1.0), with the coefficient rising systematically as census size diminished. (Turks in 2004 and 2008 were 2 times overrepresented; Bulgarians were 8 times overrepresented; Armenians were 36 times overrepresented; Ruthenians were nearly 250 times overrepresented). This is the logical consequence of the allocation of one reserved parliamentary seat to each electorally qualified minority. The Romanian system of reserved seats was intentionally designed to achieve positive discrimination and it has done so successfully. A possible exception is the Roma population, with only one seat despite a half-million population count. Yet it is unlikely that a Roma electoral organization competing as a normal political party would be able to surpass the vote threshold for ordinary proportional allocation; one reserved seat thus might be considered better than none at all.

The above discussion of the legal framework for Romanian reserved legislative seats is background to important questions concerning politics. Existing research has shown that voting for ethnic parties in Romania has been remarkably stable;²⁷ that Romanian electoral provisions successfully have produced positive discrimination, awarding seats to small minorities that without special reservation would not have had a chance of winning parliamentary representation;²⁸ but that the existence of specially designated reserved seats has entailed the neglect of minority ethnicities in the parliamentary delegations of the major Romanian political parties.²⁹ This article goes somewhat further, inquiring into the political logic that governs the process by which minorities seek and obtain Romanian reserved seats, the difficulties that resulted, and the implications for minority voice and representation as a dimension of the positive pursuit of human rights.

The Political Complexity of Romanian Reserved Seats

Ethnic categories are common in research, useful for cataloging and sorting individuals into units of analysis. Surveys and opinion polls, however, cannot formally dictate ethnic belonging. Governments often do. Officially labeled ethnic identities can be used to control admission into politics, to secure representation in legislative and administrative bodies, and to allocate valuable resources. The designation of ethnic minorities is never simple and often is beset with contention. The issue is inherent to any system of reserved seats for national minorities.

The Politics of Distributive Benefits

By its strategy of fundamental nonessentialism, Romania solved the problem with legal agnosticism. As opposed to both Croatia and Slovenia (two other Eastern European nations that utilize parliamentary reserved seats), it does not explicitly specify which national minorities are eligible for a reserved seat. As opposed to Croatia and Slovenia, there is no official electoral registry of those individuals uniquely enrolled to vote in designated minority constituencies. Romania instead imposes no formal limit on the number of special minority legislative seats possible or constraints on the electorate that can vote to place minority representatives in those seats. It is remarkable in its passivity. Any legally registered minority NGO can compete for a reserved seat in the Chamber of Deputies for its identified candidate (although the conditions, importantly, became somewhat more stringent starting in 2004). The organization secures a seat if it receives aggregate votes in the general parliamentary election above a low minimum threshold and greater than any rival group seeking to represent that same minority. The only rule is that no minority can garner more than one seat.

A reserved seat in the Chamber of Deputies is a valuable property, establishing formal legitimacy for the minority group and presence in any consultation regarding minority affairs in the country. It guarantees a seat on the Council for National Minorities and access to state funding to promote group culture and traditions. The NGO that successfully wins the right to speak on behalf of its minority also gains institutionalized primacy within the community as well as subsidies to help develop organizational capacity, sponsor preferred activities, and maintain clientele networks.

State funds are allocated among Romania's officially represented minorities "to partially cover the material expenses for the function of the organization headquarters and their branches, as well as for their maintenance and repair, personnel expenses, media expenses, books, school manuals and publications, for organizing cultural or scientific activities, symposia, meetings of their members."³⁰ For example, the Bulgarian group has published volumes of folklore from the Banat; the Croat group has established an educational network, including three kindergartens, with books and instruction in the native language; the German group sponsors a theater in Timisoara; the Greek group publishes a bilingual magazine and a monthly newspaper; the Polish group assists three folk ensembles performing traditional songs and dances; and the Tatars hold a national cultural festival.³¹ The amount of money is not enormous, but it has risen every year and has proved helpful in promoting cultural activities especially among Romania's small minorities that might not sustain autonomous identity without explicit respect and reward from the state.

Given the concentrated benefits of a reserved legislative seat, it is in the interest of each minority to have a recognized organization obtain legitimate status in parliament. Equally, it is in the interest of separate organizations within the various minorities to advance their own loyal candidates in the hope of ranking first in total

votes cast, hence claiming the available seat. The inherent tendency thus is toward proliferation and competition.

Given the small and diffuse cost of multiple reserved seats, the Romanian state was equally rational in its predisposition toward official passivity, leaving to minimally constrained voter determination the problems of how many special minority seats to establish, which minorities can claim them, and what organizations will represent those minorities in parliament. Romania has intentionally shifted the onus of decision-making from the domain of state bureaucrats to the minority groups themselves, as they separately mobilize and pursue their electoral fortunes. The arrangement appears tolerant and ecumenical. It is also the path of greatest conflict avoidance for state actors seeking quiet and quiescence, escaping the controversies that tend to arise among intense claimants for a scarce reward. The extent of minority representation has been satisfying to international observers while the diffusion of voices reduces the potential for systematic protest, counterbalancing potential dissent from Hungarian nationalists.

The consequence of distributive politics, as Monica Caluser concludes, has been “parallel systems, in which the majority parties deal with any topic but the issue of minorities, while the minority parties deal only with issues of minorities.”³² Minority legislators rewarded for purposes of descriptive representation have been systematically loath to invite political attention for fear of risking desired funding. As one Roma leader commented, “the Roma must not do real policy; they should turn as the wind blows because they need to be helped irrespective of who is governing.”³³ In fact, the entire set of Romanian minority representatives have, on critical votes, sided unanimously with the government in power, whether that government is led by the communist-successor party or by liberal reformers. The only exception was in October 2009 when the group voted for the successful no-confidence vote against Prime Minister Emil Boc. Importantly, the group simply was keeping on the winning side, and it had no qualms in supporting Boc for Prime Minister when he reconstituted a government two months later. By early 2011, minority group votes were even pivotal in maintaining the Boc coalition in power.

The Romanian approach to the implementation of reserved parliamentary seats thus entails democratic self-determination rather than authoritative state imposition. The difficulty regarding the latter approach is that the state, by deciding what ethnic groups get official recognition, places itself in formal opposition to those whose claims for special recognition are rejected. Yet the former approach, passively allowing group recognition to all ethnic identities that successfully self-mobilize, does not escape complexities of its own. Absent rules to protect essentialism, it remains possible that certain alleged minorities, despite winning sufficient votes to obtain official legislative representation, are not really deserving by their historic presence and contemporary significance. It remains possible that some formally qualified candidates for office are not in fact valid demographic representatives for the minority to

which they assert allegiance. In the extreme, aggressive political entrepreneurs might use the open supplemental minority representation system for purposes of their own. Whereas the authoritative approach faces the complications of arbitrarily imposed standards, the Romanian approach faces the complications of no intrinsic standards. These are the problems of inclusion rather than exclusion. Moreover, the very attractiveness of a designated legislative seat suggests that controversies over inclusion will occur with regularity.

One should thus expect that, over time, the intensity and regularity of such controversies should lead to some tendency toward greater regulation. Regulation, moreover, is very much in the interest of those minority groups and their representative associations that have incumbent status, constraining the proliferation of new entrants and rival claimants for valued distributive benefits. This complex political dynamic is illustrated in the Romanian case.

Controversies over Minority Recognition

As seen in Table 1, for the 1990 parliamentary elections, eleven separate minorities registered at least one organization with the electoral commission. As the law at the time specified no minimum threshold, all were awarded seats in the Chamber of Deputies (although it is interesting to note that the Union of Armenians in Romania received just 399 votes nationwide). For the 1992 parliamentary elections, all eleven minorities easily exceeded the low, newly imposed electoral threshold and were joined by the Italian and Tatar minorities that also registered effective electoral groups. (A Tatar representative previously had run affiliated with the National Salvation Front but the group instead now chose election via ethnic identification, with more easily achieved success.) For 1996, the Albanians secured a seat, as did the Jewish minority that previously had refused to enter candidates on the assertion that they were a religious rather than national minority.³⁴ By contrast, the Association of Hutuls registered and pursued a seat but with only 646 total votes did not surpass the minimal electoral threshold.

Politics is never simple; the Romanian state, despite its efforts to appear accommodating and escape the storms of ethnic conflict, could not deflect all disputes. The mechanism of an electoral threshold for ethnic group recognition was essentially passive regarding the character of the group that wins legislative recognition. However, inherent when identity issues are at stake, especially when combined with the distributive promise of material benefits, are questions regarding what constitutes a legitimate ethnic minority eligible for potential reserved seat representation. Sometimes new minorities self-announce and organize a constituency overlapping with previously recognized minorities. Sometimes previous minorities splinter into separate national groups. Sometimes individuals attempt to hijack a minority label for purely personal objectives. In such cases, protests tend to arise. With no established

rules to resolve them, outcomes tend to be random, reflecting political interests and dominant pressures. By 2000, Romania experienced three typical complexities.

Political Advantage. The most obvious conflict situation is where the formation of a new minority claiming representation potentially threatens the political interests of a more established group. An illustration is the Szekler minority that registered a candidate for election in 1996 and obtained 2,142 votes, narrowly exceeding the established threshold, but ultimately was denied parliamentary representation. The justification was that most individuals of Szekler descent self-identified as Hungarian in the Romanian census and thus were already represented in parliament by means of the Hungarian Alliance, UDMR, which received more than 812,000 votes in 1996 (6.64 percent of the national total) and by proportional allocation 25 seats in the Chamber of Deputies.

Politically, the Szekler National Council was a persistent advocate for a Hungarian-dominated semiautonomous region within Romanian territory. The UDMR, by contrast, in 1996 joined the Democratic Convention government of Victor Ciorbea, helping to give the Prime Minister a secure parliamentary majority and receiving ministries in return. This was viewed by Szekler nationalists as UDMR betrayal. "Since 1996 they are in the government and we think, once they were, they represented the interests of the Romanian majority and not the Hungarian minority," said Zoltan Gazda of the Szekler political movement.³⁵ It was clearly to the advantage of UDMR for the Szekler Union to be denied a reserved legislative seat, saving it from embarrassing dissent from within its core constituency and maintaining the appearance of a united Hungarian minority. The parliamentary commission that decided the case was dominated by the government parties, of which UDMR was a member. For parliamentary elections after 1996, the Szekler Union even was refused the right to run for a potential reserved seat by the Biroul Electoral Central.³⁶ Yet intervention by the state in deciding the issue was an apparent violation of ostensible neutrality regarding minority legislative representation, to the detriment of a small ethnic organization and the obvious benefit of a much more powerful national rival.

Personalized Minorities. Gheorghe Firczak was a schoolteacher from Hunedoara county who had campaigned unsuccessfully for the Romanian Senate in 1996 and for local office multiple times on the ballot of the small, Free Democratic Hungarian Party. In 2000, as a political entrepreneur, he formed the Cultural Union of Ruthenians in Romania. The organization registered with the Election Bureau and obtained nearly 7,000 votes in the parliamentary elections, easily sufficient for Firczak to win a minority seat in the Chamber of Deputies.³⁷ This was quite a personal achievement, as the 2002 Romanian census recorded only 262 individuals self-identified as Ruthenian. The Ruthen world council was quick to give recognition to the new cultural organization in Romania, pleased that it would "promote among

Rusyns an interest in their ancestral culture and identity and to inform Romania's public at large about the existence of Rusyns as a distinct nationality."³⁸ It expressed no concern regarding Firczak's entrepreneurial efforts promoting their cause despite his sudden ethnic transformation, the fact that he did not speak the Ruthenian dialect of Ukrainian, and his previous lack of apparent interest in Ruthenian affairs.

The Ukrainian minority called individuals such as Firczak "pathetic fakes" and protested that Ruthenians did not merit independent representation.³⁹ Yet the Ruthenian minority was historically Greco-Catholic rather than Orthodox, and the addition of this new reserved seat had minimal cost as Ruthenian votes in no way threatened the ability of the Ukrainian group to exceed the low threshold for its reserved seat. Parliament thus approved Gheorghe Firczak as the special Ruthenian MP. There is no requirement in the law that the occupant of a Romanian reserved seat, beyond personal declaration, must be an authentic, certified member of the minority he represents or that the voters who select him must be similarly certified. Firczak continues to sit in parliament, having been re-elected in 2004 and 2008, serving as vice-chair for the committee on Equal Opportunities for Men and Women.

A somewhat different story concerns Vasile Savu, who became head of the powerful Jiu Valley coal miners union following the nearly insurrectionist Mineriad march on Bucharest in early 1999 and the jailing of its previous leader, Miron Cozma. Cozma had unsuccessfully pursued a Senate seat as an independent in 1996 (quite possibly in quest of valuable parliamentary immunity from prosecution). Savu, more strategically, instead utilized the vehicle of special reserved seats, establishing the Association of Slav-Macedonians in Romania for the 2000 parliamentary elections. Somewhat like Firczak, Savu did not speak the language and had no history of interest in Macedonian affairs. Unlike Firczak, he did nothing to promote Macedonian culture or interests. In fact, he was quite open regarding his mercenary motivation. The organization he established was essentially "a clone of the League of Mining Unions from the Jiu Valley."⁴⁰ The Macedonian embassy protested strongly that there was no minority ethnic group in Romania called Slav-Macedonians; the category Slav-Macedonian certainly did not exist in the 1992 Romanian census. There was also resentment regarding the group's name, implying Macedonian support for the Serbian cause. It was speculated in the press that parliament approved Savu's reserved seat in 2000 because of the power of the miners union and as reward for moderating its extreme militancy.⁴¹ Moreover, there was no other Macedonian organization claiming representation at the time. By 2004, the Association of Macedonians in Romania formed, with moral support from the Macedonian embassy and recognition by the Romanian Council of Minorities. It received far more than enough votes to be awarded a reserved seat and it challenged that the Serb-Macedonian group, which received only 150 fewer votes, did not merit a reserved seat of its own. The newly elected Parliament in 2004, with no political incentive to maintain the pretext, agreed. Vasile Savu subsequently was indicted for corruption but the case was never brought to trial.⁴²

International Boundaries. The final situation where the Romanian state inescapably was involved in controversy regarding the determination of a legitimate minority concerned the international politics of border redefinition and the creation of new sovereignty. The situations concerning Serbs-and-Croats and Czechs-and-Slovaks were addressed with arbitrary differences in outcome. Regarding the former, the Croatian Republic had not yet declared its independence at the time of the 1990 Romanian parliamentary elections. The Serb nationality organized and obtained a reserved seat, claiming to represent both groups based on alliances within the former Yugoslavia. A Croatian Union formed separately for the 1992 and 1996 elections but failed to achieve the necessary vote threshold. The main reason was that a segment of Croats, called Carasovenians, stayed with the Serbian Union, which was renamed "The Democratic Union of Serbs and Carasovenians" for those two elections. Given that the Croatian-Serbian civil war proceeded unresolved until the Dayton accord of November 1995, it is not surprising that the Serbian faction wanted to display an ostensibly Croatian partner. In turn, the small Carasovenian faction (with only 207 individuals recorded in the 2002 Romanian census) most likely anticipated the failure of the broader Croat Union to achieve the vote threshold and stuck with the winning side. The Romanian state passively allowed the combined organization to obtain its reserved seat. Starting with the 2000 election, however, consonant with internationally recognized boundaries, the Serb and Croat groups in Romania organized separately and both nationalities exceeded the vote threshold necessary for reserved parliamentary seats. The underlying situation was thus confused for a period yet the problem of ethnic representation was resolved for these minorities without protest, according to the self-governing rules of Romanian election law.

A different outcome occurred regarding Slovaks and Czechs after Czechoslovakia was dissolved into two constituent nations starting in 1993. A united association representing both minorities in Romania had formed and successfully obtained a reserved seat in the 1990 and 1992 elections. After dissolution, the combined union continued to exist, functioning with autonomous internal structures for each community. It was agreed that they would share the reserved seat by rotation, alternating Slovak and Czech Deputies in parliament. Quite probably, the two groups were risk averse, uncertain whether they both would be able to exceed the minority electoral threshold if separated. In 2000, however, when the joint representative in parliament would be a Slovak national, a separate Czech association registered for the election and minimally obtained enough votes to obtain a reserved seat. The Union of Slovaks-and-Czechs protested, claiming that there was already an organization to represent the Czechs and that it had obtained more votes than the Czech association alone. Forced to take a position in the dispute, a parliamentary commission sustained the protest, noting that a Czech national in 1996 had served as MP for the organization. The Union of Slovaks-and-Czechs thus remains the umbrella organization for

both groups, receiving financial support and disbursing funds for Czech as well as Slovak cultural activities. The joint association is the only exception to mono-ethnic minority representation in Romania. Importantly, the two groups might have voluntarily agreed to sever relations, as happened ultimately with Serbs and Croats. Consistency across two similar situations did not prevail, however, and there was no institutional mechanism to ensure it.

Controversies over Which Organization Represents A Given Minority

Reserved legislative seats in Romania are won electorally, not by the minority as a whole but by individual associations organized to represent that minority. In many cases, an ethnic minority consistently has been represented by the same association. This is true, for example, for the Union of Armenians of Romania, the Democratic Forum of the Germans in Romania, and the Federation of Jewish Communities in Romania. But there were five different associations seeking to represent the Roma in the 1990 parliamentary election and four in the 1992 and 1996 elections. There were seven associations seeking to represent the Italian community in 1996 and two in 2000 and 2004. At various times, there were also multiple associations seeking the reserved seat for Albanians, Bulgarians, Croats, Greeks, Poles, Turks, and Ukrainians. Minority communities are not automatically homogeneous. The attractiveness of a reserved seat and the resources it carries encourage competition.

Most often, conflict over which organization represents a given minority has been resolved by the stipulations of the electoral law. An association to be eligible for a reserved seat must itself receive enough votes to achieve the minimum threshold. If more than one association representing a given minority reaches that threshold, a candidate from the association with the greatest number of total votes is elected. The Romanian state thus again appears to be passive and accommodating, letting the autonomous procedures of democratic election determine the outcome.

Not all competing organizations within the same minority have been antagonistic. For example, the Bulgarian minority is divided geographically and culturally into two main factions. The Banat group from western Romania is Roman Catholic and speaks a distinct dialect; the Bratstvo group tends to be Orthodox and more directly affiliated with the majority ethnicity in neighboring Bulgaria. The Banat faction has most often won the Romanian reserved seat yet relations between the two associations appear cooperative; funds are apportioned to support the projects of both.⁴³ Similarly, the Polish minority organization, "Union of Poles in Romania—Dom Polski," centered in Bucharest ran independently in 2000 from the "Union of Poles in Romania" that previously it had dominated. The broader Union obtained the most votes in that parliamentary election but immediately moved toward reconciliation, readopting "Dom Polski" as part of the organization name.

Disputes and protests, however, are not uncommon. It was bothersome politically when an entrepreneurial individual utilized favorable electoral rules and established a new minority claiming rights of representation. Far more problematic were situations when an entrepreneurial individual sought to hijack an existing and already represented minority interest. For example, Oana Manolescu was challenged unsuccessfully in 2000 for not speaking Albanian and not being of Albanian descent. The Cultural Union of Albanians had allowed her to run in 1996 as their candidate in Dolj County in the attempt to increase total votes nationwide. Unfortunately for the Union leadership, she received more votes than any other of its candidates and thus was elected as MP. In 2000, Manolescu organized a splinter League of Albanians and was reelected when her organization received the most votes over the threshold. The challenge against Manolescu by the Cultural Union was denied because they previously had given her recognition as an acceptable group member.⁴⁴

The actress Ileana Stana Ionescu was unsuccessfully challenged for not being Italian. Her reply was that the grandfather of her father-in-law was of Italian background. Former Social Democratic MP Ion Vela, on losing the endorsement of his party, founded the Democratic Croat Union in 2004 while freely admitting that he had no real connection to the minority. Similarly in 2004, former Bucharest Prefect Mihai Florian Luican, with little chance of election as a Social Democrat, established himself as the candidate of the so-called Bulgarian Cultural Association, claiming a Bessarabian-Bulgarian grandfather.⁴⁵

Another problem is the effort by mainstream political parties to establish and finance affiliated minority organizations that would support their position in parliament. This has been especially true of the communist-successor Social Democratic Party and the main Roma NGO. The Roma population in Romania had no organ of direct representation during the Ceausescu era. Given new opportunities, a number of long-standing Roma communities, distinguished by geography and by traditional linguistic and cultural diversity, mobilized immediately after the 1989 revolution. Attempts at political unity failed as feuding “royalty” established their own, personalized electoral organizations. To a great extent, Roma NGOs can be considered top-down associations under the control of their community leaders.⁴⁶ In 1999, a formal protocol was adopted linking the SPD and the so-called Roma Party, the organization that had won the most votes and had secured the Roma reserved seat in the previous election. According to the protocol, the PSD-led government would rely “exclusively on one political organization representative for the whole array of Roma political and civic organizations,”⁴⁷ appointing Roma Party members to administrative positions and partnering with Roma Party associations for the delivery of social welfare services intended to address Roma concerns. Not all community leaders were happy with this arrangement, resulting in a challenge in 2004 by the Alliance for Roma Unity. The Roma Party even altered its name in 2004, to the Social Democratic Roma Party of Romania, which was ill-advised as the PSD lost

the elections that year. In 2008, following EU accession, the party strategically again renamed itself, as the Pro-Europe Roma Party.

Finally, persistent controversy has concerned various claimants for the Italian minority reserved seat. In 1996, the registered NGO "Italian Community of Romania" ran different candidates in various constituencies, fragmenting into a series of separate regionally based electoral organizations. (The Greek minority similarly fragmented into distinct, regionally based NGOs.) In 2000, the Italian Community of Romania reunified but was the only minority NGO to ignore the new provision of the electoral law, neglecting to run the same candidate in all constituencies. First, controversial millionaire businessman Gigi Becali challenged the election of Ileana Ionescu on the grounds that he had received more votes in his best-results constituency than Ionescu had received in hers. The protest was denied because Becali's NGO, the League of Italian Communities, garnered fewer aggregate votes nationally than did the Italian Community of Romania that sponsored Ionescu. Far more difficult was the challenge from within the Italian Community NGO. Mircea Grosaru had run as candidate for the association in 17 separate constituencies and received more total votes than Ionescu, who ran solely in Bucharest. Yet Ionescu was awarded the seat because she received more votes in her best-results constituency than Grosaru received in his. Grosaru protested before both the Romanian electoral commission and the Constitutional Court but was denied. He eventually took his case to the European Court of Human Rights. On March 2, 2010, nearly ten years after the election, the Court decided in his favor, noting the ambiguity of the 2000 Romanian electoral law and the probable lack of impartiality by the bodies responsible for reviewing the challenge.⁴⁸ Grosaru was awarded 5,000 euros in damages but it hardly mattered. He had been elected to parliament as the candidate of the Association of Italians of Romania in both 2004 and 2008.

Constraining the Game

Scarcity changes the game of distributive politics. From the side of the Romanian state, there was concern over the number of parliamentary seats that might potentially be claimed by organized minorities. In addition, the internal commission responsible for reporting to the Chamber of Deputies regarding the validation of mandates was clearly displeased with the number of controversies attendant to minority reserved seats. According to Viorel Hrebenciuc, head of the parliamentary Election Commission, "We try to unify these movements so that they become a coherent voice."⁴⁹ Politicians are uncomfortable in the center of inter-group conflict, especially on an issue as sensitive as minority representation, prominent among the priorities of European observers. Pressures thus began building by 2004 to regulate minority claimants and limit the number of seats available to them.

Scarcity would be a threat to incumbent minority stakeholders if it made qualifying for election more difficult and put them in competition for parliamentary

seats and the material subsidies that accompany such seats. By contrast, it is a positive benefit if used as an excuse to restrict entry for rival claimants, maintaining the privileged position of self-interested incumbents. This is what the new election law effectively did. Qualifying signatures were required of minority electoral organizations other than those with current representation in parliament. Seats could be won only by recognized minorities, defined by their current membership on the National Council of Minorities. It was reported that the new legal barriers resulted from the initiative of Varujan Pambuccian, leader of the minorities parliamentary group, reflecting the efforts by those organizations with parliamentary representation “to obtain political monopoly over the communities which they represented.”⁵⁰ Politically, therefore, constraints that might have led to competition and risk were deflected. Scarcity became a means of erecting new barriers to entry, serving to exclude potential challengers while protecting the advantage of those with existing seats at the table.

Significantly, Romania has had the same number of reserved minority seats in the Chamber of Deputies in 2004 and 2008 as in 2000. As Varujan Pambuccian told parliament, on the “matter of proliferation,” the problem “ended in the last legislature” when we “voted in the election law which made things very clear.”⁵¹ With the exception of the Macedonian replacement for the Serb-Macedonians, the same national ethnicities have been represented. Moreover, in 2008 none of the eighteen minorities represented faced internal competition—each incumbent minority had one organization that sought election, and each organization succeeded in surpassing the minimum vote threshold. The shift from complexity to simplicity has been dramatic.

Regarding explanation, it is possible that a number of smaller minorities began to fear that, with internal competition, no organization would obtain votes above the electoral threshold, costing the minority its legislative seat. It is possible that those organizations with incumbency status and direct access to funding subsidies learned better over time how to allocate side payments, absorbing potential rival claimants with a guaranteed share of the benefits received. Much more likely, however, reduced competition was a consequence of the deterrent provisions inserted into the electoral law, inhibiting new organizations from pursuing minority reserved seats. A number of recent commentators have made this argument.⁵² The Venice Commission also expressed its displeasure, asserting that the census-based signature requirement for organizational entry could prove “onerous” in effect, as it “may also block political competition within one and the same national minority, in violation of the principle of pluralistic democracy.”⁵³

There is certainly anecdotal evidence of artificial constraint with political motivation. Ethnic Russians, for example, are listed in the Romanian census separately from Russian-Lippovans. Nevertheless, the Association of Ethnic Russians in Romania was denied the right to enter elections in 2004 despite submitting signatures equal to 15

percent of census-population. The Biroul Electoral Central, supported by a high court of appeals, decided that Russians alone could not be considered a distinct group and that the only relevant minority was Russian-Lippovans as determined by its seat on the National Council of Minorities. The number of signatures obtained by the Association of Ethnic Russians was therefore declared far insufficient for ballot qualification.⁵⁴ The Hungarian Civic Union, seeking to oppose the main Hungarian Alliance, attempted but failed in 2004 to surpass the new election law requirement of 25,000 signatures allocated among fifteen counties plus Bucharest. While continuing to protest that the legal requirement was discriminatory, the Civic Union negotiated an agreement with the Hungarian Alliance not to pursue participation in the 2008 elections while reserving the right to endorse independent alternative candidates in overwhelmingly Hungarian regions. The Biroul Central Electoral refused to certify a competitor Polish organization⁵⁵ because many of the membership signatures consisted of Romanian-sounding last names, and a competitor Italian association was denied because the number of signatures for Suceava and Iasi counties were greater than the number of Italians recorded as living there in the 2002 census—arbitrary decisions given that ethnic identity in Romania is entirely a matter of individual self-selection.

After the 1989 revolution, authorities were uncertain how many minorities existed in Romania, their exact size, and their degree of voter allegiance when the alternative was to vote for one of the mainstream parties. The election law therefore left the number of potential reserved seats variable—although Slovenia and Croatia in the region adopted a different approach. Over time, considerable stability entered the system. For the most part, this was a consequence of the ability of the various minorities groups to organize and mobilize electorally. In part, however, it was a function of somewhat arbitrary state decision making and of successful efforts at self-protection by existing claimants. Even random decisions have a way of becoming institutionalized. The range of minorities with legislative presence thus has emerged increasingly constant and secure, without threat of disruption to conventional, existing Romanian political arrangements.

The Regime Politics of Minority Integration

An essential tenet of political science holds that the means of mobilization and integration of groups into politics affect the kinds of organizations that form and the demands they articulate. Romania, we have found, initially developed a remarkably open and inclusive system of special representation for small national minorities, although it later somewhat retreated from this commitment given complications regarding what groups truly belong and pressures from incumbent beneficiaries seeking to avoid potential challenges. We interpreted the dynamic as consistent with the logic of distributive politics, conveying concentrated benefits but generally

diffuse costs. Furthermore, the distributive politics of minority representation has had regime consequences, affecting the relationship between political representation and social accord.

There has long been a debate between those who advocate promoting the separate articulation and representation of ethnic identities as a means of securing greater civic conciliation and cooperation, and those who instead advocate moderating the separate articulation and representation of ethnic identities in order to minimize incentives for contention and conflict. The former position is most commonly identified with the consociational theory of Arend Lijphart;⁵⁶ electoral engineering should help promote power-sharing arrangements in which organized minority interests can exercise a veto over critical decisions, promoting compromise and lowering fractionalization. The latter position is most commonly identified with the centripetal theory of Donald Horowitz;⁵⁷ electoral engineering should work to foster broad, cross-cutting cleavages, encouraging ethnic interests to temper their segmental demands rather than defend them.

Romania is the extreme case of minority parliamentary inclusiveness. Yet, contrary to Lijphart's hopes, this has not proved an effective force on behalf of inclusive human rights and deepened social accord. Nor, contrary to Horowitz's fears, has it proved a license for divisive conflict. By contrast, Romanian minority representation is largely form without much substance, maintaining appearances especially for the sake of the international community while minimizing actual impact. The distributive politics of reserved parliamentary seats has tended to increase dependency on the state and enmesh minority associations in the clientele networks of the ruling elite. The result has been extensive incorporation yet effective marginalization.

Potentially, the many small Romanian minority organizations, on securing a reserved seat in parliament, might have united in solidarity on behalf of democratic equity and social reform. They might have advocated for the overriding value of diversity within unity, standing firm against all forms of discrimination and the majority chauvinism that often justifies discrimination. They might have become a voice for mass participation and empowerment, for governance under the rule of law, for anticorruption initiatives, and for fairness in both public and private realms. The position might have proved contentious given Romania's past, but who better to speak for universal inclusion than those who had been threatened with exclusion.

Instead, the Romanian arrangement of eighteen special reserved minority seats has tended to produce insulation and segmentation rather than significance and solidarity. The benefits received are remarkably particularistic, designed to maintain the cultural identity of each distinctive group despite living in a Romanian-dominated society. Intended for minorities preservation, they are exclusive in focus, as each minority seeks to protect and satisfy its own ethnic community. They direct political attention toward securing valued material subsidies rather than toward partisan or ideological attachments and broad policy reforms. A minority organization winning

a reserved parliamentary seat establishes itself as the principal group patron, allocating resources in exchange for electoral support while also receiving funds to help sustain its headquarters and staff. Individuals representing those organizations in parliament are rewarded with legislative salaries and pensions.

Distributive politics in Romania tends to make minority groups, as prospective beneficiaries of government subsidy, clients dependent upon the state, limiting any incentive to criticize and complain. This is a structured position, the consequence of extensive representation yet limited domain. Minority organizations freely struggle for advancement within their institutional arena, but are not encouraged to pursue—and quite possibly do not even envision—alternative constructions. As a form of insertion of minority ethnicities into Romanian politics, it is a political pattern advantageous to the state, proclaiming extensive group representation with minimal risk. It is simultaneously advantageous to the represented groups, organized and mobilized to match the opportunity structures available, for they are rewarded with the material subsidization they seek. As such, it is a system in equilibrium unless threatened with exogenous domestic crisis or international protest, both of which seem unlikely.

The Romanian reserved seat arrangement, despite its extensive scope and flexible rules, is grounded on a distributive pattern that solicits entrants and channels their interests, segmenting them internally and isolating them from normal political life. Minority organizations subject to reserved seats in Romania emerge relatively quiescent, co-opted, dependent, and powerless, yet simultaneously satisfied that they can guarantee by means of state subsidies the foundations for group maintenance. It is thus an example of successful patronage politics through the vehicle of minority rights.

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