Voting for an Inclusive Society

On safeguarding the rights of modern
minorities through the "Storable Votes" electoral system

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Abstract

This thesis provides a basis for evaluating whether Storable Votes (Casella, 2012) can be used as method of safeguarding minority rights. To this end, a theory of minority rights must first be called upon to explain how minorities are undermined and to justify that their problems, and not others', are addressed. Part I provides a theory of minority rights, Kymlicka's liberal egalitarian theory, and extends it in such a way that it can be used to justify minority rights not only for national and polyethnic minorities, but also for modern minorities. This extension results in a checklist that I call 'Kymlicka's extended criteria', which is used in Part II to assess the capability and desirability of Storable Votes as plausible method for addressing the problem posed by substantive minorities, i.e., as a tool for satisfying the claim that minorities have to alleviation of their established inequality. Theoretical analysis in Part II shows that Storable Votes likely will not satisfy all the criteria of Kymlicka's extended criteria. Although Storable Votes can satisfy claims of some modern minorities by means of minority victories, elections under Storable Votes will likely not result in minority victories for all minorities that, according to the liberal egalitarian theory, have a claim to alleviation of inequality. This means that Storable Votes is unsuitable as stand-alone method to safeguard minority rights, as some minorities will be left with their claims unsatisfied. Future research must show whether Storable Votes, in tandem with another method of safeguarding minority rights (perhaps the implementation of group-specific rights), may prove advantageous for some polyethnic and modern minorities.

Table of Contents

General Introduction

Minority voices around the world are growing louder. For example: The Black Lives Matter movement has gained a lot of traction worldwide after the death of George Floyd in the U.S.A. in 2020. That brutal episode prompted a surge in protests and public dialogue about racism in contemporary society. In France, the *gilets jaunes* (yellow vests) movement that started in 2018, united the (up to that point) scarcely heard working class as they came out to protest the high fuel taxes and shed light on the disproportionate economic burden of the working class. All over the world, a wave of support for the LGBTQ+ community followed after the publication of the Nashville Statement in 2017. In the Netherlands, the campaign #stemopeenvrouw (vote for a woman) aimed to increase the number of female representatives in parliament. Currently the ratio is 40% women to 60% men, whereas the ratio in larger society is roughly 50%-50% (*Parlement.com*, 2021; Centraal Bureau voor de Statistiek, 2020).

These issues, and others, have caused many to question whether such groups are systematically undermined in current society. And if this is the case, can the situation be corrected? Theories of minority rights often look towards group-specific rights as the way to achieve alleviation of what might effectively be termed the minority burden. I use this term to describe any possible inequality or hardship that a minority might face, such as those illuminated in the examples above. An example of such a group-specific right is the exemption of regulations that mandate shops closing on Sundays in certain ethnic or religious communities, where that day of the week has no particular significance. Opponents of rights of this kind argue that group-specific rights are a violation of the principle of equality, as they are not applied universally, but rather are only extended to certain groups (Barry, 2001). Although opponents and proponents of group-specific rights continue to discuss the issue of equality amongst themselves, it would be interesting to look to alternatives for group-specific rights to alleviate the minority burden.

An interesting option for just such an alternative comes from within social choice theory, in the form of a voting system. This voting system, designed by Alessandra Casella, is called 'Storable Votes' and is described and analyzed in "Storable Votes: Protecting the Minority Voice" (Casella, 2012). For the purposes of this introduction, imagine Storable Votes to be similar to the election system you know when voting in a referendum, but instead of all voters having one vote, everyone receives an additional bonus vote that can be spent on this referendum, or saved for a later one. I will delve into the mechanics of the system later on in

the thesis. What is necessary to know for the premise of my thesis is that, amongst others, Casella makes the following two claims about Storable Votes (p. xxi, xxii):

1. "The possibility of minority victories arises even though each single decision is taken according to the majority of votes cast, and, what is most important, every individual is treated identically".
2. "Storable votes are a plausible tool for addressing the problem posed by systematic minorities."

Could the implementation of Storable Votes then mitigate unfairness experienced by minorities, while side-stepping the debate centering on group-specific rights? In "Storable Votes: Protecting the Minority Voice", Casella shows through theoretical and experimental analysis that minority victories are possible when the minority cares a lot and the majority does not care much about a certain issue. This addresses the first claim. Concerning the second claim, Casella indicates other minorities than the minorities that this thesis is interested in, such as those described above. She makes the following two remarks with regard to the identification of minorities: "A *minority* is a clearly identifiable group characterized by two features: first, a small numerical size, smaller than the majority; second, preferences that are systematically different from the preferences of the majority. Thus, a minority is a *political* minority, which may, but need not, correspond to a minority according to racial, ethnic, religious, or any other type of considerations. In terms of political decisions, what matters are the coherent and idiosyncratic preferences of the group, as opposed to its sense of identity (p. 66)". *Systematic* minorities, subsequently, Casella describes as "a group of voters for whom the chance of being in the minority-side of the voting outcome is unusually high (p. 63)". Casella thus intends Storable Votes to address problems of more formal minorities, where, in contrast to theories of minority rights, the 'sense of identity' of a minority (i.e., who they are and what their role is in society) is not of importance. Yet, could Storable Votes perhaps also 'address' the 'problems' of 'substantive minorities' (i.e., those minorities where a sense of identity *is* of importance)? In this thesis I will evaluate Casella's second claim, but with respect to *substantive* minorities. In order to determine whether Storable Votes can be used as method to address the problems of substantive minorities and whether it might be a suitable alternative to group-specific rights, the terms in Casella's claim (i.e., address, problems and substantive minorities) require further specification.

A suitable theory needs to be found that will flesh out the following 'missing part' in Casella's argument in order to assess her second claim with regard to substantive minorities:

1. It describes who substantive minorities are.
2. It explains in what way these minorities are undermined (i.e., it explains what their 'problems' are).
3. It gives a justification for why these minorities have a claim to alleviation of their problems (i.e., a claim to having their problems 'addressed').

Only when these things have been established is it possible to assess whether:

4: Storable Votes give rise to minority victories that satisfy the minority claims. (i.e., 'address' the problems of substantive minorities)
5: Storable Votes are a desirable method for satisfying minority claims.

In this thesis I will address all these steps, giving an answer to the question whether Storable Votes can be used as method to safeguard minority rights and *could*, therefore, be an alternative to the implementation of group-specific rights when it comes to satisfying minority claims. Note that I will not be evaluating the desirability of Storable Votes in general.

This thesis is divided into two parts. In Part I, I consider theories of minority rights in order to discuss step 1 (i.e., describing who the minorities are), step 2 (i.e., explaining in what way minorities are undermined) and step 3 (i.e., giving a justification for why these minorities have a claim to have their problems addressed). In Part II, I set the stage for answering step 4 (i.e., does Storable Votes give rise to minority victories that satisfy the minority claims), and step 5 (i.e., is Storable Votes a desirable method for satisfying minority claims) and provide preliminary answers, although more (empirical) research remains to be done.

Before moving on to Part I, I would like to make note of two things: Firstly, the subject matter of this thesis is heavily dependent on the current political system of any particular country and its societal composition. That is because the political system and societal composition of a country shape the type of minorities a country will have and the type of burden these minorities will face. While it is not my intent to focus on any one particular country or societal structure, it is often instructive to illustrate a case in point. When this is the case, I take the Netherlands as a case study. The second note I want to make is that the subject matter of minorities and

minority rights is a sensitive one. It is my intention to be respectful when grouping people together and labeling groups as minorities, and I sincerely hope that I have achieved this goal. If I have fallen short, I would ask readers who take issue with the descriptions contained herein to contact me regarding their concerns.

Part I of this thesis, "A Theory of Minority Rights", addresses three questions:

1) Which groups should be considered as substantive minorities?
2) In what way(s) are these minorities undermined?
3) When is alleviation of this 'undermining' justified?

There are several multiculturalist theories that address these questions. These theories generally attempt to account for the plight of national or ethnic minorities. I am potentially interested in a larger group of minorities, that include the groups discussed in the general introduction, e.g., women and LGBTQ+ people. To address the three questions above, Part I will look as follows.

In chapter I.1 (here I indicate chapter 1, of part I), I discuss national and ethnic minorities, two groups that are traditionally seen as minorities, and the type of minority rights they might receive. Subsequently, I sketch what other groups might be considered as minorities. I categorize these minorities as 'modern minorities'.

In chapter I.2, I discuss three prominent theories of multiculturalism that justify minority rights, i.e., the communitarian appeal, the freedom from domination appeal and the liberal egalitarian appeal. These appeals give a justification of minority rights for the traditional minorities discussed in chapter I.1. In order to decide which of these three appeals is most appropriate for supporting the objectives of Storable Votes, I consider two aspects: (i) How well these theories do in justifying minority rights not only for traditional minorities, but also for modern minorities and (ii) How well the basis for justification fits the sentiment of Storable Votes. The theory that comes out best on both points is the liberal egalitarian appeal.

Like the other multiculturalist arguments I consider, the liberal egalitarian appeal focuses on national and ethnic minorities. However, in order to also justify minority rights for modern minorities, this appeal must be extended. I do this in chapter I.3. Here I discuss how the appeal may be extended to address the concerns of women, people from the LGBTQ+ community, people with disabilities, and the poor. Although the liberal egalitarian appeal lends itself fairly well to justifying minority rights for these modern minorities, several limitations arise.

In chapter I.4, I discuss how the justification of minority rights given by Kymlicka's liberal egalitarian theory can be used to implement group-specific rights in practice. The move from theory to practice I portray in what I call "Kymlicka's extended criteria", i.e., what criteria should a method of safeguarding minority rights satisfy in order to satisfy the relevant minority claims as discussed in Kymlicka's liberal egalitarian theory. These extended criteria, then, can be used to evaluate the ability and desirability of any method of safeguarding minority rights. It is these criteria that I use in Part II, setting the stage for evaluating the ability and desirability of Storable Votes as method of safeguarding minority rights.

In the remainder of this thesis, when I use the term 'minority', I am indicating substantive minorities, unless specifically indicated otherwise.

Despite universal rights and anti-discrimination laws, it is not always possible to govern in a way that treats everyone equally. In many cases cultural traditions are perhaps insurmountably interwoven with our governmental institutions, as it is often not possible to make a 'culture-neutral' law. For instance, consider the problem of deciding on the list of annual public holidays to be celebrated in a given country. One such holiday is Christmas, but religious and cultural traditions notwithstanding, it is not directly clear why Christmas should be a public holiday in a given country and Eid al-Adha, an important Islamic holy day, should not. Similarly, how should it be decided what languages are spoken in parliament or in schools? And who should be eligible to marry, and with whom? These matters are usually settled using the majority rule, where some proportion of the majority is needed (e.g., 1/2, or 2/3) to enforce a law. Because these are culture-dependent issues, it is usually the majority culture (although, not always[1]) that will trump the minority culture.

There are theories of minority rights that aim to explain how minorities are burdened by some majority ruling, and also aim to justify why (some) minorities ought to be compensated for this through group-specific rights. This is a somewhat controversial position. After WWII there was a shift from special rights directed towards specific ethnic groups to universal human rights that were to include everyone. The general assumption was that "members of national minorities do not need, are not entitled to, or cannot be granted rights of a special character." (Claude, 1955, p. 211). This has broadly remained the position of both right- and left-wing liberals (Kymlicka, 1995). Although many leftist liberals have argued for affirmative action towards disadvantaged racial groups, this action is seen as a temporary exception, i.e., something that is only needed until we live in a colour-blind society. A contemporary example of such affirmative action is imposing racial or gender-oriented hiring quotas in firms or institutions. For the most part, right wing liberals believe such measures to be counterproductive. Despite this disagreement, left- and right-wing liberals do generally both reject the idea that group-specific rights are needed to accommodate and protect minority cultures (I will call these time independent group-specific rights), rather than to serve as

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[1] Apartheid in South Africa is an example of an instance where the minority culture, not the majority culture, was the dominant one. It is also possible for cultures to live together in harmony, without one dominating the others, such as is the case in Canada.

affirmative action implemented only to correct a past wrong (time dependent group-specific rights).

However, it is exactly this commonly rejected purpose of time independent group-specific rights that these theories of minority rights aim to defend and promote. Intuitive examples of when these rights *could be* desirable can be found where culture is (perhaps unavoidably) incorporated in state-wide regulation. Think, for instance, about deciding which language is used in schools and governmental institutions. The closest universal human right relevant for this decision would perhaps be the right of free speech. However, that people have the right to use their own language does not bear impact on which language is appropriate to be institutionalized. Instead, the majority rule is often taken as justification for the choice of 'institutional language'. The theories of minority rights argue that in the case of choosing an institutional language, amongst other situations in which universal human rights fall short, the majority rule[2] imposes injustice on cultural minorities. In the next chapter I will discuss three theories of minority rights. However, before moving onto these theories, this chapter will examine the different types of group-specific rights and the minorities that might have a claim to these rights.

I.1.1 Minority Rights

What are minority rights? Often both opponents and proponents of minority rights speak of 'collective rights'. This term is somewhat misleading. The term collective rights seems to suggest that these rights are to be executed by collectives, rather than by individuals (Kymlicka, 1995), leading to assumptions that collective rights must therefore conflict with individual rights. Kymlicka argues that this is not the case for many types of minority rights, which he calls group-specific rights or group-differentiated rights (I will continue to call them group-specific rights). Kymlicka differentiates between three types of group-specific rights, where only one of these rights refers to a right that is executed by a collective. The other two group-specific rights are executed by the individual members of the group separately. As you will see, each group-specific right is targeted at different types of minorities: national minorities, polyethnic minorities and modern minorities. Who belongs to these minorities will be discussed in the next sections of this chapter.

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[2] These arguments question the justice of the majority rule, regardless of wether a particular proposal requires a simple majority (>50%), or a larger proportion of the majority.

There are three types of group-specific rights (Kymlicka, 1995):

- *Self-government rights*

  These are rights that are executed by a collective. They are meant for multination states to give national minorities political autonomy or territorial jurisdiction. They are permanent rights that are not intended to be understood as a way to alleviate any given forms of oppression that are suffered by national minorities and that should at some point be eliminated. These rights are not meant to promote integration in larger society. Examples of groups that have received self-government rights are the Québécois in Canada, citizens of Puerto Rico and inhabitants certain native American reservations in the United States (Kymlicka, 1995, p. 29).

- *Polyethnic rights*

  These rights are executed by individuals within an ethnic or polyethnic group. As for self-government rights, these rights are also not temporary or intended merely to alleviate from some form of oppression that could and should one day be eliminated. An example of a polyethnic right is the right for Jewish communities to open their shops on Sundays, even if other shops must close on this day. Polyethnic rights are, in contrast to self-government rights, meant to promote integration into larger society.

- *Special representation rights*

  These rights are executed by individuals within a (poly)ethnic group or other cultural group. Here, the term 'cultural group' is used very broadly and is meant to include people from possible modern minorities such as women, people from the LGBTQ+ community, people with a disability and more. In contrast to self-government and polyethnic rights, special representation rights *are* often seen as a response to "systemic disadvantage or barrier in the political process which makes it impossible for the group's views and interests to be effectively represented" (Kymlicka, 1995, p. 32). In so much, these rights are often seen as temporary, as they could be removed when the systematic disadvantage has been eliminated. In that way, special representation rights become a type of affirmative action. As explained above, these rights are seen as counterproductive by politicians on the right, and as a temporary fix by politicians on the left. That said, some theories of minority rights argue in favour of some special representation rights. This will be addressed in the next chapters.

In this thesis, when I refer to group-specific rights, I am referring to one of the three types outlined above. When I speak of 'methods of safeguarding minority rights', I am not intending, per se, to focus on group-specific rights in particular, or indeed, on any particular group-specific right as outlined above. I will be treating the term 'methods of safeguarding minority rights' as an umbrella term encompassing any method that can satisfy the claim of a minority. Because this thesis is intended as an evaluation of Storable Votes as method to safeguard minority rights, as possible alternative to the implementation of group-specific rights, when I use the term 'method of safeguarding minority rights', I am referring either to the implementation of group-specific rights or to Storable Votes.

Now that you have an idea of the different types of group-specific rights, the next section aims to discern who the minorities are that could be eligible for these rights. This is a necessary step before moving to the three multiculturalist appeals of minority rights in the next chapter, which all show that the majority rule imposes an injustice on minorities and, and which discuss how these injustices can, and should, be alleviated.

I.1.2 National minorities

The line between national minorities and polyethnic minorities is not a very sharp one. The difference appears to be partly based on historical events and partly based on the intent of the minority when joined up with the other (constituent) parts of the country (Kymlicka, 1995). A nation is seen here as a historical community that shares a particular territory, language and culture. A country, then, may contain one or more nations. When a country consists of more than one nation it is a multination state. It is in these countries that one can speak of national minorities. Multination states may form in various ways: as a result of colonizing, conquest or confederation of national communities. There are many examples of multination states. Think in Europe of Switzerland (Italian; French; German), Belgium (Flemish; French) or in North America of Canada (English; French; Aboriginals) and the United States, which is made up of so many varied groups. The United States has many recognized national minorities, although these groups are somewhat different from the previous examples because many consist only of a small group of people, e.g., individual Native American tribes, descendants of Mexico, native peoples of Hawaii and Guam, and Puerto Ricans. The multination states of North America are different to those of Switzerland and Belgium in that the conglomerations in the former were involuntary. This is where the concern of intent comes in. Regardless of whether the merger

was voluntary or not, it is important for a multination state that the nations involved choose to stay in the (newly-formed) country and to seek autonomy for their culture within it. That is to say, a national minority seeks to be self sufficient with respect to creating their own laws, instead of being dependent on larger society in the country.

I.1.3 (Poly)ethnic minorities

Ethnic minorities arise as a result of individual and familial immigration. Until the 1960s immigrants were often expected to completely assimilate within the culture of the host country. However, this started to change in the 1970s (IsGeschiedenis, 2020). Immigrant groups were 'allowed' to keep certain facets of their own culture. In what way, then, are ethnic minorities different from national minorities? In the paragraph above I said that nations must share a particular territory, language and culture (sTLC). Although immigrants with the same background may share the latter two, they generally do not occupy a particular territory (at least not exclusively). However, arguably, some groups that we do recognize as national minorities may not have cultures that are pronouncedly distinct from the other nation presiding in that state. Besides, the fact that ethnic minorities do not occupy communal territory seems to me to be purely a technicality. Kymlicka describes immigrants in a new country as not occupying "homeland". However, what is considered homeland becomes tricky with multi-generational immigrants. Consecutive generations of immigrant offspring may naturally identify with their parents' homeland, or at the very least, feel strong ties to an 'other' homeland, as well as identifying to the country they live in and grew up in. For these reasons sTLC does not seem decisive in drawing a distinction between national and ethnic minorities.

Next, let us consider the historical aspect and intent of the groups involved. When individuals or families immigrate, there cannot immediately be spoken of colonization, conquest or a confederation of national communities. Yet, looking once again at multi-generational immigrants that have settled in a particular territory, it does not seem completely bizarre to see a possibility of a confederation of national communities, even if one of the national communities settled in after the other and settled in gradually as opposed to being hijacked, as it were, in a hostile take-over. Consider for a moment that *gradually* is the key word here, distancing the national minorities from the ethnic ones. This would mean that a group of multi-generational immigrants, although they may share territory, language and culture, because of

the gradual settlement in the new territory are seen and treated as an ethnic community, not as a national one.

Yet, it seems possible to think of instances of large groups of immigrants with a shared language and culture that settle all at once (i.e., *not* gradually) in a new home country and where these people are not recognized as a national minority. For example, think of the *gastarbeiders* (guest workers) who came to the Netherlands in the 1950s and '60s at the request of the Dutch Government (IsGeschiedenis, 2020). People from, amongst other countries, Poland, former Yugoslavia and Morocco moved to the Netherlands to fill in for the shortage of Dutch workers at the time. Although this sudden influx of foreign workers cannot plausibly be seen as gradual, the gastarbeiders were at most seen as temporary guests in the country and not as national minorities. It was the intent of the Dutch government that the gastarbeiders were indeed here temporarily, and (to put it crudely, and, I think, accurately), would go back to where they came from, once their purpose in the Netherlands was fulfilled (IsGeschiedenis, 2020). However, many gastarbeiders stayed in the Netherlands when the government declared the need for gastarbeiders to be over in 1973 (IsGeschiedenis, 2020). This is not surprising, as by this time many of them had been in the Netherlands for almost twenty years and had families there. Perhaps because the Netherlands had registered this group as temporary, they never got the status of national minorities and were instead expected to assimilate to Dutch culture when they decided to stay in the Netherlands. At the same time, perhaps also because of their temporary status, it was not the intent of many gastarbeiders to assimilate to Dutch culture. By now these families include second- and even third- generation 'immigrants' and it could be argued that they should therefore be granted the rights of national minorities. A similar vague area between national and ethnic minorities is likely to arise with large influxes of refugees.

The above shows that a discrepancy between national and ethnic minorities is perhaps more confounded than shown in Kymlicka's treatment. Perhaps there is reason to treat first-generation immigrants differently from national minorities, but under some circumstances, this might make less sense with multi-generational immigrants. These circumstances arise when immigrants have formed a community in which they have at least in part kept their language, culture and have some kind of shared territory. Once this becomes the case, it is unclear why ethnic and national minorities should be treated as distinct groups.

Why have I spent so much space making this point? You can see the exercise above as showing how hard it is to really make a distinction between different minority groups. Yet it is important to make a distinction, as the type of group-specific right that should be granted to these groups differs. As discussed in section I.1.1, self-government rights are usually reserved for national minorities, while hardship experienced by polyethnic minorities is mediated with polyethnic rights.

I.1.4 Modern minorities

Although Kymlicka mainly focusses on the two minority groups discerned above, he mentions another group, the one that I will call modern minorities. While arguing for the justification of group-specific rights for the former two (national and polyethnic minorities), he claims that it is possible to extend this argument to the third group. I will give a rough intuition for who this third group contains. With the minority groups discussed above, the delineation from the minority to the majority is based on ethnic differences. This is not the case for modern minorities. Kymlicka describes modern minorities as "movements of [e.g.] gays, women, the poor, the disabled"; anyone who has been "marginalized within their own national society or ethnic group". These groups thus seem to be formed by some shared sense of identity. In a democracy under the majority rule it seems likely that most people at some point are marginalized. What then decides whether a group should receive group-specific rights? This question will be addressed in full in chapter I.3. This section aims to provide an understanding of hardship that these groups face, compared to the majority.

Women, even though in numbers not a minority, are still in many ways undermined in most (if not all) countries. There are (at least) 18 economies around the world in which men are legally permitted to prevent their wives from working; 104 economies have unequal restrictions on jobs for men and women (World Bank, 2018). Until three years ago, women were not allowed to drive in Saudi-Arabia (BBC News, 2018). However, marginalization also happens on a smaller (but not necessarily less significant) scale: Most countries still show a significant wage-gap between men and women performing the same job (European Commision, n.d.); there are fewer women working in higher positions (think of leaders of major political parties, seats in a government or on a board of a big company); women suffer from regulations concerning pregnancy-leave (e.g., think of discrimination during the hiring process because maternity-leave pay falls on the shoulders of the company) (World Economic Forum, 2020). Another

group that experiences marginalization consists of those who identify with a sexual orientation other than heterosexual. In 70 UN member states acting upon homosexuality is criminalized; In 26 of these states, punishment can amount from 10 years in prison to life; In some countries (e.g., Sudan, Saudi-Arabia, Iran) the penalty is officially a death-sentence (Fox et al., 2019). Although the number is decreasing, many countries do not allow gay marriage. It is also harder for gay couples to adopt (European Parliament, 2020). People with disabilities experience marginalization on yet another level. Infrastructure is usually primarily designed for 'the abled' making it more difficult for those with disabilities to live their day to day lives in a very practical sense. The marginalization of the poor has recently received a surge of attention. Take, for example, the yellow vests movements, spreading from France to other (Western) countries, protesting their unequal economic burden in larger society (Vermaas, 2018). Other examples show that it is harder for the poor to find affordable housing (Kullberg and Ras, 2020), or that transportation costs are increasing, limiting their mobility (Centraal Bureau voor de Statistiek, 2019). All of these elements (amongst many others) show that these groups in society, similar to national and polyethnic minorities, have a decreased opportunity to lead their lives as they see fit *because of an integral aspect of their life* (gender, sexuality, or financial or physical situation in the case of modern minorities, and nationality or culture in the case of national and polyethnic minorities).

In this section, I have tried to show that many more groups than national and ethnic minorities are perhaps undermined and thereby should perhaps be considered for minority rights. The aim of part I of this thesis is to find a theory of justice that justifies minority rights for all three abovementioned groups. In the next chapter I will lay out three multiculturalist appeals for minority rights. For each appeal, I will discuss how it justifies minority rights. Although these appeals were originally intended for national and ethnic minorities, I will also evaluate whether the appeals can serve as justification for minority rights regarding modern minorities. Finally, I will evaluate which of these three appeals is most suitable to serve as a basis for Storable Votes to be able to examine this voting method as a method of safeguarding minority rights. The three appeals I discuss are the communitarian appeal, the freedom from domination appeal and the liberal egalitarian appeal.

I.2.1 Communitarian Appeal

Communitarianism challenges liberalism on its view that the value of all goods can be reduced to the contribution they have to an individual (Song, 2017). Communitarians believe that some goods are valuable in and of themselves. Cultures are, in principle, such goods. Amongst others, Charles Taylor defends this idea through his argument for a "politics of recognition" (Taylor, 1992) .

Taylor's argument starts with modern society's need for authenticity. The intuitive tendency is that authenticity has to be found within oneself. However, Taylor argues that it inevitably, at least in part, is found through the reflection of others. This means that although authenticity is an individual good, culture is a shared one. Consider, for example, how we describe ourselves as authentic. This requires proficiency in a language. Which language we learn and how we use it is something we learn through interaction with others. Our likes and dislikes are also heavily shaped by how we engage with others in certain activities. Concretely, some (if not all) emotions become accessible through interaction with others (e.g., jealousy). The way in which others react to us thus has a strong influence on our sense of authenticity and therefore on our self-image. Taylor argues that "[t]he projection of an inferior or demeaning image on another can actually distort and oppress, to the extent that the image is internalized" (1994, p. 36). This inferior or demeaning image is internalized and thereby becomes part of someone's self-image. Taylor extends this argument insofar that he states that the refusal of recognition can be a form of oppression. He comments that this is what underlies the discussions concerning contemporary feminism and multiculturalism.

To avoid imbedded negative self-images and oppression it is thus necessary to recognize the equal value of cultures, women or other oppressed groups. How can we make sure that the value of these groups is recognized? Taylor gives (and endorses) the example of Québécois regulations favouring the French language over the English language in order to preserve it. Another example described by Taylor suggests incorporating certain literature in school curricula. For example, he argues that changing the curricula at universities to include literature written by women does not only fill a gap in knowledge, it is also important because it

influences the self-worth and recognition of value for female students. When women only read work written by men, they will get a demeaning picture of themselves by thinking all creativity comes from men. Although Taylor does not directly mention it, the same reasoning holds for men reading works exclusively written by men. If they gather the image that creativity only comes from men, this will be reflected in their interaction with women. The same argument can be made for including literature from other cultures in the curricula.

Following this line of reasoning: for which minorities does this appeal justify minority rights? To answer this, I need to discern what will and will not affect a person's self-image. I claim that for the lack of recognition of a particular facet of someone's life to impact this person's self-image, this facet must play a major role in their life. To see this, imagine that people with a vegan diet are looked down upon by meat-eaters, or vice versa (as, in fact, often seems to be the case). Is any possible resulting damage to a vegan's or meat-eater's self-image on this matter severe enough that some kind of mitigating measure is called for? To answer this question, it is useful to pinpoint which facets of a person's identity are affected by the damage. It is conceivable that besides someone's identity regarding their philosophy on food, they have other parts of their identity that are not influenced by this particular facet. To make this idea clearer, imagine people as having umbrella-identities and sub-identities. Umbrella-identities are all encompassing in the sense that they influence many (if not all) parts of someone's life, including sub-identities. Sub-identities, although important in the sense that someone does identify with them, do not impact (many) other parts of someone's life. If someone's umbrella-identity is not recognized, this can tarnish someone's self-image. If someone's sub-identity is not recognized, this cannot. In the example above, being vegan or a meat-eater may be someone's sub-identity, as for most people it would not impact other areas in life and could thus not be considered an umbrella-identity. Culture, on the other hand, as described above, is a platform in which people form relationships, learn how to express themselves and find their likes and dislikes. Culture is an umbrella-identity, as it influences many (if not all) parts of people's lives and creates a space in which sub-identities can form.

To figure out which minorities should justly be offered group-specific rights according to the communitarian appeal, we must now merely discern which minorities are minorities based on their umbrella-identities and which are minorities based on their sub-identities. We can immediately say that all national and poly-ethnic minorities, according to the communitarian appeal, should be offered group-specific rights, as these groups are minorities based on their

culture. This includes all types of immigrants: political, economic, or otherwise. Whether modern minorities should be offered group-specific rights is at this stage less straightforward, and the different sub-groups must be considered separately.

Susan Wolf's comment on Taylor is helpful in this task (Wolf, 1994). While Taylor's theory is capable of justifying minority rights for minorities with distinct cultures, it is not easily extendable to include a justification of minority rights for modern minorities. An example in which Taylor's theory is problematic, Wolf argues, is in 'recognizing' the position of women in society. "While the predominant demand for recognition in multicultural contexts is the demand to have one's culture and one's cultural identity recognized as such, to have one's identity *as* an African-American or Asian-American or Native American appreciated and respected, the question of whether and how significantly and with what meaning one wants to be recognized as a woman is itself a matter of deep contention" (1994, p. 76). Here, Wolf calls into question the notion that women would want to be recognized predominantly *as* women. Fitting this into my identity framework, Wolf is saying that it is contested whether women want 'being a woman' to be seen as an umbrella-identity. That is to say, although a woman might want that her belonging to a certain culture, seeps though to all, or most, other facets of her life, she may not want her gender to be of importance with respect to other facets at all. Similarly, it is doubtful whether all members of groups such as the LGBTQ+ community, the poor and people with disabilities want these facets of their life to be seen as their umbrella-identities. There is a worry (I believe justified) that if these groups are offered group-specific rights, this will only reinforce their unwanted umbrella-identity status to others. However, the fact that group-specific rights are unwanted, does not mean that the communitarian appeal offers no justification for these rights. Whether women want it to or not, depending on the culture, the identity 'woman' impacts many other facets of life, such as the way one expresses herself, relationships and likes and dislikes. In this way, being a woman is indeed an umbrella-identity. Although it may not be the case for everyone in the other modern minorities, it is not out of the question that sexuality, being poor, or being disabled serves as an umbrella identity. In many cases these could shape how people express themselves, their relationships and their likes and dislikes. Think about how these different identities could affect how people dress, where they go out to meet others, the movies or books they enjoy, the news stations they listen to, or the neighbourhoods they want to live in.

Although it may depend on the shape that the group-specific rights would take, the communitarian appeal does serve as justification for these rights for modern minorities.

I.2.2 Freedom from Domination Appeal

Similar to the communitarian appeal, the freedom from domination argument parts with liberalism. This departure rests on different interpretations of freedom. Before explaining what the freedom from domination argument can do for minority rights, it is necessary to know what freedom from domination itself means and where it comes from. In liberalism, non-interference suffices for freedom. That is, as long as someone is not physically detained from doing something, she is free. This liberal interpretation of freedom does not suffice for freedom as non-domination (Pettit, 1997; Skinner, 1998). Here, not only may there be no interference, there must also be no possibility of interference. A prominent example supporting this view of freedom is that of the slave and his benevolent master. In this example, although the master does not technically interfere with the slave (because he is benevolent), he could if he wished to. In that way, the slave is dominated by the master. Under freedom as non-domination the slave is not seen as free. Amongst others, Frank Lovett (2010) argues in favour of certain group-specific rights based on this notion of non-domination.

First, Lovett establishes that freedom of domination is an important right, and that it should be ensured for its own sake. He goes on to argue that we should thus not accommodate social practices that undermine this freedom. Furthermore, we should discourage and actively put to a halt such practices, "despite any subjective value they happen to have for their participants" (2010, p. 256). As an example, Lovett puts forward immigrant workers that do not speak the local language (well). He argues that these immigrants are vulnerable for exploitation by their employers. To relieve them from this position of domination, targeted rights, such as ensuring extra legal aid, should be put into place. On the other hand, Lovett argues that, for the same reason, group-specific rights allowing for education in minority languages can in some cases perpetuate vulnerability to domination. For, if the same immigrant workers from the past example had not learned their native language in school, but that of the local community at large, they would have been less vulnerable to exploitation by their employer.

To figure out which minorities should justly be offered minority rights according to the freedom from domination appeal, we must now merely discern (1) which minorities are

vulnerable to domination and (2) whether this vulnerability could be alleviated by offering group-specific rights. From the example given above concerning contractual language, it is already clear that both national and polyethnic minorities satisfy (1) and (2). This holds for all immigrants with a language barrier: political, economic, or otherwise. What about modern minorities? In some way all of these groups are dominated, in the sense that all of them are underrepresented in the government. Perhaps this threat is too hypothetical: the fact of a government *existing* and having some power to act would indicate that everyone living under its jurisdiction would be under threat of domination. In a more practical sense, women and the disabled are dominated because they are often physically weaker than men and in their case, a physical threat exists even when men are 'benevolent'. Perhaps the poor are dominated in the sense that employers could extend working hours that the poor could not reject even if these hours would be found unreasonable by others. The manner in which LGBTQ+ people could perhaps be seen as unfree due to domination shows itself in environments that are still unaccepting of them. Imagine an LGBTQ+ student in an extremely conservative school. This student does not have the freedom to express themselves as they wish, for there is a threat that such expression will have unwanted social consequences both at school and in the community (for an example, see: Rosenberg, 2021).

The freedom from domination appeal serves as justification for minority rights for modern minorities, although for some this is clearer than for others. It is also important to mention that this appeal is very specific about the form that the group-specific rights would be allowed to take.

I.2.3 Liberal Egalitarian Appeal

Unlike those above, the liberal egalitarian appeal for minority rights is an appeal from within liberalism, with Kymlicka as its most prominent defender (Song, 2017). I will focus on Kymlicka's argument for minority rights as presented in *Multicultural Citizenship* (Kymlicka, 1995). Kymlicka argues in favour of minority rights through an argument that relates liberal values of autonomy and equality to the value of cultural membership. This argument does not depend on cultures being valuable for their own sake, as in the communitarian appeal, but depends on cultures being instrumentally valuable to individuals. Kymlicka focuses on two ways in which this value presents itself: one concerning an argument of self-determination, the other concerning an argument of self-identification. Both these arguments show an inequality

between individuals who are part of a dominant culture and those individuals who are part of a minority culture.

The importance of self-determination stems from the liberal ideal that each individual should be free to choose how to live their life. People should be able to form their own conception of what the good life is. Kymlicka states that a liberal culture should not only provide us with options (choices) according to which we can lead our lives, it should ensure that these options are meaningful to us. Consider an example that illustrates the importance of *meaningful* options as opposed to mere options and shows how a clash between dominant and minority cultures might occur: In June 2018 the Netherlands imposed new regulations regarding headwear in certain public spaces. People may wear what they like, *as long as it does not cover their face.* For most of the Dutch population, this rule does not infringe much on their option set allowing them to choose their own 'good life'. However, for some Islamic women this rule drastically infringes upon this right. If this rule were to be enforced, it would mean that a woman wearing a niqab or burqa could, for example, no longer travel by public transport or go into a hospital. The addition of the qualification requiring that options be meaningful, plays a crucial role here. Although this group of Islamic women theoretically has the option of travelling by tram without a niqab, or with a sunhat or baseball cap, these are not meaningful options to them. In this way it happens that individuals in minority cultures find themselves with a more limited set of meaningful options than those in a dominant culture.

Another integral part of autonomy is the need for self-identification, i.e., it is important for an individual to know who they are by what criteria they identify themselves. Kymlicka argues that mostly, we identify ourselves through our achievements. That is, we might identify ourselves as students, musicians, doctors, lovers, or friends, but all of these things belong to the identity we have carved out for ourselves through (constant) achievements. Kymlicka argues that we need something for self-identification that gives the feeling of safety in belonging *effortlessly*. He argues that it is important that we do not have to fear we will lose ourselves completely if we fail to achieve. Belonging to one's own culture offers such effortless belonging.

At this point Kymlicka has shown why it is important to have access to one's own culture and how an inequality arises between individuals belonging to a dominant culture and those belonging to a minority culture. Now remains the task of arguing why this specific type of

inequality should be mediated by instating group-specific rights. Kymlicka draws upon the distinction between brute luck and option luck. Brute luck denotes (un)lucky states that arise from situations that an individual has no control over. Being born with a talent for the piano or being born in an impoverished neighbourhood are examples following from brute luck. Option luck denotes (un)lucky states that arise from situations over which an individual *does* have control. Losing money gambling is an example following from option luck. Kymlicka believes that inequality resulting from option luck is acceptable, whereas inequality resulting from brute luck is not, and should be accounted for. Kymlicka argues that cultural membership is also unchosen and inequalities resulting from belonging to one culture as opposed to another should therefore be accounted for by means of group-specific rights.

To figure out which modern minorities should justly be offered group-specific rights according to the liberal egalitarian appeal, we must now merely discern which minorities are minorities that (1a) lack meaningful options for self-determination and/or (1b) lack the feeling of belonging effortlessly, as a means of self-identification and (2) whether this is because of option luck or brute luck. Like a culture, facets of many possible modern minorities, such as one's gender or sexuality, are something you are born with and therefore can identify with effortlessly. It is thus important that this source of effortless belonging is not thwarted.

As discussed above, minorities based on cultural differences should be offered group-specific rights according to the liberal egalitarian appeal. However, this does not mean that all national and polyethnic minorities should therefore be able to enjoy these rights. According to this appeal, immigrants who move to a new country voluntarily give up their rights for cultural inequality mitigation (any resulting inequality is due to option luck). Thus, economic migrants should not be offered group-specific rights. National minorities and political migrants (refugees) should.

The steps taken above in establishing a claim to group-specific rights make another very important distinction that I have so far not mentioned. Critics of minority rights often express the worry that group-specific rights allow minorities to impose restrictions on their group members. An example of such a restriction would be to impose a sanction on Christians when they fail to adhere to the 10 commandments. Responding to this critique, Kymlicka (1995, p. 35) distinguishes between two types of claims that a minority might have to a group-specific right: The first type concerns the protection of a minority from *inner dissent* (e.g., a group-

specific right could be put in place to enforce group adherence to their customs or traditions). The second type concerns the protection of a minority from *external decisions* (e.g., a group-specific right could be put in place to protect the group from decisions made by the larger society). Kymlicka calls group-specific rights that would protect minorities from inner dissent 'internal restrictions'. Group-specific rights that would protect minorities from external decisions he calls 'external protections'. Kymlicka's liberal theory of minority rights is very critical towards internal restrictions, while pleading in favour of external protection; Kymlicka argues the latter is perfectly reconcilable with individual liberty, even though the former is not. The criterion that to be considered a minority, a group must show a lack of meaningful options for self-determination or a lack of effortless-belonging for self-identification only allows for resulting claims in the form of external protection, while ruling out the possibility of claims to internal restrictions.

I.2.4 Extending the Liberal Egalitarian Appeal

From the short explorations above, it seems that all three appeals lend themselves well to argue not only in favour of group-specific rights for national and ethnic minorities, but also for modern minorities. Which of these appeals then, is most suitable for the purposes of this thesis? The basis for the claim to group-specific rights differs between the three appeals. The communitarian appeal bases its argument on the notion that cultures are intrinsically valuable in themselves. The freedom from domination appeal bases its argument on the desire to reduce domination (and thus not directly on a desire to increase equality). The liberal egalitarian appeal argues for group-specific rights within liberalism, arguing that they actually increase equality. The aim of this thesis is to set the stage for evaluating Casella's voting system 'Storable Votes' as a method of safeguarding minority rights. As shown in the introduction of this thesis, one of the claims Casella makes about Storable Votes is the following: "the possibility of minority victories arises even though each single decision is taken according to the majority of votes cast, and, what is most important, every individual is treated identically" (Casella, 2012, p. xxi – xxii). Casella places emphasis on the fact that the system treats each individual identically. This sentiment is best upheld by Kymlicka's liberal egalitarian theory of minority rights. The liberal egalitarian theory justifies minority rights from within a framework of equality, whereas both the communitarian appeal and the freedom from domination appeal see minority rights as a necessary deviation from equality. For this reason, although modern minorities can appeal to

all three multiculturalist arguments for minority rights, for the purposes of this thesis, I will continue with Kymlicka's.

Although Kymlicka's liberal egalitarian theory does not directly include modern minorities, Kymlicka implies that it can be extended to do so. Who modern minorities are, Kymlicka is not all too clear about. He states they may include "movements of [e.g.] gays, women, the poor, the disabled"; anyone who has been "marginalized within their own national society or ethnic group" (1995, p. 19). In this chapter I will give further shape to the collective of modern minorities and evaluate whether the groups of individuals Kymlicka mentions should indeed belong to this collective, as the intuition provided in the previous chapter suggests they do.

To extend Kymlicka's liberal egalitarian appeal to modern minorities, the measure I will use to discern whether groups rightfully belong to this collective is the same measure that Kymlicka uses to show inequality between certain cultural minorities and the dominant culture. As the liberal egalitarian appeal for minority rights is not based on the idea that cultures are valuable for their own sake, but rather for being instrumentally valuable to individuals, I see no reason this theory should not hold for groups other than cultural minorities. The question to ask, then, is whether these groups lack something that is, in a similar way as cultures, instrumentally valuable to its members. Do these groups (1a) lack meaningful options for self-determination and/or (1b) lack the feeling of belonging effortlessly, as a means of self-identification? If the answer to at least one of these questions is yes, I will classify the group as a modern minority. With this, the theory's extension is not yet complete. The next step (2) must be to see whether the inequalities experienced by the modern minorities are caused by brute luck or by option luck. Following Kymlicka's theory, minority rights are justifiable only for groups whose inequality has been caused by brute luck. I will refer to these steps as "Kymlicka's criteria " for minority rights. When minority rights are justified, Kymlicka intends for the minority in question to have a claim to group-specific rights. However, as this thesis will later evaluate Storable Votes as method of safeguarding minority rights, a more neutral claim is required. To this end, I will hereafter indicate minorities for whom minority rights are justified, according to Kymlicka's criteria, to have a claim to *alleviation of inequality*, or 'a claim to alleviation', in short.

This chapter is divided into sections, where each section discusses the possible modern minorities suggested by Kymlicka: Women, LGBTQ+ community, people with a disability and

the poor. Within these sections I will evaluate how these groups fare with respect to the self-determination and self-identification criteria stipulated by Kymlicka for a 'good life'. Lastly, I will discuss whether any resulting inequality is due to option luck or brute luck.

Note that the resulting list of modern minorities is not exhaustive. There will surely be other groups that can and should be considered modern minorities. I intend for this chapter to both point to the existence of groups that are modern minorities and to provide a framework that can be used to identify possible modern minorities in the future and judge whether such groups meet the criteria to, in fact, be deemed modern minorities.

I.3.1 Women

Women are not a numerical minority, at least not significantly. How then, might they still be considered a modern minority? This question must be addressed before moving on to discern whether women meet Kymlicka's criteria and therefore have a claim to alleviation. Note first, that Kymlicka's theory does not require a minority to be a numerical minority. The inequality he speaks of stems from a clash between a certain group and the dominant culture. The dominant culture need not necessarily be supported by a numerical majority. Think, for example, of South Africa under apartheid, where the dominant culture was held in place by the Afrikaners, who were a numerical minority in the country. In this example, however, voting rights were not equal throughout the population and the Afrikaners were favoured by the electoral rule in place (Visser, 2020). If we create a hypothetical case in point where the field is evened out, we are still left with the question: Is it possible for a dominant culture to be held in place if it favours roughly half the population over the other *even when* voting rights throughout the population *are* equal? To find an answer to this question, I will draw from the example of a representative democracy (as opposed to a direct democracy, which would give differing results).

In a representative democracy, public policies are designed and executed by elected representatives. There are two problems in a representative democracy that allow for the undermining of groups even when these groups are not numerical minorities. The first problem is that the distribution of elected representatives does not necessarily reflect that of the voter-demographic. It is technically possible for a public majority not to be a majority among the electoral candidates. In the case of women, this means that there would not be as many female

electoral candidates as there would be male candidates, even though the ratio male to female in the voting demographic is roughly fifty-fifty (Centraal Bureau voor de Statistiek, 2017). This means that although women may not be a numerical minority as voters, they are a numerical minority when it comes to designing and executing policy. Of course, this need not necessarily be a problem. Elected officials need not be part of a specific group in the demographic in order to serve their interests. In fact, the opposite is also true: for some groups, elected officials that are part of this group in the demographic may not serve the interests of the rest of the group. For example, a heterosexual male in parliament may vote in favour of gay marriage rights, even though he is not part of the group for whom this right is intended. On the other hand, a male in parliament who identifies as gay need not necessarily vote in favour of gay marriage rights. He might, for example for religious reasons, believe that marriage should only be between one man and one woman.

It thus might make more sense to think about individuals belonging to ideological groups than it does to think about groups based on individual characteristics. With this in mind, let me retrace my steps in considering the problem of elected representatives not reflecting their voter-demographic. First consider the representation of groups based on individual characteristics. Just like ideological beliefs within groups based on individual characteristics may differ for homosexual men, like in the example above, they may also differ for the group that identifies as 'women'. Following this line of thought it may not seem problematic if the proportion of women among elected officials is smaller than in the voter demographic, i.e., as long as the individuals in the group "women's ideologies" are represented by the elected officials. Some argue against this possibility. Anne Phillips argues that "no amount of thought or sympathy, no matter how careful or honest, can jump the barriers of experience" (Phillips, 1994, p. 76); Christine Boyle argues that even if one group may understand the interest of another the first group cannot be trusted to promote the interests of the second (Boyle, 1983, p. 797). Whether or not you buy into the argument that people belonging to a group based on characteristics are more suited to serve that group's interest than people who do not belong to the group (even though ideologically they identify with their issues), there is definitely a problem when a numerical majority as ideological group in the voter demographic is not a numerical majority in elected officials. By definition the representative democracy has at least to some extent failed in its function, which is that the chosen representatives are supposed to represent the democracy. The important question is whether this happens in practice. In order to win an election, parties and individual candidates must convince voters that they will represent them

in parliament. This means that it is in the candidate's best interest to ideologically represent as large a portion of the voter demographic as possible. It also means that the candidates' ideology is at least in some part reactionary to that of the demographic. This in turn means that it is plausible that changes in ideology of the candidates lag behind those of changes within the voter demographic. On top of this, not everyone who is eligible to vote, votes[3]. A candidate is therefore only incentivized to ideologically represent the voter demographic that is likely to use their vote. It is thus possible for there to be an ideological majority in public that is not a majority within parliament.

Now that I have established that it is possible for a group that is not a numerical minority to still be considered a modern minority, what remains is to evaluate how women fare with respect to the self-determination and self-identification criteria stipulated by Kymlicka for a 'good life'. I will consider self-determination first. Do women lack meaningful options for self-determination? Here it is important to consider the word meaningful, as it is a relative term that can and will be interpreted differently by different individuals. Kymlicka stipulates that the options must be considered meaningful by the individuals themselves, i.e., each individual must find the options that they have for self-determination meaningful, it is not a judgment that can be made by an outsider. This being said, whether an option is meaningful to someone or not, will probably still heavily depend on (cultural) norms. Consider a country that has unequal job restrictions for men and women; where, for example, women are not allowed to join the army. This restriction for women only decreases the amount of meaningful options if there are women that consider a career in the army relevant for a 'good life'. If the cultural norm that only men join the army is very strong, and in fact so strong that no woman desires to join the army, then arguably this restriction does not limit meaningful options for self-determination for these women.

Is there a lack of meaningful options for women in the Netherlands? Let us first consider the position of women in the job market. Although on paper there are no jobs that are off limits for women, job prospects between men and women are not equal. For the same job, a man on average earns more than a woman does (European Comission, n.d.). All other things being equal, for many jobs, an employer is more likely to hire a male candidate than a female candidate (World Economic Forum, 2020). Women tend to work in sectors that more often

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[3] In the Netherlands, 78,7% of eligible voters voted in the 2021 governmental elections (Kiesraad, 2021).

offer part-time jobs over full-time ones (World Economic Forum, 2020). These facts do indeed limit a woman's meaningful choices for self-determination. To illustrate this, consider a family with heterosexual parents as an example. Because a woman is likely to earn less than her male partner, it is more economically efficient for the man to work and the woman to stay at home and take care of the kids. This financial constraint reduces a woman's options for self-determination. Women's options are reduced more obviously in countries where women cannot do certain types of jobs, or where they are dependent on a husband to allow them to work at all. This may also reduce the feeling of effortless belonging for women who are, as a result, (financially) dependent on their male partner. A lack of effortless belonging also becomes clear in other examples: A lack of female role-models in high positions, for example, can give young women the feeling that they lack the qualities for these positions, because of their gender, and therefore have no place in certain areas of society[4].

Finally, before establishing whether women have a claim to alleviation, the question of brute luck vs. option luck must be considered. In the case of women this question can be answered easily: genetics are due to brute luck.

Women face a reduced set of meaningful options for self-determination and a reduced feeling of effortless belonging. As this is due to brute luck, according to Kymlicka's criteria, women have a claim to alleviation.

I.3.2 LGBTQ+ community

Does the LGBTQ+ community lack meaningful options for self-determination or a feeling of effortless belonging? Many countries around the world do not recognize same sex marriages. In many of those countries being (openly) gay is even punishable by law (Fox et al., 2019). A handful of EU countries does not recognize registered partnerships: Bulgaria, Latvia, Lithuania, Poland, Romania, Slovakia (Your Europe, 2020). Several EU countries, such as Italy and Greece, while recognizing registered partnerships insofar as that couples in a registered partnership are offered many of the same rights as a married couple, do not recognize same sex marriage (Your Europe, 2020). Although intuitively this might seem like a violation

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[4] Note that a feeling of effortless belonging might also be felt by men in women-dominated realms of life. Think of stay-at home dads or men who like to wear dresses, high heels, or make-up. Perhaps a certain group of men could also be considered for the status of modern minority. I will leave this to future research.

of universal rights, trying to achieve equality for the LGBTQ+ community through this argument can be tricky. This is because the universal rights of marriage in these countries, for example, state that marriage must be between a man and a woman. Denying a marriage between two women on these grounds is thus, by some, not seen as a violation of these rights. Although arguing for inclusive marriage rights by means of an argument of universal rights is perhaps more socially desirable than arguing for 'gay-marriage' as group-specific rights, other instances of a lack of self-determination in the LGBTQ+ community may ask for group-specific rights. Even in countries that pride themselves for holding progressive views on LGBTQ+ rights, this group finds itself coming up short with respect to meaningful options for self-determination compared to people identifying as heterosexual. In the Netherlands for example, parents who co-parent with more than two parents (e.g., two same-sex couples raising a child), cannot all enjoy the same parental rights. Officially, in the Netherlands, a child can only have two parents (Groenlinks, 2021). The lack of official recognition might be cause for a lack of effortless belonging, but it can also mean a decrease in meaningful options for self-determination. For example, someone who is not officially registered as a parent will not have the right to maternity/paternity leave.

Another example of lack of effortless belonging stems from the impossibility of publicly expressing affection for a loved one. In countries where it is illegal for non-heterosexuals to openly be with their loved one in public it is easy to see why. As is true for the practice of cultural or religious beliefs, expressing love and sexual preference is a big part of people's lives. Thus, not being able to be with a loved one in public certainly robs a person from effortless belonging. This argument also holds, at least to some extent, for the LGBTQ+ community in more LGBTQ+-friendly countries as well. In the Netherlands, for example, there are plenty of examples of violence against homosexual couples (Koops, 2020). The assumption of heterosexuality can be damaging to a person's feeling of effortless belonging, because they are constantly confronted with the fact that they are not abiding to the norm.

Just as brute luck is a factor in why women, in the example above, do indeed belong to a modern minority experiencing inequality, and therefore have a claim to alleviation, the same is true for the LGBTQ+ community. Sexual orientation is not optional (even though some conservative groups, alas, might argue that it is a choice) (American Psychological Association, 2011). Sexual orientation is a matter of brute luck. In the same way the liberal

egalitarian appeal can be extended to include women as modern minorities, it can be extended to include non-heterosexuals.

I.3.3 People with physical disabilities

People with physical disabilities have reduced meaningful options in different ways, depending on their type of disability. For example, someone in a wheelchair has a reduced set of housing options compared to everyone else. Although they are by law allowed to live anywhere, some will need to look for housing on the ground floor or else in a flat with ramps and/an elevator. As long as there is a sufficient supply of such housing in the desired locations, there is no lack of meaningful option for self-determination. When such a supply of housing is not sufficiently available, we can speak of a lack of meaningful options for self-determination. Someone who is deaf or blind has a severely reduced set of job possibilities (reduced set of meaningful options for self-determination). Accessibility in society is severely reduced when public transportation or public facilities are not designed to include easy access for people with a disability. This impacts people's sense of effortless belonging and set of meaningful options for self-determination (they will often need to depend on others to move around).

For many people, having a disability is due to brute luck. People are born with a disability, it can be genetic, or it can be caused by an accident. But what happens when someone ends up in a wheelchair after they stepped behind the wheel while intoxicated? Or what happens when someone becomes deaf after attending too many (loud) concerts? Is it desirable to offer group-specific rights to the people affected by brute luck, while at the same time *not* extending the offer to the people affected by option luck? Following Kymlicka's criteria, the answer would be yes. At least for this group, e.g., people with disabilities, the hazy boundaries between the two sub-groups (affected by either brute luck or option luck), demand a reconsideration of the criterion that establishes whether or not a group as a whole has a claim to alleviation. If it is indeed desirable that those affected by brute luck should be treated differently than those affected by option luck, the next question is whether this is possible to execute in practice. I will return to both of these questions in the next chapter: 'Extending Kymlicka's criteria'.

I.3.4 The poor

The poor have, by definition, a reduced option set in the financial sense. Does a financially reduced option set mean that the poor therefore also lack meaningful options for self-determination? Without making a well-defined classification of 'the poor', let me discuss several gradations of 'poor' as a relative term. Imagine a family in country X where the children cannot go to school because they have to work to help their family. This in itself, perhaps, already deprives the children of a meaningful option, i.e., an education. However, even if the lack of a school education in itself is not seen as deprivation of a meaningful option, or if it could be replaced by home schooling, the lack of a school diploma will often severely limit the children's (job) opportunities in later life, and for that reason deprive these children of meaningful options for self-determination. Or think of a couple that decides not to have children, because they cannot afford taking care of them. In both of these cases the people involved are not actually prohibited from anything (the children *can* go to school and the couple *can* still have kids), but they are deprived of the option that is meaningful to them, i.e., going to school and still being able to afford their home and having children and being able to feed them and in turn provide meaningful options to them. For these reasons, in many countries, there are laws in place that restore at least some of these meaningful options to the poor, e.g., child benefits, free after school activities (such as music lessons) and free cell-phones for the homeless. What about the feeling of effortless belonging? Children from poor families might feel left out in school when they do not get the same gadgets for their birthdays as their classmates. People who cannot afford a home can quite literally not belong effortlessly.

It is clear that children are poor due to brute luck of being born into a poor family. Whether adults are poor because of brute luck or option luck is a politically loaded discussion. For countries with low economic mobility (if you are born into a poor environment you are more likely to stay poor) it means that as an adult being poor is therefore at least partially also due to brute luck. Some people will perhaps still be poor because of option luck, for example, because they chose (amongst other options) a career that pays little, or because they are poor due to bad luck, say, in gambling. Again, these examples are disputable: did someone really have another job option when that would entail abandoning their passion? For many people gambling is an addiction. If people are poor because of an addiction, is this really option luck?

Similar to the minority above (people with disabilities), discerning whether this minority's inequality is due to option luck or brute luck is messy. With an eye to returning to this subject later, I will only say, for the moment, that it strikes me as problematic to give a group the status of modern minority, with a claim to alleviation, based on their income rather than on intrinsic characteristics of the individuals in the group. I will return to this intuition and the brute vs. option luck debate in the next chapter.

I.3.5 Concluding remarks

Kymlicka suggests that his liberal egalitarian theory for minority rights, originally intended for national and ethnic minorities, could possibly be extended to include other minorities. In this chapter I have tried to do just this. Although the resulting list of modern minorities is by no means exhaustive, I showed how Kymlicka's criteria could be applied when considering a possible group to be a modern minority. According to Kymlicka's criteria all four groups, women, LGBTQ+ people, the poor, and people with disabilities have a claim to alleviation. By this method, more groups could be added to the list of modern minorities in the future. However, in this chapter, I have already hinted at some potential limitations of Kymlicka's criteria when extending them to include modern minorities: Differentiating between brute and option luck may prove more difficult for modern minorities than for national or ethnic minorities and as is the case for the poor, it seems unintuitive that a group should be given the status of modern minority based on an external factor (income) rather than on instrinsic characteristics of individuals in the group. Questions about how a minority's claim to alleviation might lead to the implementation of means to satisfy this claim have so far been left untouched. In the next chapter I will focus on the transition from theory to practice, hereby revealing some limitations of Kymlicka's criteria.

At this point in the thesis, the three questions in the introduction have been addressed. Kymlicka's liberal egalitarian theory shows which groups experience an inequality, addressing the question of who minorities are and in what way they are undermined, and justifies in which cases this inequality should be addressed. In this chapter I will discuss *how* this inequality, then, is addressed by a method of safeguarding minority rights, i.e., how the claim to alleviation is satisfied. In doing this, I set the stage for showing how Kymlicka's criteria may be used in order to evaluate the capability and desirability of Storable Votes as method of safeguarding minority rights. To this end, this chapter 'breaks down' Kymlicka's criteria and extends them, responding to the limitations of his criteria that occur when (i) extending the criteria to include a justification of minority rights for modern minorities and (ii) using them as basis for implementation of a method to safeguard minority rights.

I.4.1 Breakdown of Kymlicka's criteria

First, Kymlicka's criteria set out to show a meaningful inequality between individuals who are part of a majority culture and those that are part of a minority culture. His argument does not depend on culture having a value in itself, but rather it argues that culture is instrumentally valuable to individuals. To show this value, Kymlicka discriminates between two aspects in which this value presents itself: one concerning an argument of self-determination, the other concerning an argument of self-identification. If individuals lack meaningful options for self-determination or lack a feeling of effortless belonging for self-identification because of their group status, then there is a meaningful inequality between these individuals and those that are part of a majority 'culture'. Culture may be interpreted loosely here, as modern minorities are not groups held together by culture, but rather by ideologies or other group characteristics.

Once an inequality has been established, Kymlicka argues for his second and final step. Not all groups that experience an inequality as established in step 1 have a claim to have this inequality be set straight. He argues that only groups where this inequality is due to brute luck (as opposed to option luck) have this claim. Kymlicka then implies that those affected by such an inequality due to brute luck directly have a claim to group-specific rights. Here, it is useful to break this step apart, allowing a distinction between (step 2) a minority that, due to brute luck, has a claim

to alleviation of the inequality that was established in step 1, and (step 3) the actual *implementation* of a method that can satisfy this claim. Breaking apart step 2 and step 3 is crucial for this thesis, as it allows us to evaluate the capability and desirability of any method that can satisfy minority claims, i.e., methods of safeguarding minority rights. Whether such a method is indeed capable depends, in turn, on whether it satisfies all minority claims declared as such by Kymlicka's liberal egalitarian theory. Whether a method of safeguarding minority rights is desirable depends on the way in which a claim is satisfied, i.e., how much bias a method brings with it. This I will discuss in more detail in the next sections of this chapter. In his liberal egalitarian theory for minority rights, Kymlicka seems to assume that group-specific rights are the only method to satisfy a minority claim. I want to challenge this assumption. Although one possible measure is, of course, the implementation of group-specific rights, the other method that is under consideration in this thesis is Storable Votes. How well Storable Votes fares as a method of safeguarding minority rights is the subject of Part II of this thesis.

Kymlicka's criteria
STEP 1: Identifying minorities
It* satisfies the conditions of self-determination and self-identification.
STEP 2: Establishing claim
It can differentiate between brute and option luck.
STEP 3: Satisfying the claim
It satisfies the claim that minorities have to alleviation of the established inequality.

*It: the method in question aiming to safeguard minority rights

An important point that has so far been left undiscussed is *who* or *what* is responsible for ensuring that a method of safeguarding minority rights, if implemented, can satisfy step 1 and 2 of Kymlicka's criteria. The answer to this question differs per method. Kymlicka's liberal egalitarian theory does not discuss the third step described above, and therefore does not discuss the entity that is responsible for implementation of a method of safeguarding minority rights. For the purposes of this thesis, I will call the entity responsible for implementing group-specific rights the "outside council". This council, then, decides whether a specific minority suffers from an inequality based on a lack of self-determination and/or self-identification and whether this is due to brute luck or option luck. In the case that there is an inequality, and that the outside council judges it to be a consequence of brute luck, then the council is responsible for implementation of group-specific rights. The role of the outside council will be discussed

in more detail in the remainder of this chapter. In the case of Storable Votes, the role of the outside council falls on the shoulders of the voters. How voters decide which minorities do, and which do not have their claims satisfied, will be discussed in chapter II.2.

However, as I mentioned, Kymlicka's criteria come with some limitations when extending them to justify minority rights for modern minorities and using them as basis for implementing a method of safeguarding minority rights. Before moving on to Part II, the following section will illustrate these limitations and extend Kymlicka's criteria in response so that the resulting 'extended criteria' can be used to assess Storable Votes as a method of safeguarding minority rights.

I.4.2 Kymlicka's criteria are not sufficient

For each step of Kymlicka's criteria, I will discuss its limitations and discuss how these limitations affect the use of the liberal egalitarian theory as a basis for evaluating a method of safeguarding minority rights. This section will result in an extended version of Kymlicka's criteria, which incorporates resolutions to the limitations of the original version. As you will see, this extension includes an addition of an entirely new step that I place between Step 2, establishing claim, and Step 3, satisfying the claim.

STEP 1: Identifying minorities

Group-specific rights require active consideration

The intent of minority rights according to liberal egalitarian appeal is to correct the inequality between the minority and majority that is exposed during the first step of Kymlicka's criteria. However, for group-specific rights to achieve this goal, a minority must first be established as a minority. Group-specific rights are therefore not fit to safeguard the rights of minorities a priori, but only fit to correct an inequality that is already ingrained in society and that some entity has taken upon themselves to label as such. Which entity is responsible for this will have an impact on which groups might be lucky enough to receive group-specific rights and which are not. As mentioned earlier, I will denote this entity as 'outside council'.

This limitation holds for the use of group-specific rights aimed at modern minorities as well as the minorities Kymlicka's liberal egalitarian appeal was intended for (national and ethnic

minorities). However, this limitation is more problematic when the potential group of minorities is larger. If the outside council (merely) need keep an eye on potential inequalities in already known ethnic and cultural minorities, this task is perhaps manageable. When the definition of minority groups expands, and it is not immediately clear which groups should be labeled as such, the task of advocating for group-specific rights becomes more complicated. Thus, the limitation that group-specific rights require active consideration of who does and who does not have a claim to alleviation becomes especially problematic when looking for a theory of minority rights that include modern minorities. The more groups there are that could be eligible for group-specific rights, the more bias is introduced into the consideration.

Minority groups have vague boundaries.

In building the case for the liberal egalitarian appeal for minority rights, Kymlicka stipulates that culture is valuable not in itself, but rather instrumentally, to individuals. As shown earlier, it is this argument that allows for the extension of this appeal to other modern minorities. It is also this argument that makes demarcation difficult. Discerning who does and does not belong to a modern minority may therefore be difficult.

As I have shown in chapter I.1, differentiation between national minorities and ethnic minorities is difficult. This makes it difficult to know which type of group-specific right is appropriate, i.e., are self-government rights called for, or polyethnic rights. As shown in the previous chapter, belonging to one of these minorities depends on whether for a particular individual a certain identity is instrumentally valuable, and not on a discernable characteristic. This makes demarcation of some modern minorities difficult as well. For the case of modern minorities, this is, however, not problematic. Consider a group-specific right in the form of a hiring quota at a firm. Such a quota is meant to ensure a certain percentage of minority hires. Such a quota will not help people that do not visibly belong to a certain minority, even when they themselves do identify with this minority and this identity is instrumentally valuable to them. Although at first glance this may seem problematic, it is not. Although the minorities may be classified through something other than discernable characteristics, the wrong that a quota aims to correct *is* based on discernable characteristics. To put it simply, if someone does not visibly belong to a modern minority, they will not experience the burden of the modern minority, and thus they have no claim to alleviation.

Kymlicka's extended criteria
STEP 1: identifying minorities
It satisfies the conditions of self-determination and self-identification.
It gives all groups an equal chance to receive minority rights.
It can differentiate between different types of minorities[5].

STEP 2: Establishing claim

Difficulties in differentiating brute luck from option luck

Whether or not a group has a claim to alleviation is based on whether the established inequality of the group is due to brute luck or option luck. Groups only have a claim to group-specific rights if their established inequality was a result of brute luck. An example Kymlicka gives to illustrate this point is the case of refugees versus economic migrants. Refugees had to flee their country out of necessity and any lack of options for self-determination or lack of effortless belonging are therefore due to brute luck. Economic migrants on the other hand had the chance to weigh the pros and cons of moving to a new country and any lack of options for self-determination or lack of effortless belonging after a voluntary move are therefore due to option luck. This means that according to the liberal egalitarian theory refugees have a claim to group-specific rights, whereas economic migrants do not. This differentiation becomes problematic in practice. Imagine a group of people fleeing their country because they are persecuted there for their sexual orientation. This group would be considered to be refugees and, assuming they meet Kymlicka's other criteria, would therefore have a claim to group-specific rights. Imagine now that this claim is satisfied in the form of a school that teaches in the language of the refugee's home country. Will economic migrants from the same country, who according to Kymlicka's criteria do not have a claim to group-specific rights, be allowed to send their children to this school? Differentiating between these groups would require heaps of administrative work and seems petty if the group-specific right is already in place anyway. This practical objection is one of the problems the brute/option luck discrepancy causes. Another problem presents itself when Kymlicka's theory is extended to include modern minorities besides cultural or ethnic ones.

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[5] That is, it can differentiate between national minorities, polyethnic minorities and modern minorities. Differentiating between different groups within modern minorities, is, as argued above, not necessary.

In some of these cases, for the moment disregarding the practical problem of differentiation, it is perhaps not even *desirable* to differentiate between people in a certain situation based on brute luck or option luck. For example: Think of a person who is disabled because she got behind the wheel drunk and caused an accident. Assuming she fits Kymlicka's other criteria, does she have a claim to group-specific rights? Arguably she is disabled because of option luck: she decided to get behind the wheel while intoxicated, thereby knowingly decreasing her response time (or at the very least she decided to drink when she knew she would need to drive). Accordingly, by Kymlicka's liberal egalitarian theory, she would not have a claim to group-specific rights. However, it seems excessively cruel to withhold group-specific compensation for the rest of her life, for example in the form of workman's compensation, because of a *single, momentary* lapse in judgement. Kymlicka's differentiation between brute and option luck seems to be based on the assumption that a decision can be made rationally and over a longer period of time. However, even when taking decision time into consideration as criterion, the differentiation between brute and option luck seems unapplicable to certain cases within modern minorities: Consider a woman who converts to (a different) religion, and, because of this, experiences a lack of options for self-determination and lack of effortless belonging. Assume that her decision to convert was made over a longer period of time and under sound circumstances (i.e., she was not under any kind of pressure). According to Kymlicka's criteria she would not have a claim to the same group-specific rights that others in her religion enjoy.

When applied to (at least some) minorities, this seems to be a fairly arbitrary differentiation of Kymlicka's criteria. Kymlicka argues that cultural membership is unchosen and inequalities resulting from belonging to one culture as opposed to another should therefore be accounted for by means of group-specific rights. He also argues that while refugees should be protected from inequalities by means of group-specific rights, economic migrants should not. It seems to be exactly this differentiation for which the criterion of brute vs. option luck is put in place. What this implicitly says is that individuals who willingly seek benefits in a new country do not have the rights to keep their cultural and social norms. Instead, it may be expected of them that they adjust to the cultural and social norms in their new country. Without questioning this implicit statement and the original intent of the differentiation between brute luck and option luck it *is* definitely questionable whether it is desirable to use this criterion when evaluating the claim of modern minorities. Think of the individual cases of modern minorities that, because of option luck, would not have a claim to group-specific rights. For example, the

woman in the previous paragraph who, after serious deliberation, wants to convert to a new religion. Her new minority status would be due to option luck. However, considering Kymlicka's intent with regard to the differentiation between brute luck and option luck, this criterion is perhaps not applicable here. This woman is not moving to a new place, she is looking to belong to a new group within the same place. She is not looking for protection *against* this new group. She *is* explicitly looking to adhere to this group's social norms. The reason for denying the voluntary migrant group-specific rights, is the desire that they assimilate to the new group's social norms (and group-specific rights would thwart that). The woman in the example should therefore, in accordance with the *intent* of the brute vs. option luck criterion, be awarded the safety of the group-specific rights that the others in her group also enjoy (as this would stimulate assimilation to the new group's social norms). As the intent of the brute vs. option luck criterion is so specific, it is perhaps unlikely that it is transferable to evaluate the claim to alleviation of any group other than national or ethnic minorities. Without contesting the desirability of this criterion altogether, it is at the very least questionable whether this criterion is desirable when establishing a claim to alleviation for modern minorities. In the case of modern minorities, it is thus perhaps permissible or even desirable that a method of safeguarding minority rights does not differentiate between addressing inequalities that are due to brute luck or option luck.

Intermediate factors interfere with Kymlicka's criteria

In the previous chapter I considered groups that, following Kymlicka's criteria, have a claim to group-specific rights. However, not all groups that fit these criteria would be best helped by group-specific rights. A good example of this are the poor. Although they do fit Kymlicka's criteria, they are perhaps not fit for group-specific rights. This has to do with the intermediate role of money when considering the criteria of meaningful options and effortless belonging. I.e., the reduced set of meaningful options or reduced effortless belonging of the poor is not due to something that is inherent to the people in this group as it is for the people in the other modern minorities discussed in this chapter. Instead, in the case of the poor, the reduced set of meaningful options or reduced effortless belonging are indirectly caused by the financial situation of these people. As the financial situation is subject to change, group-specific rights are perhaps not the right tool in this case to address the inequality that becomes visible when using Kymlicka's criteria. Rather, future research might consider progressive taxation and redistribution *specifically in the role of mitigating the poor's reduced set of meaningful options and their loss of effortless belonging*. This flaw shows that extending Kymlicka's criteria to

other modern minorities captures groups that might be better served by completely different methods.

This limitation of Kymlicka's criteria is not extremely problematic. According to Kymlicka's criteria the poor have a claim to alleviation. I, however, argued that their established inequality is perhaps better treated by a method other than of safe-guarding minority rights (e.g., progressive taxation[6]). Still, offering the poor a different type of alleviation in the form of group-specific rights, for example, need not be harmful. Therefore, I will disregard this limitation for the remainder of this thesis, although it may be picked up in future research.

Kymlicka's extended criteria
STEP 2: establishing claim
It can differentiate (appropriately) between brute and option luck.

STEP 3: The weighting of harm

One of the limitations of Kymlicka's criteria can only be tackled by adding an extra step altogether to the (extended) criteria. This is Step 3: The weighting of harm.

The previous chapter discussing modern minorities only discussed groups that generally can at this point in time expect at least some understanding for their cause. What happens when Kymlicka's criteria for modern minorities are applied to newer groups or groups that are currently widely seen as problematic at best? Let us take a look at two such groups: Pedophiles and the Dutch protest group 'Viruswaarheid', that protests against the Covid19-related measures. I will start with the latter.

Taking a look at the measures taken during the Covid19-pandemic, it is easy to conclude that everyone's movements have been restricted in at least some aspects. In the Netherlands, we have seen measures come and go including the wearing of face masks, the introduction of a curfew, the restriction on congregation size, both public and private, a restriction on the number of guests one is allowed to receive in their own home, restriction of international travel, the

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[6] It could perhaps even be argued that progressive taxation is a method of safeguarding minority rights, albeit a specialized one: it could only satisfy the claim of very specific minorities.

closing of offices, restaurants, shops, sports clubs and facilities, museums, concert halls and many more spaces that are considered by many to be crucial to both public and private life. Are these restrictions enough to create a lack of meaningful options for self-determination?

As discussed in chapter I.2, what meaningful options for self-determination are, is at least partly cultural and based on traditions in society. Without time for a shift in cultural norms, such an intrusive change as the corona measures ushered into the way we live our lives is bound to reduce meaningful options for self-determination.

The restrictions also clearly create a lack of effortless belonging, as means of self-identification. First, one cannot easily be amongst people, which is understandably crucial to a feeling of effortless belonging. People cannot meet at their clubs and associations, at work or at school. Theoretically these groups still exist, and many groups have moved online, but to belong to them is no longer effortless. Certain groups are hit harder by the measures than others. Think of people with limited access to the internet, either because of financial reasons or a limited understanding of tech (think of the elderly).

It would seem that the members of Viruswaanzin (and in fact everyone else also) can, under the circumstances of the covid19 pandemic, be classified as a modern minority. As their inequality resulting from a lack of options for self-determination and self-identification is due to brute luck (except perhaps for a few legislators), according to Kymlicka's criteria, they have a claim to alleviation.

Still, should Covid-19 restrictions be lifted? Or should certain, particularly hard-hit groups, be exempt from certain Covid-19 measures? According to Kymlicka's criteria, perhaps. Before taking a closer look at this question, let us look at another group: pedophiles. If openly being with who you love is an integral part of effortless belonging, as argued in the LGBTQ+ section (section I.3.2), perhaps the same could be said for pedophiles. So-called 'Pedojagers' (Pedophile-hunters) are another affront to their effortless belonging. Known pedophiles often have to move from place to place because pedojagers 'out' them to the neighbourhood, making it impossible for pedophiles to stay in one place (Kraak, 2020). Sexual orientation, again as mentioned earlier, is the result of brute luck. Following this reasoning, according to Kymlicka's criteria, pedophiles can be classified as modern minority that have a claim to group-specific rights.

Looking at both examples, Viruswaarheid and pedophiles, you might intuitively think there is something missing in Kymlicka's criteria for modern minorities. Let me call this the 'weighting of harm' criterion: People's meaningful options for self-determination and/or people's feeling of effortless belonging must not cause harm to other individuals. In the case of Viruswaarheid and pedophiles, offering these groups group-specific rights in order to restore meaningful options for self-determination and/or people's feeling of effortless belonging would be harmful in itself to other groups and/or themselves. In the case of Viruswaarheid, group-specific rights might include lifting some of the Corona-measures for this specific group. At the very least, the harm done would look as follows: there would be an increase in deaths, hospitals would likely be overwhelmed by the number of patients and other hospital care would falter (Touw et al., 2020). Although there might well be more consequences, I will not dwell on speculation. It suffices to know that lifting the measures for all would have far-reaching consequences in the hospitals. Lifting the measures for only the most hard-hit groups would show similar harm, although it differs from group to group. Children under 12, for example, have been exempt from the 1,5 distancing rule, despite this exemption increasing the number of Corona infections.

In the case of pedophiles, group-specific rights could mean making the practice of pedophilia legal. The harm here is more straightforward, as any sexual practice with someone who is underaged is considered to be not consensual and psychologically damaging to the underaged party.

Should group-specific rights never be offered when these rights in themselves might cause harm? This is too simplistic. The purpose of Kymlicka's criteria is that they are set up in a way to detect harm that is done to a specific group with respect to their self-determination and self-identification and thereby justify measures to counter this harm. It seems therefore that a weighting is called for between the harm that is done to a group before the introduction of group-specific rights and the harm that is done after this possible introduction. To clarify this, let us look at the case of pedophiles. As established above, pedophiles do qualify for group-specific rights according to Kymlicka's criteria. As such, without group-specific rights, a certain harm is done to this group, which takes the shape of a lack of meaningful options for self-determination and a lack of effortless belonging for self-identification. Mitigating this harm by offering group-specific rights with regards to the legal age for sex, does harm to

underaged individuals. The weighting that must take place here is comparing the harm that is done to pedophiles without group-specific rights and the harm that is done to underaged individuals with group-specific rights[7].

In practice, such a weighting is often already done. Think for example about the (political) debate surrounding the Covid-19 measures. In their current state, although Kymlicka's criteria are useful for showing that a group has a claim to group-specific rights, they are not sufficient for determining whether these group-specific rights ought to be put in place. In order to determine this, another criterion is needed, which I will call the principle of 'weighting of harm'. Needless to say, the weighting involved with this criterion may be quite complex, as the harm that is done to the respective groups can differ in nature and the subject of the two harms is often not the same group of people. I will return to this point, but let me first address a different worry.

At first glance, simply adding a criterion to exclude 'undesirable' groups from a status of modern minority seems problematic. Having a set of criteria to judge whether certain minorities have a claim to some form of alleviation is desirable *because* it allows for this judgement to be (as much as possible) unbiased. Or, at the very least, the set of criteria is supposed to treat every potential modern minority equally. Adding an additional criterion after being unhappy with the result therefore seems counterproductive. However, considering the nature of the addition, an investigation of harm being done, it need not per se interfere with the integrity of Kymlicka's criteria.

Interestingly, the "weighting of harm" criterion is not only necessary when Kymlicka's criteria are extended to include modern minorities. It is also a necessary addition when Kymlicka's criteria are applied to their intended recipients, national and ethnic minorities. Although the effect of many group-specific rights on the majority culture might be negligible, this is not necessarily the case, and some weighting of harm is therefore desirable. Note that the weighting of harm principle does not mean to judge whether group-specific rights are 'good' or 'bad' for society as a whole. Kymlicka's criteria show that certain harm is done to modern minorities and that these groups therefore have a claim to group-specific rights. The weighting of harm

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[7] In this particular example the weighting can be done quickly, as bodily integrity for children (amongst other absolute rights) cannot be overruled under any circumstances (Convention on the rights of the child, 1989, article 34).

principle checks whether a particular group-specific right is not harmful in itself and weighs the two potential harms against each other. Other reasons why a particular group-specific right might be good or bad for society as a whole are not relevant to this discussion.

Consider the weighting of harm in the following example of group-specific rights: A gender- or cultural quota in the workplace. A gender- or cultural quota in the workplace would ensure a more equal distribution and representation of diverse groups in the workplace. This would increase both meaningful options for self-determination (there is more chance for someone from a minority group to land a specific job) and a feeling of effortless belonging for self-identification (e.g., a quota in parliament or on public tv channels would increase representation and visibility of specific minorities). The harm done by the group-specific right might include the decrease in available jobs for straight, white men (whether this would harm society as a whole is, as stated above, another question) and it is argued that a quota might be harmful to the quality of the workplace as the hiring committee may no longer choose candidates based solely on quality (although it is of course questionable whether this is in fact the case without a quota).

A method of safueguarding minority rights should be equipped to handle the weighting of harm done to groups before and after alleviation of a minority's claim. In the case of group-specific rights, this weighting would presumably be done by the same 'outside council' that evaluates the other steps in Kymlicka's extended criteria. As you can imagine, the weighting of harm is yet another instance in which group-specific rights (through their outside council) introduce bias into satisfying the claims of minorities.

Kymlicka's extended criteria
STEP 3: evaluating harm
It satisfies the weighting of harm criterion.

STEP 4: Satisfying the claim

I will not attempt to judge whether group-specific rights in fact satisfy the claim of the respective minorities. Group-specific rights, in theory, are tailor-made to satisfy the claims. In the case that they do not, this is an empirical question that is beyond the scope of this thesis.

What I do want to briefly address is the question of bias that a method of safeguarding minority rights brings with it. For group-specific rights, for example, some 'outside council' is needed. This outside council must consider a group for minority status in the first place, assess whether a group has a claim to alleviation and finally offer the groups that do a fitting group-specific right. It is perhaps unavoidable that such a council comes with a certain bias in favour or against certain groups. Whichever method of safeguarding minority rights is considered in Step 4 of Kymlicka's extended criteria for satisfying the claim of minorities (e.g., Storable Votes), an assessment should be made of what type of bias this method brings to the table.

Kymlicka's extended criteria
STEP 3: satisfying the claim
It satisfies the claim that modern minorities have to alleviation.
The bias introduced is acceptable.

I.4.3 Concluding remarks

In the table on the next page you can find the complete set of Kymlicka's extended criteria. In Part II of this thesis, these extended criteria can be used as a baseline to evaluate the capability and desirability of Storable Votes as method of safeguarding minority rights. As you will see, the task of the outside council, under Storable Votes, rests on the shoulders of the voters.

Although Part II will only concern itself with whether Storable Votes is an appropriate method for satisfying the claims of minorities in itself, Kymlicka's extended criteria could be used in the future to be able to compare the capability and desirability of one method of safeguarding minority rights with another. As mentioned in the sections above, the limitations of group-specific rights mainly occur with the introduction of modern minorities. It is thus possible that one method of safeguarding minority rights could work in tandem with another, in order to best satisfy the claims of all minorities.

Kymlicka's extended criteria
STEP 1: identifying minorities
It satisfies the conditions of self-determination and self-identification.
It gives all groups an equal chance to receive minority rights.
It can differentiate between different types of minorities.
STEP 2: establishing claim
It can differentiate (appropriately) between brute and option luck.
STEP 3: evaluating harm
It satisfies the weighting of harm criterion.
STEP 4: satisfying the claim
It satisfies the claim that modern minorities have to alleviation.
The bias that is introduced is acceptable.

Taking Kymlicka's liberal egalitarian theory as benchmark, Part I shows that national, ethnic and modern minorities experience an inequality with respect to the majority culture that should be alleviated. Because the justification of minority rights for modern minorities is not originally part of Kymlicka's theory, chapter I.3 extends his theory to justify minority rights for women, LGBTQ+ people, people with disabilities and the poor. Although Kymlicka intended the established inequalities to be alleviated by implementation of group-specific rights, the intent of this thesis is to consider Storable Votes as method of safeguarding minority rights. To this end, I design a checklist in chapter I.4 that I call 'Kymlicka's extended criteria'. In this checklist, the limitations of the liberal egalitarian theory when using it as a basis to *implement* a method of safeguarding minority rights, and the limitations that occur when extending the liberal egalitarian theory to justify minority rights for modern minorities, are incorporated. This checklist aims to ensure that a method, under evaluation as method of safeguarding minority rights, satisfies the claim to alleviation of *all* minorities that, according to the liberal egalitarian theory, have such a claim. In Part II of this thesis, I will indeed use Kymlicka's extended criteria to assess the capability and desirability of Storable Votes as method of safeguarding minority rights. Although this thesis does not specifically evaluate the capability and desirability of the implementation of group-specific rights as method of safeguarding minority rights, Part II will nonetheless be able to give preliminary conclusions as to whether Storable Votes might be suitable as alternative to group-specific rights.

Storable Votes

Part II

With respect to Storable Votes, Casella claims that they "are a plausible tool for addressing the problem posed by systematic minorities" and that "every individual is treated identically" (Casella, 2012, p. xxi-xxii). The combination sounds very advantageous, as most theories of minority rights use group-specific rights to alleviate minorities of any undue burden. However, Casella's analysis of Storable Votes does not address the problems of *substantive* minorities. In order to evaluate whether SV are a plausible tool for addressing the problems posed by these minorities, a justification is needed explaining who these minorities are, how they are undermined and whether they have a claim to alleviation. These three demands are answered in Part I using Kymlicka's liberal egalitarian theory of minority rights. Chapter I.4 results in a checklist of "Kymlicka's extended criteria". This checklist can be used to evaluate the capability and desirability of a method of safeguarding minority rights; the criteria presented ensure that groups with a justified minority claim[8] will have their claim satisfied.

Part II of this thesis moves on to evaluate whether Storable Votes is capable and desirable as a method of safeguarding minority rights. To this end I address the following questions:

> 1: does Storable Votes give rise to minority victories that satisfy the minority claims? (i.e., in Casella's words, does Storable Votes address the problems of minorities?)
> 2: Is Storable Votes a desirable method for satisfying minority claims?

These two questions, in and of themselves, could fill a whole new thesis. Firstly, whether minority claims are satisfied must be considered for all minorities discussed in Part I, i.e., national minorities, polyethnic minorities, and all the modern minorities (in so far as these are listed). Secondly, whether or not their claims are satisfied depends on what type of elections Storable Votes are used in. At this point, the reader has not yet been properly introduced to Storable Votes. Recall that Storable Votes is similar to the method we are used to when voting in a referendum in the Netherlands, but instead of all voters having one vote, everyone receives a bonus vote that can be spent on this referendum, or saved for a later one. By saving up votes and using them on an election they care about a lot, a minority can outvote a majority (given that the majority did not use (all) their bonus votes on this particular election). This results in

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[8] Justified according to Kymlicka's liberal egalitarian theory of minority rights.

what Casella calls a 'minority victory'. Such a limited description of Storable Votes will naturally call up many questions; a more thorough, detailed explanation of this voting system is presented in chapter II.1. For the purposes of this introduction, what is important to know, is that Storable Votes is a voting system that could be implemented in any scenario where voting is required, and that minority victories can lead to the satisfaction of minority claims. Finally, in order to evaluate whether Storable Votes as a method of safeguarding minority rights is desirable, it must not only satisfy the minority claims, it must do so without introducing unacceptable bias. Answering the two questions stated above in full is thus too much to do justice to in the remainder of this thesis, and requires empirical evidence. My intent here is to set the stage for these two questions, discussing the necessary considerations, so that this project can be easily continued in future research.

Part II will look as follows. In chapter II.1, I will relay the mechanisms of Storable Votes. I will explain how it is different from the (most prominent) voting method used currently, Majority Rule. Subsequently, I will use two examples to show how Storable Votes can lead to minority victories, which in turn have the ability to satisfy minority claims.

In chapter II.2, I will go through Kymlicka's extended criteria, evaluating SV as method for safeguarding minority rights according to these criteria. As shown in Part I, it is these criteria together that ensure that all minorities that have a claim to alleviation *according to Kymlicka's liberal egalitarian theory* will indeed have their claim satisfied. Under Storable Votes it is not the outside council that decides which minorities have a claim to alleviation of their burden according to Kymlicka's extended criteria, as is the case under group-specific rights as method of safeguarding minority rights, but rather the voters themselves who are responsible for allowing minority victories, thereby deciding which minorities do, and which do not, have their claims satisfied. The last step of Kymlicka's extended criteria, satisfying the claim of minorities, requires more detail, and thus receives a chapter of its own.

Chapter II.3 is dedicated to laying out the considerations that must be kept in mind when evaluating how well a minority claim is satisfied by Storable Votes. These considerations can be categorized into two groups: The implementation level of Storable Votes and the types of bias that are inherent to this voting system.

In this chapter I will introduce Casella's voting system Storable Votes (2012). I will first describe Storable Votes in its most basic form, and highlight its variables. To illustrate the mechanics of Storable Votes, and show in which ways it is similar to, and where it deviates from the Majority Rule, I have designed two examples. Finally, I will tie the results of voting under Storable Votes to the implications it has for the minorities discussed in Part I of this thesis.

II.1.1 Introducing Storable Votes

The set-up of Storable Votes (hereafter denoted as SV) is simple and in its design does not differ much from the Majority Rule (hereafter denoted as MR). In MR, each voter receives one vote per proposal and each of these votes, when being tallied, is worth the same amount. The proposal that receives the most votes, wins. Similarly, in SV, the winning proposal is the one for which the most votes have been cast. However, in SV, in addition to receiving a regular vote like in MR, each voter receives one or more "bonus" votes (with each voter always receiving the same amount as the rest). The weight that each bonus vote carries varies. It may be assigned a value that is worth more than one regular vote, it may be assigned a value that is worth less, or it may be assigned the same value as one regular vote. For example, a bonus vote could be set to be worth 0.5 or 1.5 times the worth of a regular vote. Besides varying the weight of the bonus vote, the number of bonus votes that a voter receives per given amount of time (more on that here below) may also vary. For example, imagine a referendum where there are five proposals that must be voted on. Under SV, a voter will receive at least five regular votes, one for each proposal, but will also receive a number of bonus votes. This could be any number, and the bonus votes may all be spent on the same proposal, or distributed amongst preferred alternatives of any number of proposals (until the voter is out of bonus votes, that is). As you might imagine, and as will be discussed in the examples below, the bonus votes' worth and the number of bonus votes that a voter receives affect the election results. The bonus vote may be used to 'add weight' to a preference concerning one of the proposals. If a voter cares a lot about one proposal and not so much about another proposal, she can show this intensity of preference by using her bonus vote in addition to her regular vote when voting on this proposal. The main

idea of SV is that it allows for a minority victory if and only if the minority cares about an issue a lot and the majority cares about this issue only a little[9].

Assuming that a voter will indeed use her bonus vote on the same alternative as her regular vote, when faced with only one proposal, SV will lead to the same outcome as MR. It is when voters are presented with a bill that consists of two or more proposals that SV's outcome can deviate from that of MR. This is where SV's potential lies. Note that SV was designed only for use in binary elections, i.e., elections where each proposal presents exactly two alternatives. Although it might be worth studying SV's potential in more elaborate election formats (think for example of presidential elections, where there are usually more than two candidates on the ballot) I will leave this for future research and stick with the original format for which SV is intended.

Before moving on to two examples that are intended to further illuminate the mechanics of SV and illustrate how SV might serve as a method of safeguarding minority rights, I want to touch on the topic of when bonus votes are received by voters, and the time frame in which they may be used. Just as the weight and amount of bonus votes may be varied, Casella also treats the time during which bonus votes may be saved and used as a variable, not a fixed factor of SV. This means that when Storable Votes is implemented for a specific (type of) election, e.g., referenda, it must at that point be decided on when bonus votes will be distributed and for how long they may be saved and used. As this variable will greatly impact election results (both because of psychological effects on voters and because of the voting mechanics themselves), for the purposes of this thesis, I will fix the time that bonus votes are received and may be stored by voters. For the remainder of this thesis, bonus votes may be received and used in only one voting segment (election), where it is possible that during this voting segment there are multiple proposals voted on. Future research is needed to study the full potential of Storable Votes, when votes *can* be stored over time.

In the following two examples I will show how SV fares when the voting segment consists of only one election matter (proposal). I designed these examples in such a way as to not have the mechanics of SV become entwined with the plight of the minorities discussed in Part I. In

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[9] Actually, this is not a completely accurate description. It is not strictly necessary that a minority cares a lot, and the majority cares only a little, per se. What is necessary for a minority victory, is that the minority cares a lot about a certain proposal and the majority only a little *as compared to the other proposals.* Note, however, that I will treat this modifier as implicit in the remainder of my thesis.

discussing the implications of SV, I will relate the examples back to the relevant minorities and how minority victories might satisfy their claim to alleviation.

II.1.2 Two examples

Example 1: Voting with SV on one election matter

A focus group consisting of nine people has been put together at a national newspaper. The aim of this focus group is to decide on a policy by virtue of which they hope to increase the paper's young readers' base. After researching the matter for the past month, they have put forward two possible policies: 1. Advertising on Facebook and 2. Creating a newspaper app to make their articles more easily accessible on cell-phones. Imagine that four of the team members are in favor of the first policy and the remaining five are in favor of the second. Using MR, each member would be awarded one vote. All members casting their vote according to their preference, the victory falls to the second policy with five votes to four. In elections where voters may only cast their votes on this single election, as is the case in this example, using Storable Votes as election method instead of MR will show the same result. This is straightforward, but for clarity (because under other circumstances results of MR and SV may vary) I will show the workings of SV step by step for the example given above. In addition to each voter receiving one regular vote for this single election matter, all voters are also awarded one bonus vote each. As both the regular vote and the bonus vote will lose their value after this election, it is reasonable to assume that voters will use both votes. As each voter has no incentive to cast one of these votes against their preferred alternative, it is reasonable to assume that voters will use both votes to vote on the same alternative. The result of the vote under SV will be five regular votes plus five bonus votes for the second alternative against four regular votes plus four bonus votes for the first alternative. Under any (positive) value of the bonus vote, this will lead to a victory for the second alternative.

Example 2: Voting with storable votes on more than one election matter

The executive board at a national newspaper is having their quarterly board meeting. The board consists of four members and this meeting will be dedicated to deciding on policies for three issues that are currently most pressing on the board's agenda. The three issues are: a diversity hiring policy, the company becoming more environmentally conscious and the layout of the workspace. Each issue has one policy proposal on the table that can either be accepted or rejected. To express this example into language that will be used throughout the remainder of

this chapter, this example can be reformulated as follows: A decision committee is presented with a bill that captures three proposals, each of which is binary (i.e., presents two alternatives). The three issues and corresponding suggested policies are stated below.

Proposal 1: Should the newspaper adopt a hiring quota to insure a 'minimum of diversity' in the workplace?

Voting alternatives: yes / no

Proposal 2: Should the newspaper move away from print entirely and only publish online?

Voting alternatives: yes / no

Proposal 3: Should the newspaper do away with their open work-space office design and move (back) to individual cubicles?

Voting alternatives: yes / no

The voting preferences of each board member are presented in the table on the next page. A voter's preference for a certain alternative is indicated by an X. A voter's highest intensity preference is indicated with an X followed by the word (priority). A regular vote is denoted as rv and a bonus vote is denoted as bv, where one bonus vote is 1bv, two bonus votes are 2bv, etc. In this example, under SV, in addition to one regular vote per proposal, each voter receives one bonus vote. For clarity, I will also denote the votes in MR as regular votes (rv), even though that is the only type of vote that a voter in MR receives.

	Proposal 1 Diversity Quota		Proposal 2 Exclusively Online		Proposal 3 Individual Cubicles	
	Yes	No	Yes	No	Yes	No
Voter 1	X		X (priority)		X	
Voter 2	X		X (priority)			X
Voter 3		X (priority)		X	X	
Voter 4	X		X			X (priority)
MR	3rv	1rv	3rv	1rv	2rv	2rv
SV	3rv	1rv + 1bv	3rv + 2bv	1rv	2rv	2rv + 1bv

◼ This alternative wins the proposal.

◼ This alternative loses the proposal.

◼ This proposal ends in a tie.

▨ The outcome of this proposal depends on the weight of the bonus vote.

Under MR, proposal 1 will fall to the 'Yes'-camp, as will proposal 2. Proposal 3, under MR, ends in a tie. Under SV, with any positive weighting of the bonus vote, both proposal 2 and 3 fall to the 'No'-camp. The winning alternative in proposal 1, under SV, depends on the weight of the bonus vote. If the bonus vote is assigned a value of less than two regular votes, proposal 1, under SV, will fall to the 'Yes'-camp. If it is equal in value to two regular votes, the proposal ends in a tie. If it is assigned a value of more than 2 regular votes, proposal 1 will fall to the 'No'-camp.

This example and corresponding table give insight into how MR and SV can lead to different election outcomes. In the next section I will discuss the results of the election under MR and SV and relate these results to the implications they have for (satisfying the claim of) minorities.

II.1.3 Implications of SV for minorities:

The election in the example directly above consists of three proposals. Bonus votes, in this case, and for the purposes of this thesis in general, are distributed per election and are only valid in this particular election. This means that there is no incentive for a voter not to use her bonus vote(s). The variables that are present in this example are those of the weight of each bonus vote, and the number of bonus votes distributed and cast. For the time being, assuming that voters will cast their bonus votes on their priority preference, SV leads to the outcome

presented in the table above. Note that there may be incentives for voters to deviate from their priority preference when using their bonus votes. 'Strategic voting' is discussed in chapter II.3 in the section 'Bias in Storable Votes' (II.3.1).

To see why the outcome of SV, as opposed to that of MR, can be desirable and how it might be able to satisfy the claims of minorities, consider the voters' preferences and priorities, for the moment disregarding the outcome. Imagine that voter 3 very strongly believes there should not be a diversity quota and cares about this a lot. Imagine that the other voters only have a slight preference in favour of the quota. To some it might make sense that if voter 3 feels very strongly about the issue of quotas while the others do not, that the vote would be swayed in her direction on this issue.

The argument in favour of minority victories perhaps becomes more convincing when considering proposal 3, instead of proposal 1. Proposal 3, under MR, results in a tie. Suppose that voters 1, 2 and 3 only slightly prefer their preference over the alternative. Would voter 4's strong preference not at least be reason enough to break a tie? This is where the potential lies for modern minorities. By assigning the weight accordingly, it is possible to allow minority victories when they are desirable, and ensure a majority victory when they (minority victories) are not. For example, you might not have been swayed in favour of a minority win for proposal 1, but you are perhaps more inclined to think favourable of a minority victory in proposal 3. As you can see, the weight of the bonus vote is a key factor for a possible minority victory. The weight of the bonus vote decides what size a minority must have, and how strong the minority's preference must be, in order to lead to a minority victory. The design of the bonus vote, too, will be discussed in chapter II.3, in the section 'Bias in Storable Votes' (II.3.1).

So how might such minority victories lead to the satisfaction of a minority claim? This must happen when the proposals that are voted on take the shape of a group-specific right. In a way, it might make sense to see SV not as a potential alternative to the implementation of group-specific rights, but rather as a method of implementing them itself, making SV more like a replacement of the outside council. However, to avoid confusion with respect to terminology at this point in the thesis, I will continue to treat both SV and group-specific rights as *methods* of safeguarding minority rights in their own standing (as discussed in section I.1.1). I will thus not treat SV as method to implement group-specific rights, but rather as a method of safeguarding minority rights that satisfies minority claims through minority victories, where

the relevant proposals *take the shape of* a group-specific right (i.e., the shape of a self-government right, polyethnic right, or special representation right). As you can imagine, the type of group-specific right that is likely to make it into a proposal in an election (self-government rights, polyethnic rights, or special representation rights), and the type of minority group that would benefit from a minority victory (national, polyethnic, or modern minorities), will depend heavily on the type of election that SV is used in. For example, when the schoolboard of a local high-school takes a vote, this election will likely not include proposals of self-government rights and will likely not influence the situation of national minorities in larger society in the slightest. A referendum where the matter at hand are adoption rights for LGBTQ+ people, will, of course, impact the situation of this particular modern minority. These examples highlight two points: The first is that the architect of the elections (the person who decides which proposals will be voted on) has a large influence on the type of minority victories that can arise. The second is that the type of election for which SV is used (hereafter, referred to as the 'implementation level' of SV) affects the impact of minority victories on the claims that national, polyethnic and modern minorities have. I will discuss the power of the architect, as well as the design of the bonus vote and strategic voting, as mentioned above, in chapter II.3, 'Bias in Storable Votes'. I will discuss the impact of the implementation levels on the respective minorities in chapter II.3, 'Implementation levels'.

In this section, I have shown that SV can lead to different outcomes from MR. I have given an idea as to why this might be desirable and how it may lead to minority victories that can satisfy minority claims. Before moving to chapter II.3 where I will discuss the biases and the effect of implementation levels, as mentioned above, I will first return to the checklist of Kymlicka's extended criteria that I constructed in Part I. I will give a rough sketch of how SV fares with respect to these criteria.

After understanding the basics of SV, it is now time to return to the questions of whether SV is capable, and whether it is desirable as method of safeguarding minority rights. Recall from the introduction of this thesis that what makes Storable Votes such a valuable candidate is that it could address the problems of minorities (i.e., satisfy the claims of minorities), while at the same time treating each individual identically. This is a desirable combination as it sidesteps the heated debate concerning (in)equality that consumes proponents and opponents of minority rights. In short, critics of minority rights often argue that universal rights should be enough to protect anyone and that offering one group certain rights that others do not have access to in itself creates inequality (Barry, 2001). In his liberal egalitarian theory of minority rights, Kymlicka addresses this critique by arguing that these group-specific rights are put in place for the exact reason of upholding equality: he argues that there is an inherent inequality present when universal rights, alone, are applied (inequality of outcome, as shown in step 1 of Kymlicka's criteria) and in order to rectify this, an inequality in means (group-specific rights) is justified.

Whether accepting Kymlicka's argumentation or not, the debate is convoluted by the assumption that minority rights must always come in a form that negates the possibility of simultaneously ensuring equality of means and equality of outcome. By breaking down the steps of Kymlicka's argument in chapter I.4, and differentiating between Step 2 where a minority's claim to alleviation is established and Step 4 where a fitting method of safeguarding minority rights is chosen, I challenge this assumption. Having accepted Casella's claim, for the purposes of this thesis, that SV treats each individual identically (i.e., that SV upholds equality of means), what remains is to evaluate whether SV upholds equality of outcome, i.e., whether SV satisfies the claim that minorities have to alleviation. As argued in Part I, in order to do this, SV must satisfy Kymlicka's extended criteria. Establishing whether a system of SV indeed satisfies all the criteria, and thereby answering the question of whether SV is capable and desirable as method of safeguarding minority rights, rests in part on empirical evidence. As SV has not been implemented in practice, for the time being, no such empirical evidence exists. I will therefore not be able to answer the questions in full. Instead, the remaining two chapters aim to flesh out the various considerations that must be made in each step of evaluating SV in Kymlicka's extended criteria. This chapter will concern itself with evaluating SV in Step 1, 2

and 3 of Kymlicka's extended criteria, leaving Step 4 (satisfying the claim) for the next and final chapter of this thesis.

Kymlicka's extended criteria
STEP 1: identifying minorities
It satisfies the conditions of self-determination and self-identification.
It gives all groups an equal chance to receive minority rights.
It can differentiate between different types of minorities.
STEP 2: establishing claim
It can differentiate (appropriately) between brute and option luck.
STEP 3: evaluating harm
It satisfies the weighting of harm criterion.
STEP 4: satisfying the claim
It satisfies the claim that modern minorities have to alleviation.
The bias that is introduced is acceptable.

How can a voting system satisfy Kymlicka's criteria? Recall that under SV, voters replace the roll of the outside council. The voters are in charge of deciding which proposals lead to minority victories (and thus which minorities may have their claims satisfied) and which do not. When evaluating group-specific rights as method of safeguarding minority rights, it must be assessed how well outside council can ensure that Kymlicka's extended criteria are satisfied, and what bias, if any, is likely to occur during this process. When evaluating Storable Votes as method of safeguarding minority rights, it must be assessed how well the voters can ensure that Kymlicka's extended criteria are satisfied, and what bias, if any, is likely to occur during this process. In order to do this, we must look at who the voters are, and whether their voting behaviour is likely to lead to the satisfaction of Kymlicka's extended criteria, by ensuring minority victories when these are called for[10]. In Part II of this thesis, I will only consider the latter, under the assumption that all eligible voters vote[11].

Note that I will be evaluating SV as a method of safeguarding minority rights in its own right. That is to say, I will assume there are no other such methods in place. That means that SV must

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[10] Based on Kymlicka's liberal egalitarian theory of minority rights.

[11] This assumption is problematic, as we know it to be untrue. Voter turnout differs per country and election type. Voter turnout for the governmental elections in the Netherlands in 2021, for example, was 78,7% (Kiesraad 2021). What is most problematic for an election system as method of safeguarding minority rights, is that the likelihood of voting is not equally distributed among social groups in society (Stichting Kiezersonderzoek, 2018). I leave investigation of this problem for future research.

be able to satisfy the claims of all minorities that are deserving of minority rights. The checklist of Kymlicka's extended criteria can be seen as an ensurance that SV at least makes minority victories possible for the minorities that are deserving of it.

II.2.1 Step 1: Identifying minorities

Kymlicka's extended criteria
STEP 1: identifying minorities
It satisfies the conditions of self-determination and self-identification.
It gives all groups an equal chance to receive minority rights.
It can differentiate between different types of minorities.

Satisfying the conditions of self-determination and self-identification
This sub-criterion is very problematic for Storable Votes, although at first glance it may not seem so. Naturally, meaningful options for self-determination differ according to the individual in question. Each individual or group of individuals, then, is naturally a better judge of what constitutes a lack of meaningful options for herself/the group, than an outside entity appointed from without, tasked with identifying group-specific rights. Keeping in mind the fact that under SV, everyone is treated equally, and that any minority, as long as the majority does not care much, can achieve a minority victory, it might appear that a minority is better off bundling their votes when it matters most, rather than waiting for some outside council to get around to recognizing them for group-specific rights. If only things could be that simple. In order for SV to be recognized as a capable method of safeguarding minority rights, it must create minority victories in *all* cases where minorities have a claim to alleviation.

However, this becomes problematic with respect to the criterion of self-determination and self-identification, because this task lies, wittingly or unwittingly, with the majority. The majority decides how many of their bonus votes to spend on an issue, and there is always a question as to whether the majority, either actively or passively, holds the conditions of self-determination and self-identification in mind when deciding on the number of bonus votes to assign to an issue. This is, however, probably asking too much of the majority's ability and desire to consider a particular proposal from the viewpoint of the minority. Recall the example of the ban concerning wearing a niqab in public institutions or public transport. I argued that although

the Muslim women in question still have the option of going to the hospital by tram wearing something other than a niqab, this is not a meaningful option to them. Because this equality is due to brute luck, not option luck (see section I.2.3), these women have a claim to alleviation. Imagine now that this minority claim should be satisfied by SV. Let us assume that the minority in question does recognize this issue as important for self-determination and self-identification. When choosing what direction to vote in, the majority, and perhaps in particular those voting in favor of a ban to wearing a niqab[12], will be considering what the ban means to themselves, not to the relevant minority group. It is thus possible that the majority also cares a great deal about a given issue, outvoting the minority on a proposal that the minority, according to the liberal egalitarian theory of minority rights, has a claim to. This is extremely problematic. It means that the capability of SV as method of safeguarding minority rights is at least weakened, as it will at least not lead to the satisfaction of *all* minority claims. Storable Votes only realizes minority victories based on preference strength of both the minority and majority, not on the *reason* of the preference. This means that it is at least possible, and perhaps even likely, that some minorities who have a claim to alleviation will not have their claims satisfied by SV.

What happens to the criterion when you turn the problem around? Certain minority groups could achieve a minority victory, as long as the majority does not care much, even when this minority does not satisfy the conditions of self-determination or self-identification. For example, imagine that there is a proposal considering a quota on company boards that ensures that at least 60% of the positions are taken up by men. For the sake of this example, assume that only 30% of all eligible voters is in favour of this proposal[13]. According to the criterion of self-determination and self-identification the group that this proposal is geared towards (men) does not experience an inequality (at least, assume it does not, for the sake of this argument). This means that according to Kymlicka's extended criteria, men do not have a claim to this type of alleviation. Despite this, SV allows for a minority victory on this proposal (under the condition, of course, that the minority (30%) voting in favour of this proposal cares a lot, and the majority (70%) voting against this proposal only a little). The desirability of minority victories when these minorities have no claim to alleviation, however, is outside the scope of

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[12] In fact, the ban was not for niqabs explicitly, but rather for any type of clothing that covers someone's face. This was done in order to circumvent protections applying to religious or cultural groups. By making the law explicitly not only about the niqab and the burka, but head-ware in general, the law did not have to go through the international court, but could be implemented by the Dutch government (Raad van State, 2015).

[13] The 30% in this example is somewhat arbitrary; the example works with any percentage below 50%. Note, however, that the smaller the majority group, the larger the amount of available bonus votes must be in order for there to be a possibility of a minority victory.

this thesis. For the purpose of this thesis, I am only concerned with whether SV satisfies minority claims and whether it is a desirable method to achieve this purpose.

All groups have an equal chance to receive minority rights

In order to receive group-specific rights, a group must first be actively considered as a minority. This is not the case for SV, where a minority can rise spontaneously and of its own accord. However, despite this, groups do not all have an equal chance to receive minority rights under SV, either. This has to do with the way in which bias presents itself in Storable Votes. This is an important issue, and must, of course, be considered. For now, however, I will park this thought here, and return to bias in Storable Votes in the next chapter.

Differentiating between different types of minorities

As explained in Part I, vague group boundaries can make it difficult to achieve a precise delineation of who does, and who does not belong to a minority. This can be problematic when it comes to choosing the right type of group-specific right. Recall that this problem only presents itself when an attempt is being made to differentiate between national and polyethnic minorities. SV does not differentiate between the different types of minorities at all. This need not be problematic, as long as each minority group with a claim to alleviation can have this claim satisfied. As explained above, under SV, this will not necessarily be the case for all such minorities, as voters are not always likely, if at all, to vote with Kymlicka's extended criteria in mind.

II.2.2 Step 2: Establishing claim

Kymlicka's extended criteria
STEP 2: establishing claim
It can differentiate (appropriately) between brute and option luck.

Differentiation between brute luck and option luck

The mechanics of SV themselves do not differentiate between brute luck and option luck. The minority wanting to vote in favour of a claim, is not going to be held back from doing so if their inequality happens to be a result of either brute luck or option luck. It is doubtful whether a majority will base their decision to spend their votes on a proposal on the differentiation of

brute and option luck. This is perhaps not as problematic as it may seem. As discussed in section I.4.2, Kymlicka's decision to differentiate between inequalities caused by brute luck or option luck is perhaps not always justified, especially with regard to modern minorities. It is thus perhaps an interesting alternative to have the justification of a minority claim not be based on the brute and option luck discrepancy, but rather on the wisdom of the majority (i.e., trust that when the majority allows for a minority victory by 'not caring a lot', this will lead to a socially desirable outcome). Future research could further explore this thought.

II.2.3 Step 3: Evaluating harm

Kymlicka's extended criteria
STEP 3: evaluating harm
It satisfies the weighting of harm criterion.

Satisfying the weighting of harm criterion

As for the other criteria, the voters take over the roll of the outside council when considering the weighting of harm criterion. This is not a problem in itself, as long as the intent of the weighting of harm criterion stays intact. That is, a proposal should be accepted by SV when it leads to a decrease in harm.

Casella claims that: "[SV] results in minority victories only when the minority cares intensely about the outcome of a decision while the majority does not, and thus when the cost of the defeat for the majority is small" (Casella, 2012, p. xii).

Assuming that harm is a cost, this claim implies that minorities can only win when there is no increase in harm *according to the majority*. In order to make a decision that is in line with Kymlicka's extended criteria, the majority must be aware of the harm done to the minority before a proposal, and the potential harm done to a group after implementation of the proposal. I will evaluate whether this weighting is likely to occur at the hands of the majority, in practice. There are three possible scenario's: 1) The majority falls in the latter category (harm is done to the majority after implementation of the proposal, and the minority before implementation), 2) the majority must make a weighting of harm done to two distinct groups before and after implementation (and the majority is part of neither group), and 3) the harm done before and

after implementation falls on the same group (and this group is not the majority). How thoroughly the majority will consider the weighting of harm principle when voting differs per scenario. In scenario 1, it is questionable whether the majority would vote against their own interests, regardless of the harm done to the minority party. In scenario 2, it is difficult to see whether a just outcome of the weighting of harm principle is probable. As the majority is not a part of either target group of the proposal, it is likely that the majority will make some kind of weighting, but wether this is a weighting of harm or of another kind (such as biases for or against a certain group) is not obvious. In scenario 3, the majority is in a similar position as in scenario 2. What differs here is that the minority might not always vote in its own interest. Consider for example a proposal that allows religious schools the liberty to teach according to their own ideology. On the one hand, if such schools did not exist, a religious minority group might lack a feeling of effortless belonging. On the other hand, if such schools did exist, allowing them to claim exemption from state-wide school regulations can make room for different types of harm. For example, in 2020, it came to light that in the Netherlands, parents of kids attending Reformed Church schools were asked to sign an 'anti-gay' declaration (Keultjes, 2020). This practice is seen by Dutch society at large as harmful to the psychological well-being of the children at school as well as the LGBTQ+ community in general. This harm was generally not characterized as such by the reformatory schools themselves or by the children's parents. Unfortunately, the minority might not see the weighting of harm properly, even when they are the recipients of harm on both sides. These three scenarios show that the weighting of harm principle likely cannot be entrusted upon the voters under SV, although empirical analysis is needed to confirm this theoretical conclusion. This means that under SV, minority victories may not occur when, according to the weighting of harm principle, they should, and may occur when, according to the weighting of harm principle, they should not.

II.2.4 Step 4: Satisfying the claim

Kymlicka's extended criteria
STEP 4: satisfying the claim
It satisfies the claim that modern minorities have to alleviation.
The bias introduced is acceptable.

Although SV has the potential to allow minority victories when the minority cares a lot, and the majority cares only a little (as shown in chapter II.1), this chapter has shown that SV does not have the ability to satisfy the first three steps of Kymlicka's extended criteria. Voters under SV will likely not identify minorities that lack meaningful options for self-determination or lack a feeling of effortless belonging; voters are not likely to differentiate between minorities that undergo inequality because of option luck or because of brute luck; voters are not likely to vote according to the weighting of harm principle. Although the loss of step 2 is perhaps not all too problematic (and potentially even preferable, at least for modern minorities), the losses of step 1 and 3 are. The loss of step 1 means that under SV, there is a possibility that a minority that, according to the liberal egalitarian theory has a claim to alleviation, can be outvoted by a majority that also cares about the matter. The loss of step 3 means that the weighting of harm principle need not necessarily be applied for a minority victory to take place, and a proposal that overall creates *more* harm than there was without it, can be accepted by SV. Still, it is possible that some minorities might still benefit accidentally from SV as a method of safeguarding minority rights. That is, although not all minorities with a claim to alleviation will achieve minority victories, some minority victories might still belong to minorities with such a claim. For these minorities it is necessary to evaluate step 4 of Kymlicka's extended criteria: Can SV satisfy minority claims to alleviation and what type of bias does SV bring with it? These questions require a little more thought, and thus are discussed separately in the next chapter.

Kymlicka's extended criteria
STEP 4: satisfying the claim
It satisfies the claim that modern minorities have to alleviation.
The bias introduced is acceptable.

As explained above, satisfying the claim is the most intricate step in Kymlicka's extended criteria. This is because there are many aspects to consider when evaluating whether SV can satisfy the claim of minorities and whether the bias that is introduced when doing so is acceptable. In chapter II.1, 'the basics', I already mention these considerations. Whether SV satisfies the claim of modern minorities may differ per minority (i.e., is the minority in question a national, polyethnic or modern minority?) and per implementation level of SV (e.g., is SV used in a parliamentary election, a referendum, or by your local school board?). What is more, the points of contention that may introduce bias to Storable Votes have also already been mentioned in that chapter: The power of the architect (i.e., who decides which proposals will be voted on, and when), the design of the bonus vote (i.e., what is the weight of the bonus votes, and how many votes does each voter receive), and strategic voting (i.e., will voters use their bonus vote on their priority preference?). To fully answer the questions of whether SV satisfies minorities' claims, and what the impact of the biases is, empirical evidence is needed that shows to what extent the inequality experienced by minorities with a claim is alleviated by implementation of the relevant proposals and to what extent bias occurs during the process of the election. This, I will leave for future research. What this chapter aims to do is explore the different considerations that must be kept in mind when attempting to answer the question in the last step of Kymlicka's extended criteria, 'satisfying the claim'.

This chapter, the final chapter of this thesis, is divided into two sections: The first section discusses the different types of bias that are introduced by SV. The second discusses in which implementation levels SV might be most successful and desirable with respect to satisfying the claims of the different minorities. Note that this is an exploration intended to point to where future research would be most fruitful. Here I will discuss two different election types, political elections and voting in public institutions.

II.3.1 Bias in Storable Votes

As shown in Part I of this thesis, the consideration of a minority for a claim to alleviation, and the implementation of a group-specific right, are subject to bias. This bias is brought in by an outside council, i.e., those who are responsible for deciding which groups are offered what type of group-specific right. Recall that to begin with, an initial active consideration of a group as minority is necessary. Subsequently, what are seen as 'meaningful options' for self-determination, especially when judged by an outside council lead to imprecision and bias. This outside council will also have to take the weighting of harm for their account, where there is no objective measure of comparison. With SV, the role of the outside council is fulfilled by the voters themselves. Unfortunately, here, too, bias seeps in on other accounts. I will discuss three ways in which SV introduces bias to the question of which minorities can achieve a minority victory through SV. These are: *The power of the architect, the design of the bonus vote, and strategic voting*. Two of these, the power of the architect and strategic voting, are partially treated by Casella herself, as possible objections that could be raised with respect to Storable Votes. After both theoretical and experimental analysis, she labels them as unproblematic and dismisses them as objections. However in the case of substantive minorities, this dismissal is, as I will show, based on a problematic assumption, that of independent proposals. The bias resulting from the design of the bonus vote is left untreated by Casella altogether.

Power of the architect

Here, the architect is the person, or persons, responsible for setting the order and content of the bill. To keep any bias and information on other voters' preference to a minimum, let us assume that all proposals on a bill are voted on simultaneously and anonymously. What remains a concern for bias, then, is the choice of content. Consider the following example. A bill of proposals is voted on in the Dutch parliamentary, de Tweede Kamer. Imagine that this bill contains three proposals that are aimed at reducing air pollutants. All votes and bonus votes must be spent on this bill[14]. It is true that, in comparison to voting under the majority rule, a green minority in the Tweede Kamer has more chance at a minority victory on one of the proposals. However, the green minority will not have the chance of a minority victory on all proposals: they will need to use all bonus votes on one proposal in order to stand a chance

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[14] Originally, Storable Votes are, as the title suggests, meant to be storable; to be used in future elections. As I have explained in chapter II.1 of this thesis, for the purpose of limiting the variables in SV, I am evaluating SV only for use in one single election (where the election will consist of multiple proposals).

against the majority. If the proposals had been spread over three bills, where votes are distributed and used separately on each bill, the green minority would have had a chance of three minority victories (as long as the majority cared little, with respect to the proposal in question). This scenario shows that the architect of a bill has great power over when and how many minority victories are acceptable. In setting up the rules for SV, however, Casella tries to ward off the possibility of such a scenario by imposing the criterion of independent proposals onto a bill, i.e., the outcome on one proposal must not be able to provide information on what the outcome of another proposal will be. Although this criterion is put in place in order to avoid the acquiring of information on other voters' preferences during sequential voting, it would also avoid the scenario described above. It is however unrealistic to think that political proposals can always be independent of one another. Consider a bill with proposals concerning a reduction in air pollutants, a diversity quotum on company boards, and abortion rights. Although these proposals cover three distinct areas, it is likely that a party's preference on one proposal is indicative of her preference on another, and the proposals are thus not independent. Because of the impossibility of ensuring independent proposals, the power of the architect, with respect to choosing content for a bill, remains great, thereby introducing bias to the chances of minorities to minority victories.

Design of the bonus vote

To illustrate the next two areas of bias in SV, recall the earlier example of Storable Votes versus the Majority Rule:

The voting preferences of each board member are presented in the table on the next page. A Voter's preference for a certain alternative is indicated by an X. A voter's highest intensity preference is indicated with an X followed by the word (priority). A regular vote is denoted as rv and a bonus vote is denoted as bv, where one bonus vote is 1bv, two bonus votes are 2bv, etc. In this example, under SV, in addition to one regular vote per proposal, each voter receives one bonus vote. For clarity, I will also denote the votes in MR as regular votes (rv), even though that is the only type of vote that a voter in MR receives.

	Proposal 1 Diversity Quota		Proposal 2 Exclusively Online		Proposal 3 Individual Cubicles	
	Yes	No	Yes	No	Yes	No
Voter 1	X		X (priority)		X	
Voter 2	X		X (priority)			X
Voter 3		X (priority)		X	X	
Voter 4	X		X			X (priority)
MR	3rv	1rv	3rv	1rv	2rv	2rv
SV	3rv	1rv + 1bv	3rv + 2bv	1rv	2rv	2rv + 1bv

This alternative wins the proposal.

This alternative loses the proposal.

This proposal ends in a tie.

The outcome of this proposal depends on the weight of the bonus vote.

Looking at the outcome of the vote under SV in the table above, it becomes clear that the weight of the bonus vote affects which policy wins the election. If the bonus vote is equal in weight to a regular vote, the election result will read as follows:

Under SV(bv = 1rv): proposal 1 will fall to the 'Yes'-camp, as will proposal 2. Proposal 3 will fall to the 'No'-camp.

This already gives a different result from voting under the Majority Rule, where proposal 3 leads to a tie. However, election results change again when the weight of the bonus vote is changed and instead of one bonus vote being equal to 1 regular vote, it is worth 2.

Under SV(bv=2rv): proposal 1 will end in a tie, proposal 2 will fall to the 'Yes'-camp and proposal 3 to the 'No'-camp.

Under SV(bv>2) results change again, as proposal 1 will then fall to the 'No'-camp. Proposal 2 and 3 show the same results as under SV(bv=2rv).

This example makes it clear that the person, or persons, responsible for the design of SV have a lot of power over what size a minority can be in order to have a chance of minority victories. These persons could thus, by design of the bonus vote, exclude certain minorities a priori to

the chance of minority victories. Although the above example shows the bias concerning the weight of the bonus vote, the same argument could be made concerning the number of bonus votes that voters receive at the start of each election.

This bias is distinct from the bias discussed in the section above in 'Power of the architect' (II.3.1). This is because the architect discussed above is not necessarily the same person or entity that decides over the design of the bonus vote. This is an important distinction, because it means that the bias comes from different sources, wich can make it harder to audit their decisions for any evidence of bias, if necessary.

Strategic voting

The next observation concerns the (in)dependence of the proposals and the resulting possibility of strategic voting. Again, to keep any bias and information on other voters' preference to a minimum, let us assume that all proposals on a bill are voted on simultaneously and anonymously. Under the Majority Rule, there is no incentive for a voter to vote against her preference if the aim is that her preferred alternative wins the election. Under Storable Votes, this becomes less clear. For example, let bv=3rv and consider proposal 1 and 2. If all voters would use their bonus vote on their priority preference, then the 'No'-camp wins proposal 1 and the 'Yes'-camp wins proposal 2. Taking a closer look, you can see that the 'Yes'-camp would also win proposal 2 without using their bonus votes. This means that each voter in the 'Yes'-camp has an incentive to use their bonus on proposal 1 instead of on their priority preference. This way, the 'Yes'- camp would win both proposals 1 and 2, regardless of which proposal voter 3 spent her bonus vote on. Of course, this incentive exists only when each voter knows the other voters' preferences. This means that in order to avoid an incentive for a voter to deviate from their own priority preference, proposals must be independent from one another (which Casella states as a requirement of SV), in order to ensure that voters cannot vote strategically based on others' preferences. As argued above, in practice, ensuring that proposals are independent is challenging, if not impossible. This said, the problem of strategic voting is likely increased or decreased depending on the type of election. For example, information on the preferences of other voters is particularly prevalent in the Tweede Kamer. This concern perhaps would become less relevant in national referenda.

Unfortunately, the concern of strategic voting does not end here; it may also play a role in non-sequential voting. For instance, information on voters' preferences may be taken from previous

elections. If a group of voters voted a certain way in previous elections this may be taken as an indicator of how they will vote in a future election. Other possible indicators of voting direction and preference strength include polls and prevalence of a certain subject in the media. It is perhaps not unlikely that many bonus votes will be spent on issues that gained most traction online. Referenda, thus, are not exempt from this bias, either.

The three sub-sections above (in II.3.1) show that SV introduces bias in several ways with respect to which minorities can, and which cannot achieve minority victories (and thus which minorities have a chance at having their claim satisfied). Future (empirical) research is needed to give an indication of whether the various types of bias occur in practice, and to what extent.

In the next section I will discuss the impact of the implementation levels of SV on which minorities have a chance to have their claim satisfied by SV. Before moving on however, I want to draw a comparison to the bias seen in SV and that seen with the use of group-specific rights. As in SV the outside council of group-specific rights is replaced (implicitly) by the voters, it might seem that the bias of the outside council disappears[15]. As you have seen in this section, this is unfortunately not the case. The bias seen in SV is quite similar to that seen in group-specific rights, insofar that it affects which minorities can and which cannot have their claims satisfied. Arguably, the bias in SV is more problematic than it is in the case of an outside council, as it is easier to hold one council accountable for their decisions, than it is to track down all of those responsible for the bias in SV.

II.3.2 Implementation levels

When you think of voting, perhaps you think mainly of governmental elections. However, some form of voting happens in all levels of society. Think of a hiring committee voting for their preferred candidate or of you and your friends taking a vote on which movie you will see next. In this section I will discuss two types of implementation levels of Storable Votes: Political elections (i.e., governmental elections, voting within parliament, and referenda) and voting in public institutions. For each of these levels, I will consider their potential for SV to satisfy the claim of national minorities, polyethnic minorities and modern minorities. The

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[15] Recall from chapter I.4 that when it is group-specific rights that are used as method of safeguarding minority rights, it is the outside council that is responsible for determining whether the steps in Kymlicka's extended criteria are satisfied. As there is room in these criteria for interpretation, a council will necessarily be affected by bias for or against certain minority groups (whether they are aware of this or not).

reason I am discussing the implementation levels separately is two-fold: Whether or not the claim of a modern minority might be satisfied depends on the type of proposal or candidate in an election. Different implementation levels are responsible for different types of proposals and candidates. Therefore, whether a claim even has the possibility of being satisfied heavily depends on the implementation level. The second reason is that the mechanics of SV respond differently to the different implementation levels. In this section I will use the political system in the Netherlands as example. Remember that the type of proposals per implementation level might be different in other countries.

Political elections

Under the heading 'political elections', I include governmental elections, parliamentary elections and referenda. As mentioned in chapter II.1, SV is not meant for non-binary elections. This said, it is not a strange idea that minority claims might be more easily satisfied by better representation in the cabinet and Tweede Kamer, considering the current distribution there of gender, education and cultural background. Although a closer representation of society's make-up is desirable in the Tweede Kamer, *over*-representation of certain groups is not. The intent of SV is that minority victories occur only when the minority cares a lot and the majority cares a little. If there is a minority victory with respect to governmental elections, this would mean that the minority would be over-represented for the next four years and the minority victory would thus not be constrained to a single case with an apathetic majority. SV is thus not only not designed for non-binary governmental elections, it is undesirable in governmental elections in and of itself.

How does SV fair as method of safeguarding minority rights in parliamentary elections and referenda? In Part I, a discrepancy is made between three types of minorities, each in need of a different type of response to their claim: National minorities, polyethnic minorities and modern minorities. For national minorities, it is immediately clear that usually parliamentary elections and referenda will not satisfy their claim, as their claim is for self-governance. The only way in which such an election might satisfy their claim is when one of the proposals is about self-governance of the minority in question. This, however, would be extremely undesirable. In chapter II.2, I showed that SV cannot recognize which groups should be considered as minorities or which of these, in turn, have a claim to alleviation. Without this

recognition, it would be possible for any group[16] to aim for a minority victory and claim self-governance rights. Having self-governance being decided in political elections under SV is therefore undesirable. This means that political elections are not capable of satisfying the claim of national minorities.

Proposals that could satisfy the claims of polyethnic and modern minorities *are* likely candidates for parliamentary elections and referenda. Examples of proposals that would be capable of satisfying their claims are quotas, an extension of adoption rights, and priority to ground-floor residencies for people with disabilities. However, bias might occur to a greater extent in parliamentary elections than in referenda, as information on other voters' preferences is likely more prevalent in parliamentary elections than in referenda, creating room for strategic voting (although, as argued in section II.3.1, strategic voting could occur in referenda, as well).

Voting in public institutions
What remains to be considered then, is how SV might fare in public institutions. It is clear that voting in public institutions cannot give rise to self-governance rights, or polyethnic rights. It could however bring about its own special representation rights.

In considering public institutions, think, for example, of schools, libraries, municipalities, and hospitals. Proposals that these public institutions would be voting on will not be able to contradict any national laws, but rather must navigate within them.

In what way then, might SV satisfy minority claims in public institutions. To answer this, think of proposals that are already discussed by (executive) boards. Amongst many more, these proposals could include topics such as holidays, maternity and paternity leave and the institution's use of (un)gendered language. The occasional minority victory could lead to an increase in feeling of effortless belonging or meaningful options for self-determination, without the possibility of any far-reaching consequences (as would be the case for voting on self-government rights in political elections).

How impactful the minority victories are, remains dependent on various factors. For example, depending on the type of institution and proposal, an increase in a minority's meaningful

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[16] Such as 'Forumland' (Hartog, 2021).

options for self-determination and feeling of effortless belonging *inside* the institution, might also affect them, and even others, *outside* the institution. For example: the choice to use ungendered language at schools would affect the way children think about gender both inside and outside of school (regardless of whether you think this would be a positive impact or a negative one). Especially if such a proposal would be accepted at more schools, it seems likely that it would affect not only the children at these schools, but also others with whom these children interact outside of school. In this way, seemingly small minority victories at public institutions could have a meaningful impact on larger society. Unfortunately, the frequency of minority victories also depends on who is on the institutions' boards to begin with. Many boards might not have a minority voice in their midst, making minority victories that lead to satisfying a minority claim highly improbable.

The exploration of the implementation levels of SV has led to a few insights. For one, SV is not suitable for granting self-government rights. This means that the claims of national minorities cannot be satisfied by SV. The potential of SV seems to lie mainly in satisfying (some) claims of polyethnic and modern minorities. Future research might indicate in which implementation level(s) SV can best satisfy their claims and in which implementation levels the prevalence of bias is least problematic. Section II.2.2 shows that voters under SV likely do not make a discrepancy between inequalities resulting from brute and option luck. As discussed in section I.4.2, failing to make this discrepancy is a problem for national and polyethnic minorities, but perhaps not for modern minorities. If empirical research confirms the inability, this would mean that SV is perhaps most suitable for satisfying the claims of modern minorities and therefore most suitable for voting in public institutions.

The aim of Part II of this thesis is to address two questions: By (1) evaluating whether Storable Votes give rise to minority victories that satisfy minority claims and (2) evaluating the bias that comes along in the process, Part II aims to give preliminary answers to the question whether Storable Votes is capable and desirable as method of safeguarding minority rights. These evaluations are done using Kymlicka's extended criteria designed in Part I as a tool for ensuring that SV satisfies the claims that minorities have, according to the liberal egalitarian theory, to alleviation of inequality. Recall that without the justification of Kymlicka's extended criteria, there would be no sound theory that could justify why certain minorities should and others should not be granted minority victories.

Although the intention was not to answer these questions in full (that will require a thesis of its own), I explored the relevant factors and gave insight into the implementation levels where the introduction of SV would be most fruitful. In my exploration of SV, I discovered the following:

In chapter II.2, going through Kymlicka's extended criteria, we can see that voters under SV will likely not take lack meaningful options for self-determination or lack the feeling of effortless belonging as considerations when voting. This means that although SV does create the possibility of minority victories (chapter II.1), there is no guarantee that these are achieved by the same minorities that, according to Kymlicka's extended criteria, have a claim to alleviation. In fact, it is possible that minorities that have a claim to alleviation do not achieve minority victories on the relevant proposals. This means that in any case, SV is not capable of satisfying the claims of all minorities. Can it still perhaps be useful in satisfying some minority claims?

In chapter II.3, I discuss bias in SV and its possible implementation levels. It is the aim here to decipher where SV might still be relevant in satisfying some minority claims. As SV is not suitable to grant self-government rights, it cannot satisfy the claims of national minorities. SV does have the potential to create minority victories that could impact the meaningful options for self-determination and feeling of effortless belonging of ethnic and modern minorities through using SV in elections concerning the Tweede Kamer (Dutch parliament), referenda,

and public institutions. In order to fulfil this potential, the Tweede Kamer and boards of institutions must include minority voices.

In "Storable Votes: Protecting the Minority Voice", the author, Alessandra Casella, argues that "storable votes are a plausible tool for addressing the problem posed by systematic minorities" while "every individual is treated identically" (2012, xxi, xxii). Although Casella is interested in the plight of formal minorities, this thesis evaluates the capability and desirability of Storable Votes as possible method for safeguarding the rights of *substantive* minorities. For the purpose of this thesis taking for granted that SV indeed treats everyone the same, also being able to safeguard the rights of substantive minorities would make SV an interesting candidate for replacing group-specific rights.

In Part I of this thesis, I examine the need for a justification of minority rights that describes who the substantive minorities are, that explains in what way they are undermined in society, and that justifies their claim to alleviation of their problems. Settling on Kymlicka's liberal egalitarian appeal as the best match to the liberal framework behind Casella's Storable Votes voting system, I use this appeal as justification of minority rights, addressing those three issues. Although originally this theory justifies minority rights for some minorities (national and polyethnic minorities), it does not do so for modern minorities. However, Kymlicka does suggest that his theory might be extended to justify minority rights for these groups as well. In setting out to do this, I discover some limitations of Kymlicka's theory. These limitations occur (1) when extending his theory to justify minority rights for modern minorities and (2) when extending his theory to be used as basis for *implementing* a method of safeguarding minority rights. These limitations concern the fact that (i) group-specific rights require active consideration, (ii) minority groups have vague boundaries, (iii) it can be difficult to differentiate between brute luck and option luck, (iv) Kymlicka's criteria lack a weighting of harm criterion, and (v) factors of bias are introduced in the process of implementing a method to safeguard minority rights. In order to circumvent these limitations, I add some extra requirements to his theory in order to use it when implementing a method of safeguarding minority rights. This results in Kymlicka's extended criteria, in chapter I.4. These extended criteria are made to be used in order to assess the applicability and desirability of any possible method of safeguarding minority rights.

In Part II of this thesis, I use Kymlicka's extended criteria to evaluate the capability and desirability of Casella's voting system, Storable Votes, *as method of safeguarding minority rights*. Although this thesis does not aim to answer these questions in full (empirical evidence is lacking), it does provide the considerations that must be kept in mind when approaching them. In this way, this thesis acts as a sort of springboard to facilitate a deeper analysis that includes empirical evidence. Theoretical analysis of Kymlicka's extended criteria applied to SV in chapter II.2 shows that SV, most probably (empirical evidence is needed to substantiate this expectation), will not be able to address the claims of *all* minorities. This is because the concurrent participation of an apathetic majority, which is needed for a minority victory, is not, per se, a given, i.e., it will not always coincide with minorities having a claim to winning a particular proposal. In addition, there are other factors that complicate the use of SV as method of safeguarding minority rights. These factors are the consideration of bias ((i) power of the architect, (ii) design of the bonus vote, and (iii) strategic voting) and implementation levels of SV ((i) political elections and (ii) voting in public institutions). A theoretical evaluation of both shows that at least, SV is not suitable for satisfying the claims of national minorities, nor is it suited as voting system in governmental election. The considerations discussed in Part II show that SV cannot be used as a self-standing method of safeguarding minority rights and can therefore not serve as replacement of the implementation of group-specific rights through outside council. However, this is so far only based on theoretical analysis. Empirical studies are needed to evaluate the extent of impact of the abovementioned considerations in practice. A comprehensive evaluation of Casella's claim about Storable Votes with respect to substantive minorities is therefore left to be completed in future research.

Although analysis in Part II shows that the impact of Storable Votes on satisfying the claims of minorities is greatly restricted, some potential still remains with respect to polyethnic and especially modern minorities. Future research (studying the prevalence of bias and the prevalence of minority victories when these are called for based on Kymlicka's liberal egalitarian theory) must indicate to what extent Storable Votes may be useful for satisfying the claims of these minorities in parliamentary elections, referenda, and votes in public institutions. As voters under SV will likely not distinguish between inequalities caused by brute and option luck, SV is perhaps not suitable to satisfy the claims of polyethnic minorities, either. Although SV is not suitable as *self-standing* method of safeguarding minority rights, not being able to satisfy *all* minority claims, it may be an interesting option for supplementing group-specific rights, or any other method of safeguarding minority rights that might be suggested in the

future. A good place to start may be (a study of) the implemention of SV as voting method in public institutions.

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