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OPTION REPORTS

LANGUAGE PROVISIONS

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The following report is one of a series produced by the Constitutional Design Group, a group of scholars dedicated to distributing data and analysis useful to those engaged in constitutional design. The primary intent of the reports is to provide current and historical information about design options in written constitutions as well as representative and illustrative text for important constitutional provisions. Most of the information in these reports comes from data from the Comparative Constitutions Project (CCP), a project sponsored by the National Science Foundation. Interested readers are encouraged to visit constitutionmaking.org for further resources for scholars and practitioners of constitutional design.

1. INTRODUCTION

Language is becoming increasingly constitutionalized. This report details the extent to which formal provision is made for official and national languages in constitutional texts, the frequency of particular languages across constitutions, and the extent to which states commit themselves to protect languages and language rights. Language provisions and rights are largely a 20th century phenomenon, and one particularly prevalent among new states.

2. DATA SOURCE(S)

The analysis reported below is based on data the Comparative Constitutions Project (please see the appendix to view the survey question text). As of this writing, the project's sample includes 577 of the roughly 800 constitutions put in force since 1789, including more than 90% of constitutions written since World War II.

3. CLASSIFICATION AND HISTORICAL TRENDS

Approximately 32% of cases (N=577) in the CCP dataset specify an "official" language. Less than 5% specify a "national" language while almost 10% identify both an official and national language(s). Thus, just under 50% of constitutions designate either an official or national language. In addition, 9% of texts, while not specifying an official or national language per se, do nonetheless identify particular languages for use in state institutions such as courts or schools, or as a requirement for public office. Some might classify these as de facto official language provisions. Nonetheless, 45% of texts make no mention of an official or national language, even by implication. Note that the distinction between official and national here is strictly nominal, based on the explicit enumeration in the text.

Table 1 shows the proportion of constitutions that specify either an explicit official language, national language, both, neither, or a language for government business. Two cases, Haiti 1889 and Lesotho 1966, leave the matter to ordinary law while three others, Belgium 2005, Czechoslovakia 1920 and Papua New Guinea 1975, fail to fit cleanly into the categories shown below.

Table 1. Provision of Official and National Languages (n = 577)

Type of Language	Number	Percentage
Official	187	32%
National	20	3%
Both	53	9%
Language Specified for Government Business	54	9%
No Languages Mentioned	259	45%

Figure 1 shows the proportion of constitutions that designate an official language over time. As it indicates, official language provisions were relatively rare up until the end of World War I. While these provisions have increased in frequency, over half of current constitutions make no such designation.

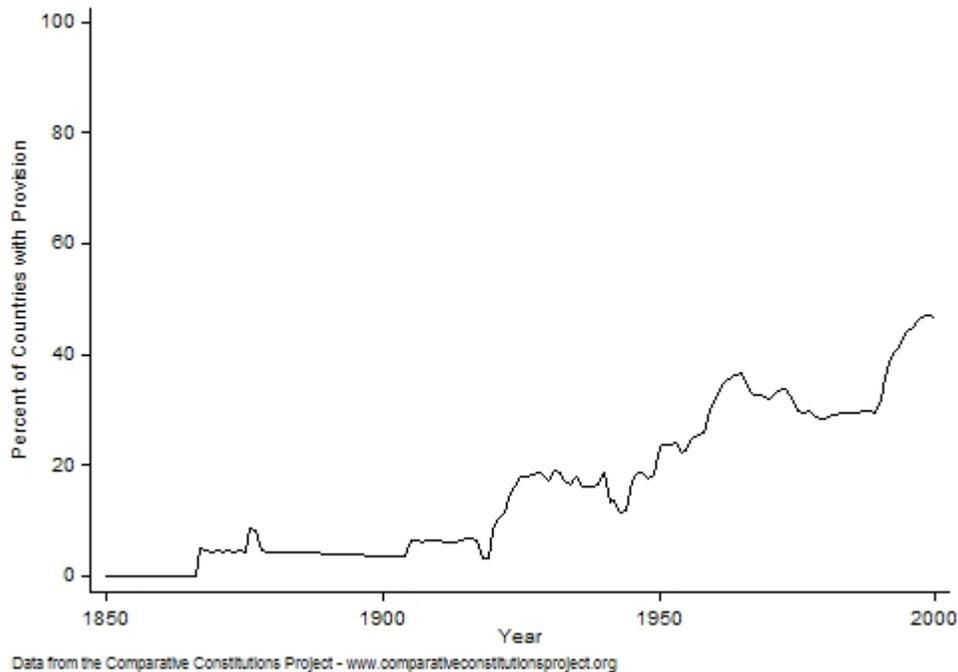
Figure 1. Percent of Constitutions with an Official Language by Year (N=577)

Figure 2 shows the proportion of constitutions that designate an official language across regions. Understandably, these provisions are most prevalent in regions populated by new states that have emerged from larger federations, empires, or states and, presumably, face pressures to assert and define their national and cultural identity.

Figure 2. Percent of Constitutions with an Official Language in 2000 by Region (N= 182)

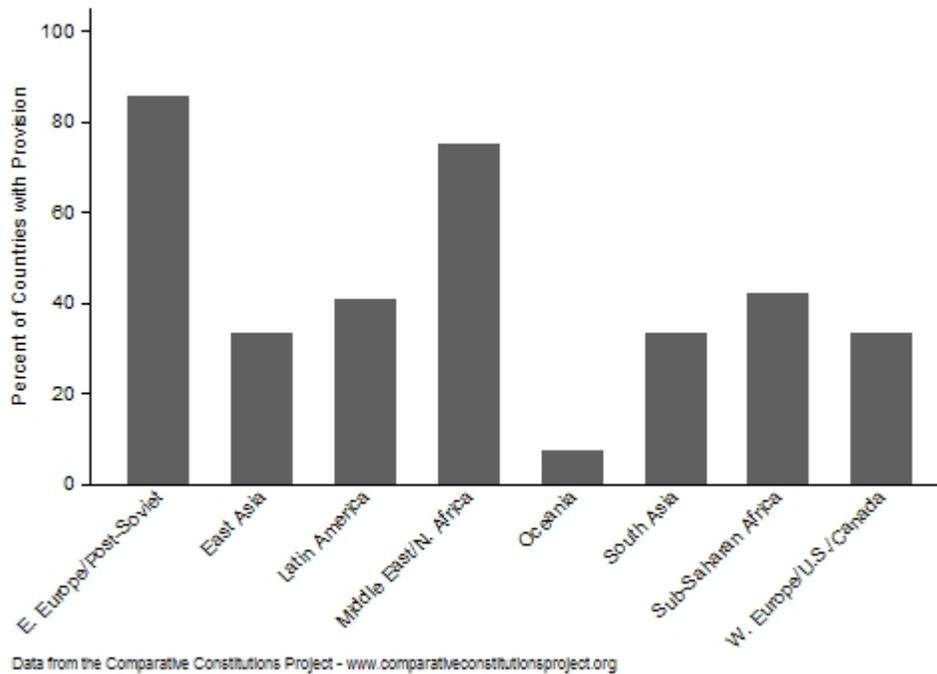


Table 2 displays the most common official languages, by number of countries and by number of times designated as such in a national constitution. The prevalence of French and Arabic is unsurprising given the regional distribution of official language provisions cited in Figure 2. In all, 84 languages are cited by the constitutional texts under review. Approximately a dozen languages have been designated as official in 2 to 4 countries. There are 65 languages that appear in only one country.

Table 2. Most Common Official Languages

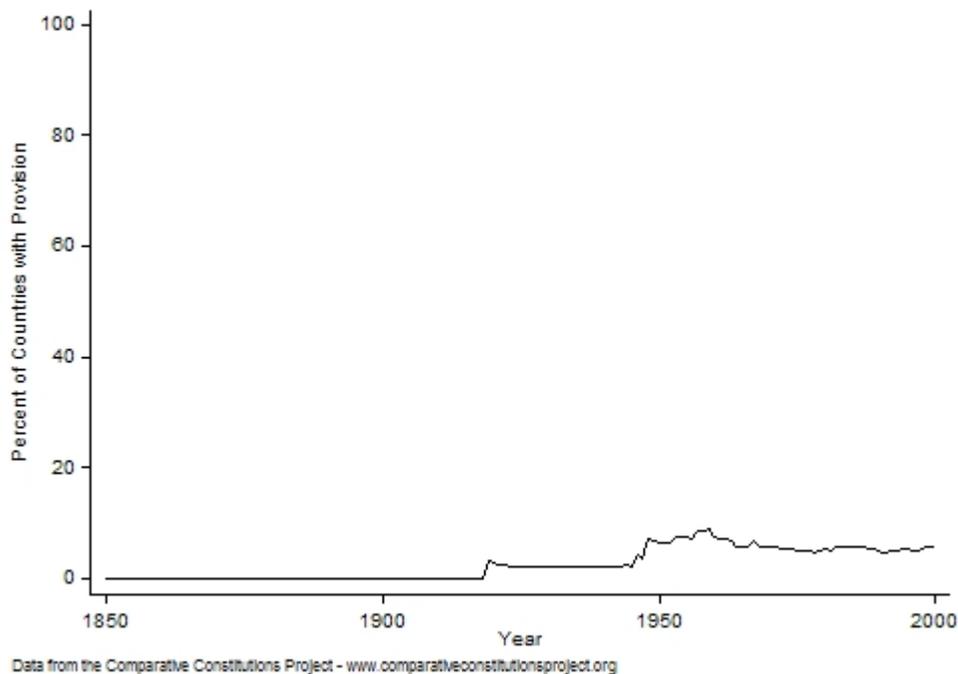
Language	Number of Countries	Number of Constitutions
French	26	54
Arabic	23	39
English	20	30
Spanish	15	39
Portuguese	4	5
Russian	4	5

While the modal number of official languages per constitution is one, some constitutions do identify multiple languages. 174 constitutions representing 92 countries declare a single official language. Another 40 constitutions of 29 countries provide for two official languages. 11

constitutions (Comoros 1996, Fiji 1998, Peru 1979 and 1993, Philippines 1986, Rwanda 2003, Slovenia 1991, Switzerland 1848 and 1874, Vanuatu 1980 and Yugoslavia 1921 and 1931) stipulate three official languages. A further 3 constitutions (Iraq 2005, Singapore 1959 and Switzerland 2000) provide for four official languages. The 2 post-Apartheid constitutions of South Africa enumerate eleven official languages.

Figure 3 shows the proportion of constitutions that designate a “national” language over time. Despite modest bumps following each of World Wars I and II, a designated national language remains a relatively uncommon constitutional provision though less so now than in the 19th century. Of course, we should note for some constitution makers (or their translators) the distinction between official and national may be minimal or non-existent, no matter how the useful the distinction is to scholars.

Figure 3. Percent of Constitutions with a National Language by Year (N=577)



While national languages may be sparse temporally, there is certainly evidence of spatial clustering as revealed in Figure 4 which displays the regional distribution of national language provisions. The provision of national languages appears to be a phenomenon unique to South and East Asia, where roughly one-third of constitutions contained such provisions in 2000.

Figure 4. Percent of Constitutions with a National Language in 2000 by Region (N=182)

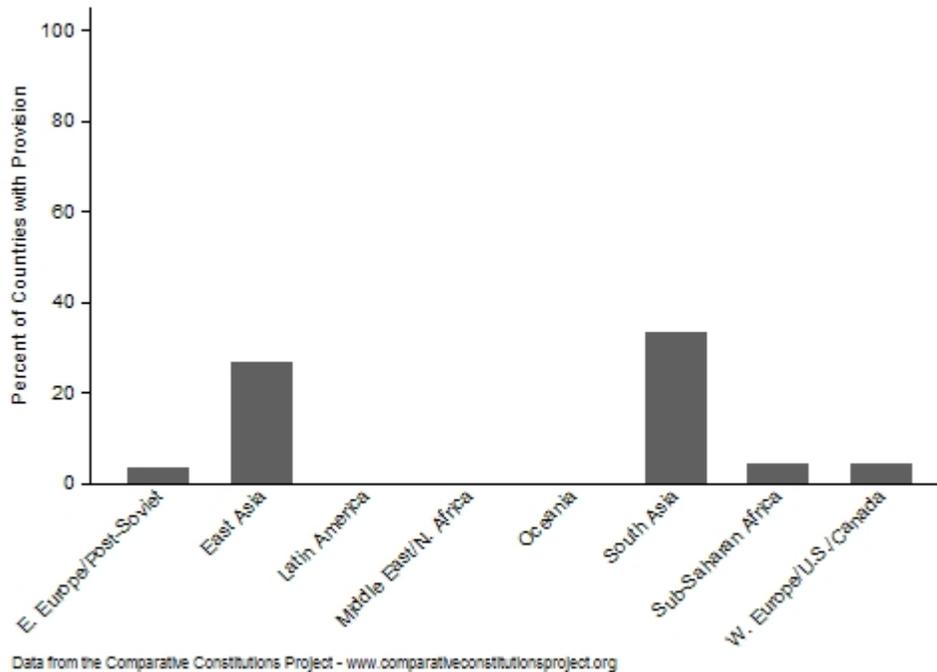


Table 3 lists the most common national languages. The spatial dispersion evident with official languages is generally not found with regard to national languages. Designated national languages appear quite localized. 44 of the 54 national languages identified in the 73 constitutional texts are unique to particular countries. Put another way, 29 of the 46 countries specifying a national language made a designation found no where else. One might infer, then, that countries in which widely distributed languages are spoken are less likely to proclaim them as “national.” Of further interest, in approximately 2/3 of the texts that provide for both an official and national language, the designated national language is also an official language. 14 constitutions make reference to a national language(s) without specifying the particular language in the actual text (see Sample Provisions below).

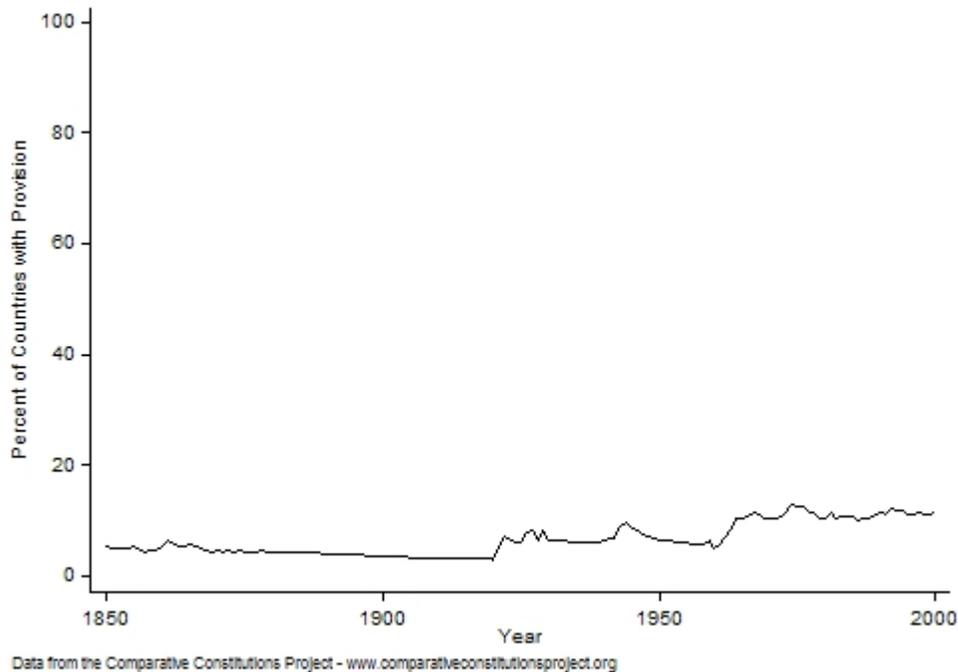
Table 3. Most Common National Languages

Language	Number of Countries	Number of Constitutions
Arabic	5	7
French	3	6
German	2	4

Figure 5 shows the proportion of constitutions with both official and national languages. Despite mid-19th century and interwar bumps, the

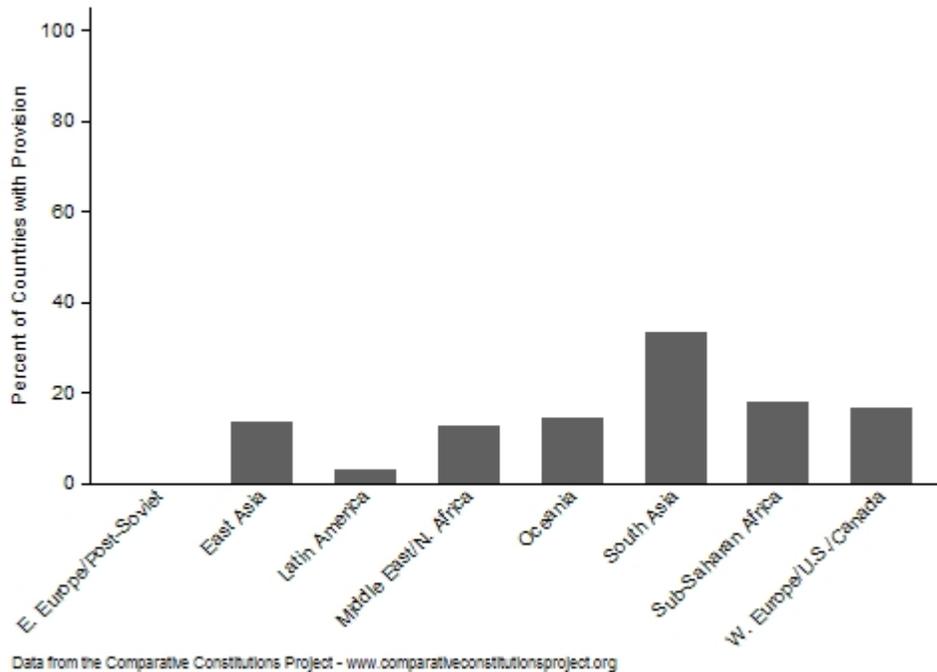
trend over time is stationary. This remains a somewhat unique arrangement.

Figure 5. Percent of Constitutions with Both an Official and National Language by Year (N=577)



As was the case with national language-only provisions, provisions for both official and national languages are most common in South Asia. The remaining regions seem more likely to adopt this joint language provision than an exclusively national one.

Figure 6. Percent of Constitutions with Both an Official and National Language in 2000 by Region (N=182)



A final way to examine time trends with regard to language provisions is by reference to the absence of official and/or national language provisions in constitutions. Differentiating between language designation provisions as was done in Figures 1, 3, and 5, may have obscured the macro historical story of the inclusion of language provisions. Figure 7 plots the percentage of constitutions that do *not* mention official or national languages at all and thus illustrates the striking change that took place during the 20th century. The proportion of texts making no mention of languages fell by roughly half in that century – from over 80% to approximately 30%.

Figure 7. Percent of Constitutions with No Languages Mentioned by Year (N=577)

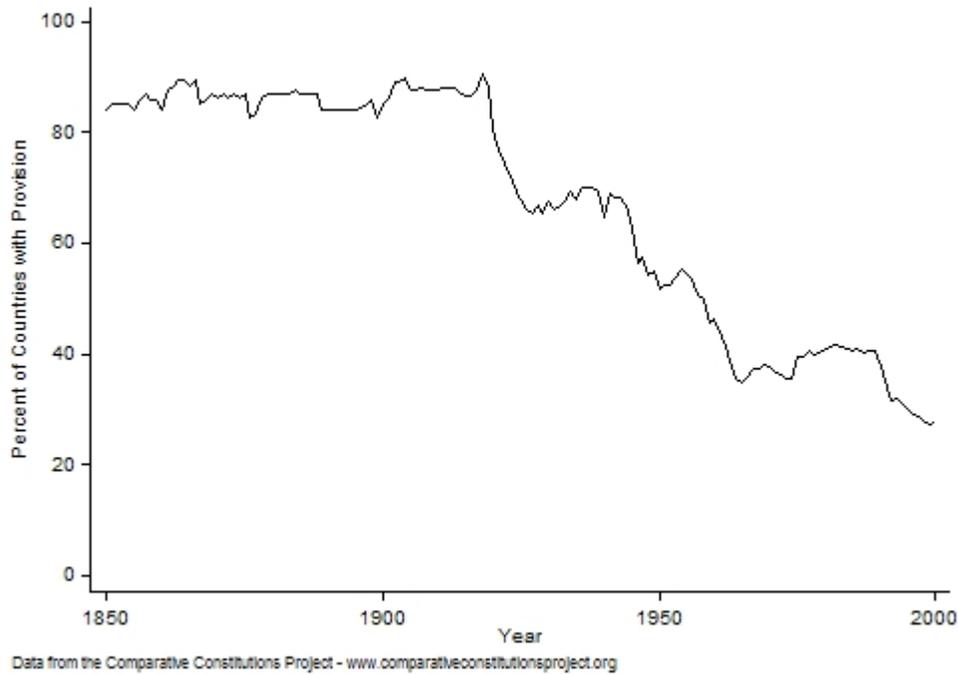
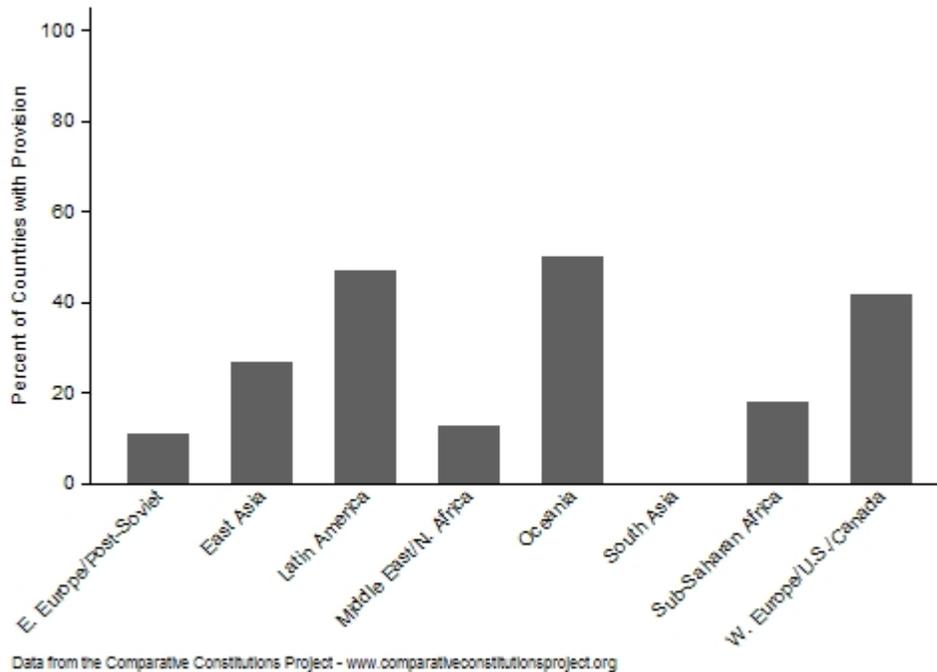


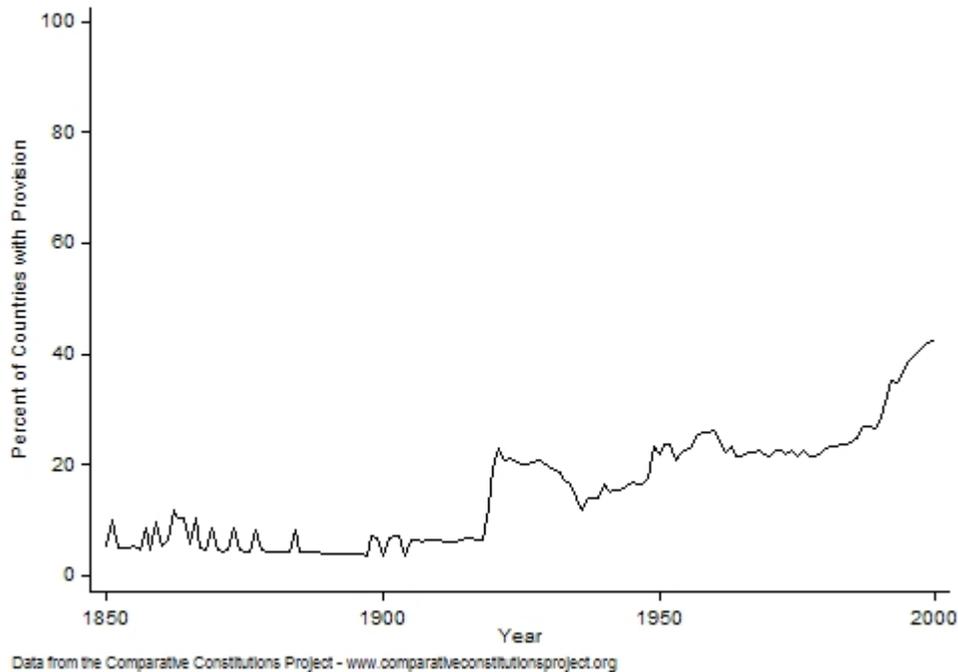
Figure 8 confirms the patterns highlighted previously. The absence of language provisions is least common in South Asia as well as in regions where Arabic and French are frequently spoken.

Figure 8. Percent of Constitutions with No Languages Mentioned in 2000 by Region (N=182)



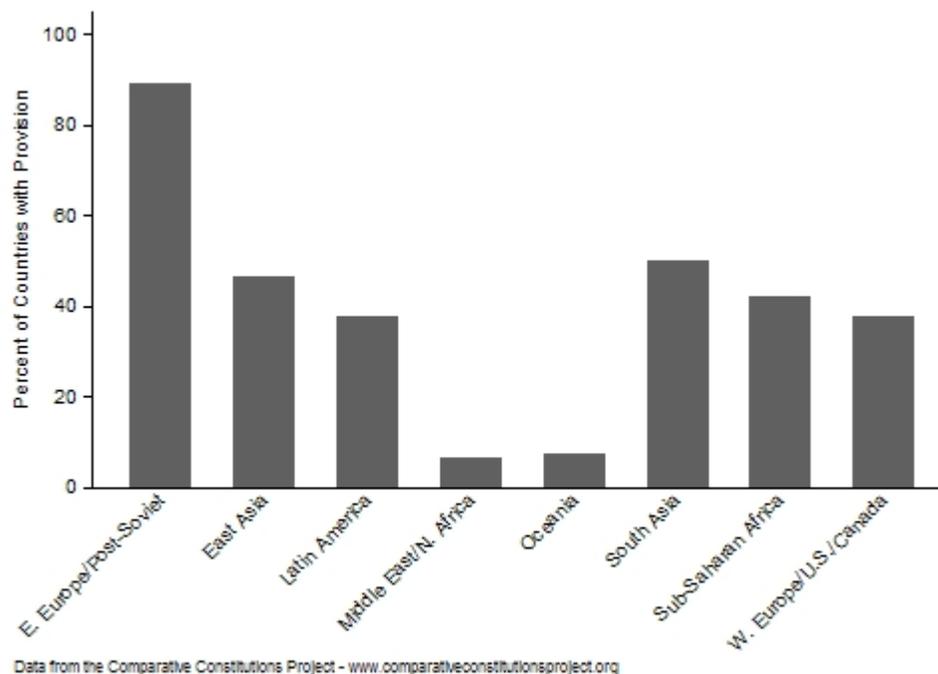
Apart from the positive provision of language priority, constitutions can also provide rights, or protections, for speakers of specific or (any) languages. 75%, or 433, of the 579 texts reviewed provide no protection to different languages. Some form of protection is provided in the remaining 146 cases. Figure 9 displays the time trend of language protection since 1850. The trend is relatively stationary before experiencing a sizable, positive bump following World War I. The trend remains relatively steady until the end of the Cold War when another sizable, abrupt bump in the trend occurred boosting prevalence of such provisions to approximately 40% of in-force constitutions.

Figure 9. Percent of Constitutions with Language Protections by Year (N=579)



The regional pattern of provision lends support to a post-Cold War bump in language protection. The post-Soviet/Eastern Europe region leads the way with around 90% of constitutions in the year 2000 containing such provisions. At the other end of the spectrum, language protections are infrequent features of constitutions in the Middle East/North African region. We see, then, two very different combinations of language provisions in the two regions. The post-soviet region seems populated by constitutions that designate official languages but also protect the use of those and, presumably, other languages. On the other hand, the North African constitutions appear to designate official languages without protecting others, a seemingly more exclusive arrangement. Of course, these inferences are based on aggregate numbers; an investigation of the particular constitutions could reveal slightly different patterns.

Figure 10. Percent of Constitutions with Language Protections in 2000 by Region (N=579)



4. NOTES ON ATYPICAL CASES

'Official' was the default response in cases where a language was not identified as either 'national' or 'official.' This included cases of designated state languages. The use of the term 'state language' is found exclusively in the former Soviet states of Central Asia and the Baltic states.

Belgium 2005, Czechoslovakia 1920 and Papua New Guinea 1975 contained language provisions that defied unambiguous categorization and received a coding of 'other.' See the Sample Provisions below.

In a handful of cases, provisions made reference to national or official languages without designating a specific language. Coding followed the text and the respective follow-up questions were answered "not specified."

Approximately 10% of texts contain specific language requirements for state bodies and/or elected officials while not designating an official or national language. These provisions prompted inclusion of a new answer choice in the dataset, "no official language, but language specified for government business." Also included in this new category are provisions requiring proficiency in a specific language for citizenship. Provisions

requiring publication of laws and/or the constitution in a particular language were similarly coded.

Language protections commonly took the form of recognition of and/or the toleration of national or indigenous languages. These provisions were deemed to be synonymous with protection as were those specifying the promotion of other languages. A handful of cases involved prohibitions on language-based discrimination. These were deemed, in isolation, to be insufficient grounds to code “yes”. Such provisions, in conjunction with more concrete language rights or protections, were coded “yes” in the survey.

5. SAMPLE CONSTITUTIONAL PROVISIONS

(Note: dates provided reflect the version of the constitution used to obtain sample provisions, and represent either initial year of promulgation or year through which subsequent amendments are included.)

The set of sample provisions is divided into sections on:

1. Specification of Official and/or National Languages
2. Language Specified for Government Business
3. Protection and/or Promotion of Language

5.1. Specification of Official and/or National Languages

The State language of the Azerbaijan Republic is the Azerbaijan language.

- *Azerbaijan 2002, Article 21.1*

In towns and districts in which there lives a considerable fraction of Czecho-Slovak citizens speaking a language other than Czecho-Slovak, the children of such Czecho-Slovak citizens shall, in public instruction and within the bounds of the general regulations relating thereto, be guaranteed a due opportunity to receive instruction in their own tongue. The Czecho-Slovak language at the same time may be prescribed as a compulsory subject of instruction.

- *Czechoslovakia 1920, Article 131*

The language of the Republic is French.

- *France 2005, Article 2*

The official language of the State is that in which the Constitution and the laws of Greece are drawn up, and any attempt to corrupt it is prohibited.

- *Greece 1952, Article 107*

Arabic and Kurdish are the two official languages for Iraq...The Turkomen and Assyrian languages will be official in the areas where they are located...Any region or province can take a local language as an additional official language if a majority of the population approves in a universal referendum.

- *Iraq 2005, Article 4*

The Irish language as the national language is the first official language. The English language is recognized as a second official language.

- *Ireland 2002, Article 8*

Arabic shall be the official national language. A law shall determine the cases in which the French language can be used.

- *Lebanon 1990, Article 11*

The law shall determine methods of promoting and of formalizing the national language.

The official language shall be French.

- *Niger 1992, Article 3*

Pashtu and Dari are official languages among the national languages of the country.

- *Afghanistan 1987, Article 8*

The national language shall be Indonesian (*Bahasa Indonesia*).

- *Indonesia 2002, Article 36*

Belgium comprises four linguistic Regions: the French language Region, the Dutch language Region, the bilingual Region of Brussels-Capital, and the German language Region. Every commune in the Kingdom belongs to one of these linguistic Regions.

- *Belgium 2005, Article 4*

We accordingly call for...all persons and governmental bodies to endeavor to achieve universal literacy in *Pisin, Hiri Motu* or English, and in '*tok ples*' or '*via eda tano dado*'

- *Papua New Guinea 1975. National Goals and Directive Principles, Article 2.11*

The official languages of the Republic are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu.

- *South Africa 2003, Article 6.1*

The national government and provincial governments may use any particular official languages for the purposes of government, taking into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population as a whole or in the province concerned; but the national government and each provincial government must use at least two official languages.

- *South Africa 2003, Article 6.3.a*

The official language is Castilian. The indigenous languages are also of official use for the indigenous peoples and must be respected in the entire territory of the Republic...

- *Venezuela 1999, Article 9*

The languages of the nations and nationalities and their alphabets shall be equal throughout the territory of Yugoslavia. In the Socialist Federal Republic of Yugoslavia the languages of the nations shall be officially used and the languages of the nationalities shall be used in conformity with the present Constitution and federal statute.

- *Yugoslavia 1974, Article 246*

5.2. Language Specified for Government Business

A person shall not be qualified to be nominated or elected as a member of the Parliament unless that person ...

(b) is able to speak and to read the English language well enough to take an active part in the proceedings of Parliament;

- *Malawi 1999, Article 51.1.b*

The official language of Parliament shall be English, but any member of either House may address the Chair in the House of which he is a member in Fijian or Hindustani.

- *Fiji 1990, Article 66*

In the Socialist Republic of Romania judicial procedure shall be conducted in the Romanian language;

- *Romania 1975, Article 109*

5.3. Protection and/or Promotion of Language

...The state adopts and implements effective plans for strengthening, and developing all languages of Afghanistan...

- *Afghanistan 2004, Article 16*

...national minorities...have the right to freely express, without prohibition or compulsion, their...linguistic belonging. They have the right to preserve and develop it, to study and to be taught in their mother tongue, as well as unite in organizations and societies for the protection of their interests and identity.

- *Albania 1998, Article 20*

The social, economic and cultural rights of indigenous peoples who reside in national territory are recognized, respected and protected in the standard of the law, especially those relative to...their...languages...

- *Bolivia 2002, Article 171.1*

The law establishes the conditions of promotion and of development of the national languages.

- *Cote D'Ivoire 2000, Article 29*

...The right of everyone to use his or her own language, either Finnish or Swedish, before courts of law and other authorities, and to receive official documents in that language, shall be guaranteed by an Act. The public authorities shall provide for the cultural and societal needs of the Finnish-speaking and Swedish-speaking populations of the country on an equal basis.

The Sami, as an indigenous people, as well as the Roma and other groups, have the right to maintain and develop their own language and culture. Provisions on the right of the Sami to use the Sami language before the authorities are laid down by an Act...

- *Finland 1999, Section 17*

The Russian Federation guarantees all its peoples the right to preserve their native language and to create the conditions for its study and development.

- *Russia 1993, Article 68.3*

Recognizing the historically diminished use and status of the indigenous languages of our people, the state must take practical and positive measures to elevate the status and advance the use of these languages...

A Pan South African Language Board established by national legislation must (a) promote and create conditions for the development and use of (i) all official languages; (ii) the Khoi, Nama and San languages; and (iii) sign language; and (b) promote and ensure respect for—(i) all languages commonly used by communities in South Africa, including German, Greek, Gujarati, Hindi, Portuguese, Tamil, Telegu and Urdu; and (ii) Arabic, Hebrew, Sanskrit and other languages used for religious purposes in South Africa.

- *South Africa 2003, Articles 6.2 and 6.5*

The freedom of language is guaranteed.

- *Switzerland 2002, Article 18*

6. APPENDIX

This report is based on the following question(s) from the Comparative Constitution Project's "survey instrument":

[LANG] Does the constitution specify either an official or national language?

1. Official only
2. National only
3. Both
4. No official or national language, but language specified for government business
5. No languages mentioned
90. left explicitly to non constitutional law
96. other, please specify in the comments section
97. Unable to Determine

Instructions: If certain state bodies such as courts, parliaments, or schools conduct business in a specific language or if laws are printed/published in a specific language, please code 'No official or national language, but language specified for government business' and comment the specified language.

[LANGOFFW] What language does the constitution list as official?

1. [open-ended response]

Instructions: Please use the text of the constitution when classifying mentioned languages as either official or national If languages are

mentioned but not classified as official or national, the default option is official

[LANGNATW] What language does the constitution list as national?

1. [open-ended response]

Instructions: Please use the text of the constitution when classifying mentioned languages as either official or national. If languages are mentioned but not classified as official or national, the default option is official

[LANGPROT] Does the constitution refer to the protection of different languages?

1. Yes
2. No
3. Constitution explicitly requires neutrality toward languages
96. other, please specify in the comments section
97. Unable to Determine

For additional documentation on the Comparative Constitutions Project, (including the full codebook, the sample, the sources of constitutional texts and translation issues related to those texts, coding procedures, publicly available data, etc.) please visit the project website at www.comparativeconstitutionsproject.org.