

REPRESENTATION OF THE ELECTORATE IN THE EERSTE KAMER

An Analysis of Political Representation in the
First Chamber of the Dutch Parliament

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Abstract This paper aims to assess to what extent the *Eerste Kamer*, one of the chambers of the Dutch parliament, provides political representation. This is done by comparing three models of political representation to the political reality. These three models are the trustee, the delegate, and the resemblance models. All three models and their respective characteristics are explained in the paper before moving to the analysis. The paper concludes that political representation is not realized through these three models in the instance of the *Eerste Kamer*, as it fails to fulfil key characteristics of all three. The paper also evaluates some possible solutions for increasing political representation in light of these models.

Keywords: *Delegate, Eerste Kamer, Trustee, Political Representation*

I Introduction

Popular trust in the Dutch government and parliament plummeted to its deepest point in 2022 (NOS, 2022). People want politicians and parties to listen more to the population's interests (RTL Nieuws, 2022). This raises questions concerning political representation in the Netherlands. Simultaneously, criticism of the *Eerste Kamer* (from now on referred to as the Senate) has risen as it is seen as outdated and not living up to its potential (Van den Berg, 2006). Combining these two issues, this paper assesses how the Senate can provide political representation for the electorate.

To do this, the paper aims to answer the question: *To what extent does the Eerste Kamer provide political representation through the trustee, delegate, and resemblance models?* First, it describes the function and operation of the Senate. Then, the paper sets out the trustee, delegate, and resemblance models of political representation. The paper then analyses whether these models are present in the Senate, while simultaneously evaluating solutions for enlarging the representation it provides. It then concludes that these three models generate some political representation, but that representation is strongly limited in all three cases.

This paper covers multiple academic fields. It is primarily part of the field of democracy studies, as it inquires into the effectiveness and quality of the Dutch democratic system. More specifically, it investigates how well a certain part of this system, the Senate, is able to provide the members of Dutch society with political representation. Moreover, the paper is relevant for the field of political philosophy, as it considers the principle of political representation, the theories that have been developed around this principle, and the way these compare to, and are present in, the real world. Finally, it can also be argued that this paper touches on the academic field of law, as it looks into the institutional and constitutional framework in which the Senate operates and how this affects its ability to provide political representation.

2 The *Eerste Kamer*

The Netherlands has a parliamentary, bicameral political system (Tweede Kamer, n.d.). Parliament consists of the *Eerste Kamer* (First Chamber), the Dutch version of a Senate, and the *Tweede Kamer* (Second Chamber) (Andeweg & Irwin, 2014, p. 26). The *Eerste Kamer*, like most Senates, serves as a *chambre de reflexion* (Otjes, 2020), meaning it is primarily concerned with evaluating bills' quality and rejecting or adopting them (Eerste Kamer, n.d.-d). The following paragraphs focus on two aspects of the Senate: how it is elected and how it evaluates bills.

The Senate's seventy-five members are elected through indirect elections. First, eligible voters can vote for the members of the Provincial Councils. These elected members then elect Senate members (Eerste Kamer, n.d.-b). The votes of Provincial Council members are weighted (Eerste Kamer, 2015). The weight depends on the province's population and the number of members in the Provincial Council (Kiesraad, 2016). Elections take place every four years (Eerste Kamer, n.d.-b).

Once introduced and passed in the *Tweede Kamer*, bills are passed on to the Senate for further evaluation (Heywood, 2019, p. 592). Senators evaluate a bill on two criteria: legality and efficacy. The former refers to whether it is in line with the constitution and international laws and to its complexity, and the latter refers to the bill's efficiency, feasibility, and enforceability (Otjes, 2020). Senators can vote for accepting or rejecting a bill, but the Senate cannot amend bills (Tweede Kamer, 2011).

3 Models of Political Representation

Within the field of political science, it is common practice to make use of models when considering issues like political representation. This section considers the trustee, delegate, and resemblance models of political representation. These are three out of the four principal theories on political representation. The mandate model is not considered, as it emphasises the role of elections and campaigning (Heywood, 2019, p. 396). Since the Senate is not directly elected, this model is inadequate to analyse the Senate's political representation. To do this analysis, political representation must first be defined. According to Heywood (2019), "representation is, broadly, a relationship through which an individual or group stands for, or acts on behalf of a larger body of people" (p. 390). According to Heywood, political representation, therefore, entails that a politician or party pursues the electorate's interests by attempting to shape the conduct of government. Pitkin (1967), one of the most renowned academics in the realm of political representation, defines representation as "the making present *in some sense* of something which is nevertheless *not* present literally or in fact" (p. 8-9). This implies that political representation means that the electorate is not present in the political arena, but that its values and interests are. Combining these definitions, political representation can be seen as a means for the electorate to portray their values and interests in the political arena through politicians, parties, and groups, to influence the conduct of government. The following paragraphs explain how the trustee, delegate, and resemblance models view political representation.

First, there is the trusteeship model. According to this model, the electorate chooses a representative, whom they believe will pursue their interests the best. The representative then exercises their own judgement to do this (Renson, 2017). The representative utilises their own judgement because they, in theory, possess superior knowledge, education, and experience in politics (Heywood, 2019, p. 392). Three core aspects of the trustee model can be identified (Jongeneelen, 2013; Rehfeld, 2009):

1. Trustees must aim to serve the common interest of the entire electorate.
2. Trustees exercise their own judgement, but their own interests must not influence them.
3. Trustees are only held accountable during elections. Once elected, they should not take their constituents' views into account.

The second model of political representation is the delegate model. Heywood (2019) defines a delegate as “a person who acts as a conduit conveying the views of others, while having little or no capacity to exercise his or her own judgement or preferences” (p. 394). The core aspects of the delegate's role can be drawn from this (Jongeneelen, 2013; Rehfeld, 2009):

1. Delegates aim to serve their constituents' interests. They do not serve the interests of the entire electorate, which is the case for trustees.
2. Delegates merely transfer their constituents' views to the political arena. Their judgement is not involved.
3. Delegates are constantly held accountable. They are evaluated on how well their political behaviour coincides with their constituents' views and can be rewarded with re-election.

The third political representation theory is the resemblance model. This model is not substantive, like the models mentioned before. Rather, it is descriptive. It does not focus on the representative's political behaviour like substantive models, but on the representative's personal characteristics (Hendriks, 2009). This model poses that maximal political representation is reached when the government is essentially a microcosm of the population, in the sense that all population groups are proportionally represented in the government (Hendriks, 2009; Heywood, 2019, p. 398). According to Pitkin (1967), this means that “the representative does not act for others; he “stands for” them, by virtue of a correspondence or connection between them, a resemblance or reflection” (p. 61). This connection can be, for example, race, ethnicity, gender, social class, or age (Heywood, 2019, p. 398; Pantoja & Segura, 2003).

4 Analysis

4.1 The *Eerste Kamer* and the Trustee Model

Nevertheless, political reality does not often neatly coincide with these models of representation and provide solutions for representational issues. As mentioned before, one characteristic of the trustee model is that the representative should serve the common interest (Jongeneelen, 2013). It is hard, if not impossible, to define the common interest, which makes it hard to evaluate whether a representative serves this common interest. Concerning this characteristic, we can merely look at the representative's legal function and the representative's view of themselves. The Dutch constitution states that the Senate must represent the entire Dutch population (De Nederlandse Grondwet, 2017), but it does not mention the role of the individual senator. The Senate's Code of Conduct (2019) does mention the following: "They represent the public interest, each member doing so on the basis of his or her own political ideology and beliefs" (p. 1), though it fails to define what this entails precisely. Moreover, close to half of the senators view themselves as representing the entire electorate (Andeweg & Van Vonno, 2018). The institutions and a substantial part of the senators seemingly aim to represent the common interest, although it is nearly impossible to conclude whether they do so.

The second characteristic of the trustee model is that its representatives should exercise their own judgement, but should not be influenced by their own interests (Jongeneelen, 2013). The senators are severely limited in this aspect, which is primarily caused by parties' influence. Senators fulfil a slightly more reflective and judgemental role than *Tweede Kamer* members in the sense that they reflect more on the quality of bills (Otjes, 2020). Otjes (2020) argues that high education and career experience enable senators to exercise their judgement better than others, a belief also found in the trustee model (Heywood, 2019, p. 392). However, the voting behaviour of senators is largely decided by their party (Otjes, 2020), meaning that they do not independently exercise their judgement. Moreover, their own interests limit their ability to exercise independent judgement. Because being a senator is a part-time job, many members have a secondary function or a job elsewhere. They have to declare second jobs to the Registry (*Eerste Kamer*, n.d.-c), the administrative and logistical body of the Senate, and the Senate's Code of Conduct poses that its members must be aware of their own interests and refrain from acting in cases of conflict of interest (*Eerste Kamer*, 2019). However, senators are not prohibited from voting in these instances. This results in senators regularly voting on bills in which they or their companies have interests (Hendrickx, 2018; Wynia, 2015). Admittedly, this does not mean that

all senators are influenced by their own interests. Nevertheless, political parties, secondary functions, and conflicts of interest strongly limit the independent judgement of senators.

Third, the trustee model is characterised by low electoral accountability and low influence of the constituents between elections (Jongeneelen, 2013). It is generally accepted that elections create accountability from politicians to the electorate (Ashworth, 2012). The Senate is indirectly elected, which means that there is indeed some accountability. However, this also means that accountability is fairly limited since citizens cannot directly affect senators. Furthermore, the Code of Conduct poses that senators have to provide transparency on the politically biased figures they interact with, and they are expected to disregard outside opinions and the constituency's influences (Eerste Kamer, 2019). Although it is hard to uncover to what extent outside opinions influence its members, the Senate definitely intends to limit outside influences. Political accountability is also limited in the informal realm as the Senate receives little attention from the mass media, which normally creates political accountability (Strömberg, 2015). The electoral system, the Code of Conduct, and little media attention limit political accountability, meaning that the Senate has this characteristic of the trustee model.

The senators fall short of one characteristic of the trustee model, as they cannot fully exercise independent judgement. For senators to function more as trustees, it is necessary to tackle this problem. A key step in this would be to reduce the influence the party has on the voting behaviour of senators. Lebo and colleagues (2007) found that party influence on U.S. senators is kept at bay because high party unity comes at a cost of loss in elections. Introducing elections to the Senate could therefore reduce party influence. The government itself has proposed a staggered election system for the Senate (Otjes, 2020), although it is unclear what happened to this proposal. Also, the ability of senators to exercise their judgement can be boosted by giving the right to amend to the Senate (Remkes et al., 2018). There is certainly support for such a measure among parliament members (Andeweg & Van Vonno, 2018), and the government has adopted the proposal (Otjes, 2020), but has not yet implemented it. The downside to this solution is that it might make the Senate more similar to the Tweede Kamer, which is not necessarily desirable, and might even make it less powerful and much more of an extension of the Tweede Kamer (Broeksteeg, 2014). Finally, introducing a system to ensure that senators cannot vote on bills in which they have interests is necessary to battle conflicts of interest. This has also been proposed to the government (Remkes et al., 2018), but has not been implemented yet.

4.2 The *Eerste Kamer* and the Delegate Model

The delegate model is first characterised by the representative serving the interests of his constituency (Jongeneelen, 2013). Again, it is hard to define what that means, so we only consider the representative's legal function and the views of senators on their function. The Dutch constitution and the Code of Conduct imply that a member of the Senate must represent the public interest and the entire Dutch electorate (De Nederlandse Grondwet, 2017; *Eerste Kamer*, 2019). This is not in line with the delegate model. Contrastingly, 50% of the senators consider themselves to be representatives not for the whole electorate, but rather for the party's constituency (Andeweg & Van Vonno, 2018). The mentioned institutions contradict the delegate model, although a big part of the senators still claim they act in a manner that corresponds to the delegate model. Again, it is impossible to conclude whether they do.

The second characteristic of the delegate model is that representatives merely transfer their constituency's views and leave out their judgement (Jongeneelen, 2013). As explained, senators are strongly limited in exercising their own judgement. However, this does not mean that the senators meet this characteristic of the delegate model, for they are largely portraying their party's views (Otjes, 2020), not necessarily their constituency's. The senators are limited in their use of personal judgement, which is in line with the delegate model, but by representing their party's views they do not meet the characteristic of representing the constituency's view.

The third and final characteristic of the delegate model is the high extent of political accountability and continuous contact with the constituency (Jongeneelen, 2013). As explained before, the indirect electoral system means there is little political accountability. As mentioned, the Senate gets little media attention, which leads to low levels of political accountability in the informal realm. Moreover, senators are expected to disregard outside influences from the constituency (*Eerste Kamer*, 2019) and therefore contact with the constituency and lobbyists is restricted. The characteristic of high political accountability and continuous interaction with the constituency is lacking in the Senate.

The inability of senators to serve as delegates stems from the fact that they cannot freely represent their constituency's interests. This is primarily a result of two things. Firstly, the political parties' influence on their voting behaviour restricts their ability to portray their constituents' views. Secondly, the weak ties between the Senate and the electorate make it hard for them to identify and articulate the constituency's interests. Harden and Carsey (2012) found that assembly members are usually more directed by the electorate when the latter's interests are well articulated, something that would happen in a socio-politically homo-

geneous society. If not, they found that assembly members usually turn to their party for guidance on voting behaviour. Better interest articulation of the electorate might therefore decrease the influence that political parties have over and better enable senators to identify and articulate the constituency's interests, solving both problems mentioned above. This could for example be done by inviting interest groups to present their stances during debates, although it must be ensured that these groups are balanced out in political bias. Participation of interest groups already happens regularly, but making it a more intrinsic part of the Senate would still support it in its functioning as a delegate for the Dutch electorate.

4.3 The *Eerste Kamer* and the Resemblance Model

Finally, the resemblance model of political representation is considered. This descriptive model poses that different population groups must be equally represented in the small-scale Senate as in the large-scale population (Jongeneelen, 2013). The population groups considered in this paper are age groups, genders, places of birth, places of residence, and the LGBTQ+ community. Race will not be discussed because of a lack of statistics on the racial background of senators.

When considering age, the only group that is equally represented in the Senate and the Dutch population is the age group 41 to 50, which makes up around 12 per cent of both (CBS, 2021; *Eerste Kamer*, n.d.-a), according to the Senate and the Central Bureau for Statistics (CBS). The most misrepresented age group is the 61 to 70-year-olds, which takes up a share of the Senate that is four times larger than its share in the population (CBS, 2021; *Eerste Kamer*, n.d.-a). Also, the age groups 18 to 30 and 31 to 40 make up only 3 per cent of the Senate, while accounting for more than a quarter of the population (CBS, 2021; *Eerste Kamer*, n.d.-a). In terms of gender, there is also a discrepancy between the population and the Senate. Men make up 68 per cent of the Senate, while they account for only 50 per cent of the population (CBS, 2022a; *Eerste Kamer*, n.d.-a). When looking at place of birth, roughly half of the provinces are equally represented in the Senate and the population. However, there are discrepancies here as well. There are two provinces in which no Senate member was born (*Eerste Kamer*, n.d.-a). Moreover, Groningen is represented three times as much in the Senate as in the population (CBS, 2022d; *Eerste Kamer*, n.d.-a), which can be explained by the disproportionately high weight attributed to Groningen's Provincial Council's votes during elections (a vote from Groningen is worth about twice as much per capita when compared to Noord-Holland (Kiesraad, 2016)). Also, only 3 per cent of the senators were born abroad, representing the 13 per cent of the Dutch population that was also born abroad (CBS, 2022b;

Eerste Kamer, n.d.-a). Admittedly, when considering place of residence, almost all provinces are represented to the same extent in the Senate as in the population (CBS, 2022c; Eerste Kamer, n.d.-a). Finally, only two senators are openly part of the LGBTQ+ community (Smid, 2022; Universiteit van Nederland, 2016). Although there are no official statistics on the number of LGBTQ+ people within the population, it is safe to assume that it is more than the 3 per cent in the Senate (Movisie, 2021). Overall, political representation in the Senate is not reached through the resemblance model, especially for groups such as ethnic minorities, less prominent provinces, younger people, and women.

To reach political representation through this model, the composition of the Senate would have to change. Changing the weights of the Provincial Councils' votes to reflect the number of people living in the province can make sure the different provinces are more accurately represented in comparison to the population. However, this would hurt the political influence of provinces like Groningen. Nevertheless, decreasing their influence does not seem feasible, especially at a time when trust in the government in these non-centre provinces is extremely low (Van der Schelde et al., 2023). Changing the Senate's composition could also include 'artificially' appointing senators based on personal characteristics. Yet this is both undesirable, for political careers should depend on skills, not on appointment, and unlikely since it would be hard to agree on the seats each population group gets. Therefore, we should look at the pool out of which senators are drawn. Many senators enjoyed a law education, earned a PhD, and are at the end of their working career (Otjes, 2020). If we want certain population groups to become senators, it would be most realistic to see how we can get them into this pool, for example through equal education opportunities. Still, reaching complete resemblance remains far away.

5 Conclusion and Discussion

The Dutch Senate provides some political representation to the Dutch electorate through the trustee, delegate, and resemblance models, but this is in all cases strongly limited. The Senate does aim to serve the common interest (Andeweg & Van Vonno, 2018; Eerste Kamer, 2019), it has relatively low political accountability and outside influence and it has well-educated and experienced members (Otjes, 2020), which is all in line with the trustee model, but senators are strongly limited in exercising their own judgement because of the influence of political parties (Otjes, 2020) and their own interests (Hendrickx, 2018; Wynia, 2015). Overall, the trustee model is only partially present. The delegate model

is even more limited. Senators might consider themselves delegates (Andeweg & Van Vonno, 2018), but the institutions contradict them (De Nederlandse Grondwet, 2017; Eerste Kamer, 2019). Moreover, political accountability and interaction with the constituency are low and senators are limited in portraying the views of their constituents as a result of party influence (Otjes, 2020), which contradicts the delegate model. Finally, some groups are equally represented in the Senate and in the Dutch population, but groups like women, ethnic minorities, young people, and periphery provinces are not. Therefore, the resemblance model also does not provide political representation.

Solutions to create more trusteeships include but are not limited to implementing some form of elections and creating mechanisms to battle conflict of interest (Otjes, 2020; Remkes et al., 2018). Granting the Senate the right to amend bills could also be a solution, but might weaken the Senate and make it resemble the Tweede Kamer too much (Broeksteeg, 2014; Remkes et al., 2018). Better interest articulation, for example through inviting interest groups into debates, would ensure more delegate representation. Finally, a resemblance between the Senate and the population can be created by rethinking the weights of voting in the Senate elections, but this seems unlikely in light of the low trust in the government from some non-centre provinces that would lose power with such changes (Van der Schelde et al., 2023). Making sure that more minority politicians are electable, for example by ensuring equal education to give minorities a chance to qualify for the position of senator, seems like a more feasible option in this regard.

It is noteworthy that this paper does not argue that political representation is not present at all. It merely argues that these three principal models of political representation do not completely hold up in the Dutch Senate. Furthermore, it must be admitted that evaluating some aspects of political representation was near impossible, for concepts like the ‘common interest’ are not quantifiable. Regardless, this paper contributes to our understanding of political representation in the case of the Netherlands by comparing the models of representation to the political reality and offering solutions for the issues surrounding it.

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