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Electoral College Reform at the State Level

Choices and Trade-Offs

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Some of the concerns over the 2000 presidential election have focused on the crucial roles of federal principles and the American states. First, owing to the way electoral votes are allocated among the states and the way the electoral votes of the states are aggregated, Al Gore's 500,000 lead in the national popular vote failed to translate into an Electoral College victory.¹ Second, charges of bias, fraud, and miscounts in Florida highlighted the inadequacies and inconsistencies in how states administer presidential elections. The first concern has led to proposals for fundamental reform of the Electoral College, changes requiring amendment of the U.S. Constitution. The second concern has prompted more incremental reforms, generally involving the provision of technologies providing more accurate tabulation of the votes in each state. Intermediate to these fundamental and incremental reforms are possible changes in how states conduct their elections and allocate their electors in the Electoral College. This chapter considers such intermediate reform possibilities, and assesses the trade-offs involved in pursuing reform.

An Electoral College with State-Level Popular-Plurality Rules

The Founders adopted the Electoral College as a method for choosing the president employing federal principles that are interwoven throughout the Consti-

tution. Federalism is evident in provisions giving each state a number of electors equal to its congressional delegation. Each state has representation in the House proportional to its population (a provision that reflects the interests of populous states) and two senators regardless of population (a provision that recognizes the equality of states and thus reflects the interests of small states). Federalism is also evident in provisions giving each state control over the process of selecting its electors. Initially, only some states determined electors by popular vote, but by 1840 most states had instituted a system using popular votes. During this early period in the nation's history, political parties emerged to nominate candidates, and most states adopted the unit rule (winner-take-all provision) that allocates all of the electors of a state to that party nominee receiving the most popular votes.

The Electoral College is a system for selecting a president that aggregates votes in two stages: (1) Elections are held within each state, and (2) are tallied to achieve a national total of the electors won in the various states. As the Constitution specifies, the candidate receiving more than half (270) of the 538 electors in the second stage wins the presidency. Even though more attention is devoted to the second stage, the first stage—the process to determine whether a state's electors will cast their ballots for the Republican or Democratic candidate—is more important in the sense that the results of state-level processes determine the results of the national tally.

Today each state holds a popular election, and in most states the candidate winning the most votes, or a "popular plurality," receives all of a state's electors. Maine and Nebraska are exceptions to this practice, as they aggregate popular votes within each congressional district as well as at the state level. In these states, the candidate with the most votes in a district gets an elector from that district, and the candidate with the most votes in the state as a whole gets two additional electors. The district plan illustrates the kind of intermediate reforms of the Electoral College that states might consider. However, other options are available to the states for reforming presidential elections within the Electoral College system.

State Options in Presidential Elections

Because democratic norms have become stronger since the Electoral College was adopted, states are unlikely to reduce popular influence in the selection and operation of electors. They could return the selection of electors to state legislators, but the threat by the Florida House to do so after the indecisive popular

vote in Florida in 2000 was widely viewed as undemocratic and thus unacceptable. Continuing to have popular votes determine electors seems essential to any Electoral College reform at the state level. States could reduce any requirements binding electors to popular outcomes, but the occasional defections of “rogue voters” are usually seen as violations of democratic norms. Instituting reforms that create “automatic electors” and removal of any possibility that electors violate popular mandates are clearly consistent with democratic ideals.²

Almost all states thus employ rules and procedures in presidential elections having the following components: (1) there is a popular vote, (2) which is resolved by a statewide plurality rule (3) that results in the leading vote-getter attaining all of a state’s electors, (4) who are often pledged to him through state legislation and are almost always committed to him because of party and personal loyalty and the norm of instructed delegation. When thinking about state-level reforms of the Electoral College, we assume that democratic norms require maintenance of the first component (popular elections) and may involve strengthening the fourth component (eliminating rogue electors). The second and third components provide the main possibilities for reform. States could adopt a majoritarian, rather than plurality, decision rule. States could also abandon their winner-take-all systems. Four major reforms at the state level might thus be considered.

1. *Adopt a Strict Majority Rule.* If one candidate receives a plurality (more votes than anyone else) but fails to get a majority (50 percent plus one) of the popular votes in a state, a state could require a runoff election within a few weeks. A strict majority rule would usually lead to a runoff election between the top two candidates whenever third-party or independent candidates received a large percentage of votes or when there was a very close margin of victory between the front-runners. For example, because of the votes received by Ralph Nader and others, neither Bush nor Gore approached a majority in Florida (and several other states); thus, if Florida had used a strict majority rule, a runoff between them would have been required. Such a process might have been preferable to the spectacle of recounting votes and looking for spoiled ballots and voting irregularities in every county of the state.

2. *Adopt an Instant Runoff.* A second version of majority rule would be to adopt the instant-runoff system used in Australian legislative elections, in choosing city council members in Cambridge, Massachusetts, and recently for choosing the mayor of San Francisco. This method—known as the “single-transferable vote” or “alternative vote” procedure in the comparative electoral

systems literature—would give voters the opportunity to rank their top choices for the presidency.³ The top choice of each voter would initially be counted, and if one candidate won a majority, he or she would win in the state. But if no one received an initial majority, computer technology would “instantly” recalculate the results in the following manner: The candidate getting the fewest first-place votes would be eliminated, and his or her votes would be transferred to the second-ranked choice of each voter who chose the eliminated candidate. If this reassignment of votes did not result in one candidate receiving a majority, the candidate with the next lowest first-place votes would be eliminated, and the votes for that candidate would be transferred to the candidate ranked second (or third) on ballots cast for this newly eliminated candidate. This process would be repeated until one candidate achieved a majority. This method would ensure that the winner of a state’s electoral votes had majority support from the state’s voters, and it would avoid the time and cost of a subsequent runoff election.

3. *Adopt the District Plan.* States could abandon the unit rule and adopt the district plan. Under this reform, a candidate would win all of a state’s electoral votes only if he or she won in each and every congressional district. In practice, neither Maine nor Nebraska has divided its electors since they adopted the district plan (in 1972 and 1992, respectively), because the statewide leader has also won in each congressional district. In principle, this plan would nevertheless allow candidates having little or no chance to win at the state level to still pick up electors where they win in particular districts.⁴ This plan could lead to a more equitable division of electors between candidates in closely contested states. Rather than having all twenty-five electors at stake in the recounts and challenges in Florida, both candidates would have captured electors in districts where they were strong, with only a few electors up for grabs in a few closely contested districts and in the state as a whole.

4. *Adopt Proportional Allocation.* Another alternative to the unit rule would be for the state to allocate its electors in proportion to the popular votes each candidate receives. For example, in a state with twenty electoral votes where three candidates split the state’s popular vote 50–40–10, the candidate with 50 percent would get ten electoral votes, the candidate with 40 percent would get eight electoral votes, and the candidate with 10 percent would get two electoral votes. In practice, the proportions would not work out so neatly—if, in our example, the first candidate won 52 percent of the popular vote, he or she would be entitled to 10.4 electoral votes—and states would need to adopt some scheme for dealing with fractions. The Electoral College system assumes that electors

are real people who cast whole votes, rather than “automatic electors” who cast their votes to reflect strict proportionality. The procedure most often used to avoid fractions is the d’Hondt or highest-average system, used in proportional representation systems throughout the world. It rounds fractions upward, giving partially allocated electors to the candidates receiving the greater popular vote. While proportional allocation allows third parties and minority parties to win electors that would be denied them under the dominant unit rule, the d’Hondt system minimizes the number of electors awarded them. Again, states would have the option of d’Hondt or other rounding methods.⁵

Standards and Assessments of the Existing System

Each of these reforms has certain attractions. Any systematic evaluation of them, however, requires elaboration of broad standards or criteria regarding the effectiveness and fairness of elections. We here propose nine standards and illustrate their meaning and application by discussing how well they are (or are not) achieved by the Electoral College system as it operates on the national level and by the popular-plurality system as it operates on the state level to determine electors to the college. The standards and assessments offered here are intended to reflect the judgments of thirty-seven political scientists, including the authors, who participated in a broader project examining the Electoral College system and the leading alternatives to it.⁶

1. *Simplicity.* Simplicity is a virtue in electoral systems. Complex systems are poorly understood by voters, reducing their effective participation in elections. The Electoral College is clearly a complex system. Many citizens do not realize that they are in fact voting for electors rather than directly for a candidate. Most citizens have only the crudest understandings of the unit rule, the casting of electoral votes, the possibility of a House contingency election if no candidate gets a majority in the College, and so forth. In contrast, the popular-plurality system used in most states is unquestionably the simplest electoral system. We all participate in popular elections that apply the plurality (“first past the post”) rule to determine winners. Most Americans probably regard this system as “democracy, pure and simple.”

2. *Equality.* Voter equality, often expressed as “one man, one vote,” is a fundamental feature of democracy.⁷ The Electoral College is frequently criticized for violating this criterion, as the (formal) value of voting is not equal for all citizens. As was noted in the previous chapter, because all states are provided two electors regardless of population and because of other anomalies that arise

in the allocation of electors among states (such as the changes in population that occur between a census and an election), the value of voting is greater for citizens living in small states than for citizens of more populated states. There are, for example, 119,000 voters per elector in Wyoming compared to more than 450,000 voters per elector in Florida, Texas, and California.⁸ The popular-plurality systems employed by the states in selecting electors to the College avoid such inequalities, as all votes in such systems count equally, absent any fraud or other irregularities. Such equality also seems to be achieved by the four reforms considered in this chapter, and so the application of the equality criterion does not help us differentiate the merit of these systems from the existing popular-plurality system. But this does not mean that all systems treat voters equally in broader senses of the term.

3. *Neutrality.* Voting systems are neutral if they lack bias or a built-in advantage favoring certain types of voters. However, voting systems that are formally equal can have characteristics that interact with other political and social conditions to create biases that challenge our conceptions of fairness. The Electoral College is alleged to have such biases. The most prominent example is the bias in favor of citizens in large and/or competitive states who are most courted by the candidates, as campaigns promise them policy benefits and expend more resources on them in pursuit of their crucial support. For instance, Florida was regarded as a toss-up between Gore and Bush in 2000, and its twenty-five electoral votes gave Floridians high “vote power”—the capacity to swing a key state in a close election.⁹ Some conventional wisdom adds that minorities and the poor are disproportionately residents of such swing states, giving rise to the notion that the Electoral College contains a built-in advantage benefiting African Americans and the urban poor. While we are skeptical of the veracity of this claim, it illustrates a potential threat to neutrality in the system.¹⁰

The popular-plurality system also seems to have bias, as it benefits the major parties by disadvantaging third parties and independent candidates. Such candidates might be attractive to “sincere voters,” but these voters have incentives under the popular-plurality system to instead be “sophisticated voters” who cast their ballots for their second choice, one of the major-party candidates, because they are wary of “wasting” votes on unelectable candidates. However, it is not clear that any electoral system avoids this sort of bias, and this matter can best be addressed by considering another standard for effective electoral systems, the criterion of sincerity.

4. *Sincerity.* Electoral systems promote sincere voting when they enable citizens to locate candidates who represent their principles and interests and when

these systems encourage citizens to vote for such candidates. Representation is increased and citizens gain opportunities for sincere voting when electoral systems enable a wide variety of parties and candidates to be credible contenders for office. Representation is reduced and citizens lose opportunities for sincere voting when electoral systems reduce their choices to two candidates, neither of whom represents the views of many voters. First-past-the-post electoral systems that give victory to only one candidate—the person getting the most votes—reduce representation, because candidates express middle-of-the-road positions intended to maximize their votes and because some voters abandon their preferred candidates who have little chance of winning.

The Electoral College is thought to reduce opportunities for representation and sincere voting because the unit rule used by the states puts a premium on coming in first in a state. It encourages potential supporters of third-party and independent candidates to be sophisticated voters who cast their votes for the lesser of two evils among the “electable” major-party candidates, to prevent their least preferred candidate from winning the state.

Overall, the popular-plurality elections used by states within the Electoral College system probably contribute to this reduced representation by narrowing contests to mainstream candidates and encouraging citizens to be sophisticated rather than sincere voters. But popular-plurality systems have a feature that can increase representation and sincere voting. Such systems can result in low thresholds for the percentage of votes needed to capture a state. If three candidates closely contest a state, one might win with only 35 percent of the vote. If four candidates closely contest an election, one might win with little more than a quarter of the vote, and so forth.

5. Participation. Voting systems promote participation when they reduce the costs and increase the benefits of voting. Because the chances are minuscule that one vote will decisively influence the outcome of a presidential election, voting under any electoral system will be a low-benefit activity.¹¹ But the Electoral College system makes it abundantly clear to voters in states where the outcome is preordained that their vote is meaningless, even if the national outcome is in doubt. In 2000, only a dozen states were regarded as “in play” when the election was held, giving voters in the rest of the states the sense that their votes could contribute nothing to the outcomes in their states and thus to the outcome of the close Bush-Gore contest. A national popular election could well have encouraged nonvoters in states that were safe for Bush or Gore to cast ballots, knowing that the outcome hinged on national popular totals to which their votes would contribute. Although a national popular voting scheme might

enhance the level of voter turnout, states face the question of whether any of the alternatives available to them would enhance turnout within their state.

6. *Legitimacy.* Electoral victory is the principle means by which American presidents acquire legitimacy, the constitutional right to exercise the powers of the office, and the moral obligation of others to obey the just commands of presidents. All fair and democratic electoral systems can confer legitimacy on victors, but for citizens to accept electoral outcomes, it helps for the winners to be clear, even in relatively close elections.

The Electoral College is thought to enhance presidential legitimacy because it frequently converts slim popular vote margins to decisive victory among electors in the College. For example, Richard Nixon's victory margin over Hubert Humphrey in 1968 was less than one percent, but he had a commanding 301 to 191 victory in the Electoral College. But the Electoral College is also thought to have features that can undermine legitimacy. If no candidate wins a majority in the College and the task of selecting the president falls to the House of Representatives, the public could feel deprived of its right to determine the president and thus question the legitimacy of the person so selected.¹² In the immediate aftermath of the 2000 election, many commentators and scholars predicted that Bush's legitimacy would be questioned because of the discrepancy between the outcome of the popular vote and the vote in the Electoral College.¹³ However, both historical and contemporary events suggest that the Electoral College has effectively conferred legitimacy even when the House contingency has been invoked (as it was in 1824) and when the president has lost the popular vote (as in 1876, 1888, and 2000). With the possible exception of Abraham Lincoln in 1860, the victor in the Electoral College has been granted legitimacy even when elections have been close and controversial.

Elections decided by the plurality rule have conferred legitimacy on most governors and legislators in the states throughout our history, but such popular elections have a couple of features that worry analysts contemplating abolition of the Electoral College and replacing it with a national popular-plurality system. First, if citizens dispersed their votes broadly among many credible candidates, the winner could have far less than a majority of the votes, raising doubts that his mandate is sufficiently wide to confer legitimacy. Second, if the national popular vote were extremely close, the outcome could be in doubt as allegations of fraud and miscounts are made, investigated, and perhaps never completely resolved in various precincts and counties throughout the country. As illustrated in Florida in 2000, such problems can occur in the popular-plurality elections conducted in the states during the first phase of the Electoral College

process. The question is whether these problems are significant enough to undermine the legitimacy of the outcome in the states and whether an alternative electoral system could avoid such problems.

7. *Governance.* While the Electoral College has successfully conferred legitimacy on presidents, not all presidents have been able to govern effectively. The capacity to govern in a pluralist society requires achieving considerable consensus on policy goals and limiting the capacity of opposing interests to cause stalemate. The American system of separation of powers is intended to make governance difficult, but historically our party system, dominated by two relatively centrist parties, has facilitated some effective governance. Governance is generally most effective when one party controls both the presidency and Congress and can claim widespread support for its policies. Governance is more difficult when different parties control the presidency and Congress, but if both parties are relatively pragmatic and centrist, they can still govern effectively. Especially in a large and diverse country like the United States, governance would be most difficult to attain if control over governmental institutions were fragmented among multiple parties, each representing narrow interests and/or uncompromising ideologies.

The Electoral College is thought to be an important ingredient in attaining effective governance in Washington because it helps maintain our two-party system with relatively centrist parties. The key to this result is the popular-plurality elections in the states that comprise the first stage of the Electoral College system. Because of the first-past-the-post feature of these elections, third-party and independent candidates are discouraged from competing and voters are discouraged from “wasting their votes” on such candidates. The question is whether alternative electoral systems available to the states would encourage a proliferation of parties, each representing distinct interests and having sufficient influence to contribute to stalemate and undermine effective governance.

8. *Inclusiveness.* Inclusiveness refers to the diversity of interests and ideals included within electoral and governing organizations. Inclusive parties and campaigns craft platforms that appeal to the interests of disparate groups and express principles that are broadly accepted. Sincere voters find within these platforms positive responses to their legitimate interests and the articulation of broad principles with which they agree. Inclusive governing coalitions adopt and implement policies that spread benefits broadly among the public and embody widely accepted notions of the common good.

Inclusiveness is related to centrism but is not identical with it. Centrist cam-

paigns imagine that most citizens are grouped around a “median voter” having a preexisting set of preferences and ideals known through such indicators as public opinion polls. Inclusive campaigns imagine that citizens have fairly weak and diverse preexisting views that a median voter may not well represent. The goal of an inclusive campaign is to articulate policy goals that modify and strengthen the preferences of citizens, appealing to and activating as many members of as many groups as possible.

Supporters of the Electoral College claim that it is particularly effective at building inclusive campaign and governing organizations, because its rules make clear to presidential aspirants that they need support that is broadly distributed across the states to get the requisite majority of electors in the College.¹⁴ Obviously, candidates whose appeal is limited to “the Southern vote” or “the urban vote” or “the farm vote” or other such “special interests” but ignore most aspects of America’s diversity are unlikely to succeed. Less obviously, candidates whose appeal is to the median voter may fail to activate the support of broad segments of the public whose views are poorly expressed by the median voter. And even if appealing to the median voter were the best way of getting a popular plurality in a national election, a majority in the Electoral College may not be achieved unless that popular plurality is constructed in such a fashion as to get broad support across the states.

Nevertheless, it is questionable whether the Electoral College produces the kinds of supermajoritarian campaigns and governing coalitions that are attributed to it by its defenders. Certainly various ethnic and lifestyle groups feel ignored by both Democrat and Republican candidates. And other groups, like African Americans, report being taken for granted and not actively courted. Campaigns clearly have notions about where their votes do and do not lie, and they tend to ignore supporters in safe states and groups that they believe are unnecessary to building a winning electoral coalition in key swing states. Abolishing the Electoral College and adopting a national popular plurality system might remove such disincentives for inclusive politics, as all types of voters would be equally valuable in achieving electoral success, regardless of where they lived and how crucial their votes were to success in their states. However, a candidate could win a national popular vote with a relatively small plurality, and many citizens could well feel excluded from the governing coalition that emerged from such an electoral outcome.

Incentives for building inclusive campaigns seem mixed when popular-plurality methods are employed at the state level. In safe states, where one party is dominant or one candidate has an insurmountable lead, there is little incentive

for campaigns to seek even larger majorities. However, in competitive states, the need to appeal to undecided and crucial blocs of voters can promote inclusive campaigning. The question is whether alternative systems can more consistently promote inclusive politics, even in states that are often uncompetitive.

9. *Feasibility.* National efforts to abolish the Electoral College and replace it with a national popular vote are not very feasible. There are huge institutional obstacles to amending the Constitution, including securing the approval of three-fourths of the states, many of which are advantaged by the present system. It is also unlikely that leaders of the major parties would seek to eliminate a system that has helped shield them from competition from new and third parties.¹⁵ Because states have the constitutional authority to create their own rules for selecting electors to the College, reforms in the states do not have the same institutional barriers that exist at the national level.

Evaluating Alternatives to Popular-Plurality Systems at the State Level

Table 14.1 summarizes our judgments about the desirability and feasibility of moving away from the prevailing popular-plurality system that constitutes the first stage of the Electoral College system and employing each of the four alternatives at the state level. In this section, we compare these—the popular-majority system, the instant runoff, the district plan, and the proportional-allocation system—with the prevailing popular-plurality system.

Evaluating the Popular-Majority Alternative

As a method of determining electors at the state level, the popular-majority system has some attractions. Although the requirement of having a runoff election if no candidate gets a majority is more complex than having a single election determined by the plurality rule, the popular-majority system is relatively simple and familiar. Most states have both primary and general elections to determine their governors and other elected officials, so the possibility of a second (runoff) election between the top two vote-getters would not be foreign to voters.

This system could make a second-place finish in the initial balloting an important prize, propelling a candidate who would be eliminated as a “loser” in the popular-plurality system into a contender in a potentially vital runoff election. This possibility could encourage third-party and independent candidates as well as candidates who lost major-party nominations to compete aggressively in states adopting the popular-majority system. This situation could

Table 14.1 Evaluating Electoral Systems on Nine Criteria

Criteria	Electoral College (Nationally)	Popular Plurality	Popular Majority	Instant Runoff	District Plan	Proportional Allocation
Simplicity	most complex	most simple	relatively simple	relatively foreign and complex	relatively complex	relatively complex
Equality	unequal across states	equal within states	equal within states	equal within states	equal within states	equal within states
Neutrality	biases toward swing states	bias toward major parties	bias toward major parties reduced	bias toward Republicans likely	bias toward Republican evident	bias is not apparent
Sincerity	discouraged	discouraged	less discouraged	encouraged	discouraged	encouraged
Participation	discouraged in noncompetitive state	encouraged if adapted nationally	reduced in runoffs (voter fatigue)	encouraged	encouraged in certain districts	encouraged in all states
Legitimacy	conferred historically	threatened by weak pluralities, fraud, and recounts	enhanced (and threatened) by majority rule	enhanced by majoritarianism	enhanced by localizing recounts and irregularities	threatened if House contingency procedure is used
Governance	facilitated	facilitated	diminished	diminished	facilitated	diminished
Inclusiveness	unclear ^a	encouraged if states are competitive	unclear ^a	encouraged if districts are competitive	encouraged if districts are competitive	discouraged
Feasibility	status quo	status quo in most state	least likely	possible under very limited circumstances	most possible but still unlikely	possible under very limited circumstances

^aInclusiveness depends on a wide array of factors.

have both positive and negative effects for sincere voting. On the one hand, the greater number of candidates and parties would enhance the ability of sincere voters to find candidates who represented well their views. And the runoff provision might encourage voters to cast an initial ballot for their sincere choice, even if those candidates had little chance of success, on the assumption that they would have the opportunity to choose between the lesser of two evils in the second round. On the other hand, the runoff provision could encourage some insincere, strategic voting, as some voters might see the first round as an opportunity to cast protest ballots for candidates they little admire, simply to signal their unhappiness with the major-party candidates. In any event, the popular-majority system would reduce bias toward the nominees of the major parties.

Such a system could also make some contributions to enhancing legitimacy. As mentioned earlier, a runoff could erase doubts about who really won a close initial balloting accompanied by charges of miscounts and fraud. Additionally, the winner of the runoff could, of course, claim to be supported by a majority, thus giving greater legitimacy to his claim to a state's electors.

However, the popular-majority system also has some deficiencies. Voter participation might decline in the runoff, especially if supporters of defeated candidates are apathetic about the remaining candidates and alienated by a system that rejected their favorite candidates. And if the second-place finisher in the initial vote won in the runoff, the legitimacy of the outcome could be reduced, as citizens might wonder why the winner under a majority rule had any greater claim to victory than the winner under a plurality rule.¹⁶ If third parties succeeded in either the initial or the runoff election, or even if they were simply spoilers who deprived the major parties of a first-round victory, they would gain a greater role in American politics, possibly acquiring sufficient power to thwart the governing capacity of the major parties. Suppose, for example, that Florida had had a popular-majority system in 2000. Because both Bush and Gore came up short of a majority in Florida, and yet needed that state to win in the College, both candidates would have had huge incentives to bargain with Ralph Nader, Pat Buchanan, and other eliminated candidates for the support of their voters in the runoff. Such bargains might include giving these candidates veto power over certain policy initiatives. Perhaps such bargains would involve providing the third-party candidates with important offices in the resulting administration, making it more inclusive in the sense that additional interests would be represented in the governing coalition. But the included third-party candidates could also be extremists who demanded non-

inclusive policy concessions that undermined the interests and principles of other groups within the governing coalition.

Finally, a delayed runoff has a number of disadvantages that might undermine the feasibility of a popular-majority system. For states conducting runoff elections, there are of course additional expenses. For the nation as a whole, there could well be unease and even resentment if the outcome remained undetermined until one state conducted its runoff election. And such a decisive runoff could generate tumultuous, intense, and perhaps vicious campaigning in order to put a candidate over the top. These possibilities might result in national opposition to states contemplating a popular-majority system involving delayed runoff elections.

Evaluating the Instant-Runoff Alternative

This innovative reform has attracted considerable national attention, but has a variety of possible difficulties that must be considered by any state contemplating employing it.¹⁷ It normally permits voters to rank their top three candidates, a task that is certainly more complex than simply indicating one's most preferred candidate. It calls on voters to be fairly informed about an array of candidates and to be fairly analytical about assessing how the interests and ideals of these candidates relate to the voter's own views. Its complexity suggests that well-educated, upper-income voters could better understand and more effectively navigate the system than poorly educated and lower-income voters, and this suggests that voters for the Democratic Party may be less likely to vote in such a system (or more likely to cast spoiled ballots) than voters supporting the Republican Party. In short, the complexity of the instant runoff may interact with established patterns of partisan voting to create bias favoring Republicans. As the election in Florida in 2000 demonstrates, voters can be easily confused by even modest complexities in balloting.

Supporters of instant runoffs, however, doubt that such effects and biases would be significant. They correctly maintain that the existing popular-plurality elections within the Electoral College system already create biases in favor of both Republicans and Democrats, and that the instant runoff would provide more equal opportunities for third-party and independent candidates. They claim that many citizens do recognize the degree to which all candidates represent their interests and ideals, and that they can effectively rank their preferences based on such understandings. The instant runoff relieves the burden such citizens feel under the popular-plurality system of having to decide whether to be sincere, voting for a preferred candidate who has little

chance of winning, or to be sophisticated, voting for a second-favorite candidate to avoid helping to elect the least-preferred candidate. In the instant-runoff system, the elimination of their preferred candidate would not result in their votes being wasted, as each such vote would be transferred to the second-most-preferred candidate if the election were sufficiently close to have their vote make any difference.¹⁸

Proponents suggest that the instant runoff may have other benefits as well. By encouraging third-party candidacies capable of turning out citizens who are apathetic about the major-party candidates and by enabling citizens to cast ballots representing both their sincere and their sophisticated preferences, the instant runoff might increase voter turnout. It could increase legitimacy, as the winning candidate would almost certainly be named as one of the preferred choices on a majority of ballots and thus be able to claim being supported by the majority of voters as well as being the most-supported candidate. It might also increase inclusiveness, as the major-party candidates would have added incentives to include proposals in their platforms that appealed to the interests and principles of supporters of third parties, in hopes that such voters would rank them second, and that the transferred votes they could receive under this system would ultimately lead to victory.

The instant runoff would almost certainly increase the role of third parties in the American political system, and this could complicate effective governance. Energized third-party and independent candidates could win in states having the instant runoff and perhaps deprive either major-party candidate of a majority in the Electoral College. To achieve that majority, the major-party candidates would again be prompted to negotiate agreements with third-party candidates for their electoral votes. The price for such votes could well be the capacity of third parties to obstruct many policy goals that the governing coalition would otherwise implement.

To reformers in some states, such a scenario might seem either remote or not entirely unattractive, and thus adopting the instant runoff might be feasible in some states having cultures conducive to third-party movements and independent candidates. The leaders of the Republican and Democratic Parties in the states would certainly be leery of any reforms that could undermine the dominance of their parties, but states having cultures conducive to innovations like the instant runoff might also be states having provisions for citizen initiatives. Through procedures of direct democracy, the resistance of the major parties could be circumvented and the instant runoff could be implemented.

Evaluating the District Plan

Unlike the instant-runoff and popular-majority systems, the district plan would, from the point of view of voters, involve almost no changes from the popular-plurality method used now in most states. The actual ballots need have no changes from those currently employed, and there would still be only one casting of ballots. Election administrators would face the additional complexity of counting the ballots for each district, as well as in the state as a whole, but this change would be fairly invisible to most voters.¹⁹ The district plan could, however, simplify one task facing election administrators. If there are allegations of fraudulent and miscounted ballots, they could focus their energies on those districts where suspicions of voting irregularities are most compelling and where reexamination of the ballots could influence the election outcome.

The district plan has several other attractions beyond its relative simplicity. Perhaps most important, it could increase voter turnout.²⁰ Competitive districts within safe states could be transformed from places ignored by candidates into battlegrounds for swing electoral votes. Local parties that previously felt they had no significant role to play could become energized in competitive districts, enhancing their get-out-the-vote efforts. Citizens in such districts would see that their votes actually mattered. Of course, many congressional districts are not very competitive, but voters could believe that their votes would still matter in the determination of the two state-level electors, if the state as a whole was competitive. In short, more districts would be in play under the district plan than under the statewide popular-plurality system, stimulating the greater involvement of local parties and the greater participation of citizens.

It is unlikely, however, that the district plan would affect the basic structure of our two-party system. Congressional elections now waged in the districts are mostly two-party affairs, because their first-past-the-post feature encourages citizens to be sophisticated voters who do not waste their votes on third-party and independent candidates. Elections for presidential electors in the districts would have the same features.²¹ By maintaining the two-party system, the district plan would also facilitate and perhaps enhance effective governance. Under the district plan, presidential candidates could be more closely tied to the congressional candidates of their party, and stronger presidential coattails might reduce divided government and strengthen cooperation between the president and members of the House. The district plan might also result in a bit more inclusiveness. To attract supporters in newly competitive districts, presidential aspirants and first-term presidents would have incentives to devise pro-

posals and policies that serve the interests or appeal to the principles of voters who could previously be ignored.

The biggest problem with the district plan would appear to be its Republican bias. Analysts have found that the nationwide implementation of the district plan would result in more electoral votes going to Republicans than has been the case under the more neutral popular-plurality system. For example, under the district plan, Nixon would have defeated Kennedy in 1960, and Ford would have tied Carter in 1976.²² It is estimated that Bush would have achieved an additional seventeen votes under the district plan in 2000, defeating Gore 288 to 250.²³ The best explanation for this phenomenon is that the boundaries of congressional districts are often drawn by Republican-dominated state legislatures who understand the advantages of packing Democratic voters, especially minorities and the urban poor, into a few specific districts. In any event, Democrats seem to be more highly concentrated in some congressional districts, while Republicans have thinner majorities in a larger number of districts. This enables Republicans to do better under the district plan than under the popular-plurality system. This points to the related problem of how the boundaries of congressional districts are drawn, already a highly partisan process. Enhancing the stakes that are involved in it would only enhance the contentiousness of the redistricting process.

The district plan may be relatively feasible, because it is consistent with—and even represents an extension of—the federal principles in the Constitution and because it would not compromise the dominance of the major parties in the states. However, two strategic considerations limit the circumstances under which the district plan is likely to be adopted. If one party is dominant in a state and can normally deliver the entire bloc of electors to its candidate, it would probably resist adoption of a system that enabled the minority party in the state to claim electors in a few competitive districts. And if a state is large, dropping the unit rule could diminish its influence in the presidential campaign. One of the major reasons that states adopted the unit rule in the first place was the perception that having electors vote as a bloc enhanced a state's importance to candidates, who would thus pay more attention to their concerns. Populous states that are most viewed as having decisive blocs of electors thus would have the greatest disincentives for adopting the district plan. Florida, for example, considered the district plan, but dropped the idea, fearing the reform would dilute its influence. Small states, like Maine and Nebraska, have less to lose from trying this reform. These considerations about losing influence by abandoning the unit rule also apply, of course, to the proportional-allocation plan.

Evaluating Proportional Allocation

Like the district plan, proportional allocation would be relatively simple to implement, at least from the point of view of voters. Under this scheme, citizens would vote using customary ballots, procedures, and schedules. The major formal change would be in the way that electors in the College were allocated as a result of how citizens cast their ballots, as the winner-take-all feature would be replaced by allocating electors pledged to candidates in proportion to the outcome of the popular vote.²⁴

Proportional allocation would have several advantages. If the district plan would encourage more participation than the popular-plurality system, proportional allocation would encourage more participation than the district plan. Under the district plan, only competitive districts would be in play. With proportional allocation, the entire state including every district in the state would be in play. Parties that are dominant in the state and in particular districts could not assume electors were safely in their column, as some electors could and would be peeled off by minority, third-party, and independent candidates. All parties would thus gain fresh incentives to compete aggressively for each and every elector to be allocated. Citizens in noncompetitive states (or districts) would no longer see their votes as irrelevant to the outcome. Voting would be encouraged, as voters would no longer need to worry about wasting their votes on their unelectable first choices, as independent and third-party candidates could win some electors even if they trailed other candidates and won fairly small percentages of the popular vote.

Proportional allocation would eliminate the bias in favor of the major parties that exists under first-past-the-post systems like the popular-plurality system. Though this would make the electoral system more neutral, it would complicate governance. Proportional allocation would produce party fragmentation, making effective governance difficult. To reduce such fragmentation and to limit the role of narrow or special-interest candidates and fringe parties, proportional-allocation plans might require candidates to attain some minimal percentage of popular votes—typically 5–10 percent—to qualify for any electors. Of course, such requirements would be important only in larger states, as a candidate winning about 10 percent of the popular vote would not qualify for any electors unless the state had ten electors to allocate. One allocation formula, the d'Hondt system, allocates seats in a manner that reduces representation of minor parties and favors major parties, and thus appears to be the preferred method of proportional allocation if the goal is to obtain a better balance between governance and representation.

A related problem with proportional allocation is that inclusiveness may also be discouraged. While popular-plurality systems encourage competition between two broad and fairly inclusive parties, proportional allocation can reward with electors those candidates and parties that represent narrow interests and clear ideological commitments that appeal to sizable minorities in the state but offer little and may be offensive to broader segments of the public.

Another drawback of proportional allocation is that the electors won by such third parties and independent candidates could become spoilers, whose main role would be to deprive candidates of the major parties of an Electoral College victory. If states that adopted proportional allocation also made electors legally bound to represent those citizens who voted for specific candidates, bargaining between third-party candidates and major parties within the Electoral College would be foreclosed. In such circumstances, the House contingency procedure, required by the Constitution when there is no majority among electors in the College, would be invoked. Under this procedure, the results of the popular votes in all states would be discarded, and the state delegations in the House of Representatives, each having a single vote, would determine which of the top three vote-getters in the College should be president. Perhaps John Quincy Adams had sufficient legitimacy to be a reasonably effective president when selected by such a procedure in 1824, but democratic norms have evolved greatly since then, and it is questionable that a person selected by such a process today would be accorded much legitimacy.

The obstacles to adoption of proportional allocation are thus fairly great. The leaders of the Democratic and Republican Parties would certainly oppose a reform that strengthened third parties and independent candidates. Perhaps this reform could be adopted by a citizen initiative in states whose cultures are receptive to innovation.

Conclusions

Reformers who reach the judgment that two or more of these systems are superior to their current system will want to compare such highly regarded reforms with one another. Our own judgment is that each alternative has limitations as well as strengths. Because we doubt that any alternative is clearly superior to the prevailing system, we leave to others who are more enthusiastic about state-level reform than ourselves the task of determining the best alternative. This is not to say that we would oppose states adopting any of these reforms. We believe that states are important laboratories of democracy and think it en-

tirely appropriate for states seeking to improve democratic performance to experiment with any of these reforms. We recognize that state experimentation with these alternatives could yield important information about the consequences of employing these alternatives, and that such information could be valuable in future debates about how to structure presidential elections nationally.

Notes

1. The “plus two” allocation of two electors to states regardless of population gives small states disproportionate influence in the Electoral College and is one reason for George W. Bush’s victory over Gore in the College. See Rainey and Rainey, “Distribution of Power.” Aggregating electoral votes on the basis of the winner-take-all rule employed by most states advantages candidates who lose decisively in some states while achieving narrow popular victories in other states. Had Florida used a proportional allocation rule, Gore would have captured twelve electoral votes there, enough to ensure his victory in the Electoral College. Had all states employed the d’Hondt proportional allocation method discussed below, Gore would have led Bush in the Electoral College, but neither would have achieved a majority, and the House would have decided the outcome—in favor of Bush. See Herron, Francisco, and Yap, “Election Rules and Social Stability,” 154.
2. Caraley, “Constitutional Right.”
3. For a further discussion of the alternative vote, see Reynolds and Reilly, *Handbook of Electoral Systems Design*.
4. While the district plan normally assumes the winner would be determined by plurality rule, winners could also be determined by majority rule with runoffs.
5. For discussion of the d’Hondt and other rounding systems, see Reynolds and Reilly, *Handbook of Electoral Systems Design*.
6. This project is discussed in detail in Schumaker and Loomis, *Choosing a President*.
7. Dahl, *On Democracy*, 37.
8. See Frey, “Regional Shifts.” Two considerations prompt some analysts to discount criticisms of the Electoral College based on such inequality. First, the “constant two” factor in the distribution of electors provides an element of equal treatment for the states as important units in our federal system, independent of the number of citizens within them. The fact that the value of the vote is greater for citizens in small states is simply a by-product of providing some equality among states. Second, it is argued that voters in small states like Wyoming can influence the selection of only three electors, while the voters in large states like California can influence the selection of as many as fifty-four electors. Thus voters in large states may have greater “voting power” or the capacity to decide the election in important swing states.
9. Longley and Peirce, *Primer 2000*, 147-61.

10. Lineberry et al., "Social Cleavages."
11. See Shactar and Nalebuff, "Follow the Leader."
12. Schumaker and Loomis, *Choosing a President*, 201–2.
13. In *Primer 2000*, Longley and Peirce foresaw precisely this problem. Had it not been for the Florida controversy, perhaps the public would have focused more on the fact that Bush was not the popular-vote winner and questioned his legitimacy.
14. Judith Best testifying on Proposals for Electoral College Reform to the House Committee on the Judiciary, Subcommittee on the Constitution, H.J. Res. 28 and H.J. Res. 43, September 4, 1997.
15. Schumaker and Loomis, *Choosing a President*, 1–6.
16. Democratic theory does not insist on either majority rule or plurality rule, but instead claims that the winner under the agreed-upon rules has the legitimate claim to office. But feelings that an outcome is illegitimate can be enhanced when people believe that the outcome is due to flaws and limitations of procedure rather than to some clear and reliable expression of the popular will.
17. The Center for Voting and Democracy is perhaps its strongest supporter. See their Web site at www.fairvote.org.
18. However, it can be argued that such a system could also make irresponsible voting rather costless, as voters could list detested fringe candidates as their first choice as a means of expressing their distaste for the front runners. This could undermine both the legitimacy and the governing capacity of the eventual winner.
19. Currently there is no need to determine the votes for each candidate in each congressional district, and thus states do not report such data. Indeed, some precincts and counties span district lines, requiring voting analysts to estimate, rather than precisely count, the outcomes at the district level. The district plan would, of course, require election administrators to redraw the boundaries of some voting precincts to coincide with congressional districts.
20. There is evidence that adoption of the district plan has enhanced voter participation in Maine. See Stein et al., "Citizen Participation," 132.
21. Third-party candidates might nevertheless win in specific districts. For example, Ross Perot almost claimed one district in Maine in 1992.
22. Polsby and Wildavsky, *Presidential Elections*, 251.
23. Bensen, "Presidential Election 2000 Study," at www.polidata.org.
24. There are different allocation formulas for handling "rounding issues" and these are relatively complex. Reformers who propose proportional allocation would have to deal with the complexity of alternatives and be able to defend such possibilities as the d'Hondt system. Administrators would also have to make the allocations according to somewhat complex rules. But such complexity would not cause much confusion among voters, who merely would have to mark their ballots in traditional ways.