

# Ranked Choice Voting Is a Bad Choice

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## KEY TAKEAWAYS

Ranked choice voting is a scheme to disconnect elections from issues and allow candidates with marginal support from voters to win.

It obscures true debates and issue-driven dialogs among candidates and eliminates genuine binary choices between two top-tier candidates.

It also disenfranchises voters, because ballots that do not include the two ultimate finalists are cast aside to manufacture a faux majority for the winner.

**Y**ou will not believe what “reformers” have devised to tinker with and manipulate our elections. It is called ranked choice voting (or “instant runoff voting”)—but it is really a scheme to disconnect elections from issues and allow candidates with marginal support from voters to win elections. Some jurisdictions in the U.S. have already replaced traditional elections with the ranked choice scheme.<sup>1</sup>

Here is how it works. In 2008, instead of choosing to cast your ballot for John McCain, Barack Obama, Ralph Nader, Bob Barr, or Cynthia McKinney, all of whom were running for president, you would vote for all of them and rank your choice. In other words, you would list all five candidates on your ballot from one to five, with one being your first choice for president and five being your last choice.

If none of the candidates were chosen as the number one pick by a majority of voters in Round One,

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then the presidential candidate with the lowest number of votes would be eliminated from the ballot. People who selected that candidate as their top pick—let us say it was McKinney—would automatically have their votes changed to their second choice. Then the scores would be recalculated, over and over again, until one of the candidates finally won a majority as the second, third, or even fourth choice of voters.

In the end, a voter's ballot might wind up being cast for the candidate he ranked far below his first choice—a candidate to whom he may have strong political objections and for whom he would not vote in a traditional voting system.

## Rigging the System

We do not often agree with former California Governor Jerry Brown Jr. (D), but he was right in 2016 when he vetoed a bill to expand ranked choice voting in his state, saying it was “overly complicated and confusing” and “deprives voters of genuinely informed choice.”<sup>2</sup> Such a system would present many opportunities to rig the electoral system.

Think about what ranked choice voting destroys. It destroys your clear and knowing choices as a political consumer. Let us call it the supermarket contemplation. In reality, you are choosing one elected official to represent you, just like you might choose one type of steak sauce to buy when you are splurging for steaks. At the supermarket you ponder whether to buy A1, Heinz 57, HP, or the really cheap generic brand you have never tried.

In the real world, you compare price, taste, mood, and maybe even the size of the bottle and then decide on your steak sauce. You know nothing about the generic brand, so you rank it last among your choices, while A1 is ranked a distant third. In your mind, it comes down to Heinz or HP, and you choose the Heinz. You buy that bottle and head home to the grill.

Now imagine if, instead, you had to rank-order all the steak sauces—even the ones you dislike—and at checkout the cashier swaps out your bottle of Heinz 57 with the cheap generic you ranked dead last. Why? Well, the majority of shoppers also down-voted it, but there was no clear front-runner, so the generic snuck up from behind with enough down ballot picks to win. In fact, in this ranked choice supermarket, you might even have helped the lousy generic brand win.

## Ballot Exhaustion

How could this happen? Because of a phenomenon known as ballot exhaustion. A study published in 2015 that reviewed 600,000 votes cast

using ranked choice voting in four local elections in Washington State and California found that “the winner in all four elections receive[d] less than a majority of the total votes cast.”<sup>3</sup>

Going back to our original example of the 2008 presidential election, not all voters are going to rank all five presidential candidates on their ballot. Many voters may only list their top two or three candidates, particularly when there are candidates on the ballot for whom they would never even consider voting.

Thus, if a voter only ranks two of the five candidates and those two are eliminated in the first and second rounds of tabulation, their choices will not be considered in the remaining rounds of tabulation. This ballot exhaustion leads to candidates being elected who were not the first choice of a majority of voters, but only a majority of “*all valid votes in the final round of tallying.*” Thus, “it is possible that the winning candidate will fall short of an actual majority,” eliminating the “influence [of many voters] over the final outcome.”<sup>4</sup>

## Cautionary Examples

Another example of this problem is demonstrated by what happened in Australia (which uses ranked choice voting) in the 2010 election. The liberal Labor Party won the Australian House despite receiving only “38 percent of first-place votes on the initial ballot, while the second-place Liberal-National coalition [the center right choice] captured 43 percent” of first-place votes.<sup>5</sup> In other words, more voters wanted a center-right government than a left-wing government, but ranked choice made sure that did not happen.

Or consider the mayor’s race in Oakland, California, in 2010, in which the candidate that received the most first-place votes lost the election to “a candidate on the strength of nearly 25,000 second- and third-place votes” after *nine rounds* of redistribution of the votes.<sup>6</sup>

This also happened recently in Maine. In 2018, the first-ever general election for federal office in our nation’s history was decided by ranked choice voting in the Second Congressional District in Maine. Jared Golden (D) was declared the eventual winner—even though incumbent Bruce Poliquin (R) received more votes than Golden in the first round. There were two additional candidates in the race, Tiffany Bond and William Hoar. However, the Maine Secretary of State, Matt Dunlop, “exhausted” or threw out a total of 14,076 ballots of voters who had not ranked all of the candidates.<sup>7</sup>

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You never really know who will be running against whom in the final vote count with ranked choice. Your votes are thrown into a fictional fantasy in which no one knows which candidate is really a substitute for another candidate who may not survive the initial rounds. It is all a numbers gimmick. You, as a voter, are not given the opportunity to make the final decision between competing substitutes.

As Professor James G. Gimpel, an expert on voter behavior, testified in a recent case challenging Maine's ranked choice voting law, "unlike ordinary elections and ordinary runoffs, voters are required to make predictions about who will be left standing following an initial tabulation of the votes."<sup>8</sup> He believes that "a portion of the voting public has insufficient interest and information to make a meaningful assessment about likely outcomes."<sup>9</sup>

## Clarity Obstruction and Disenfranchisement

Ranked choice destroys clarity of political debate and forces voters to cast ballots in hypothetical future runoff elections. When we have Republicans versus Democrats versus Greens and Libertarians, we know who is running against whom and what the actual distinctions are between the candidates on issues. Second- or third-choice votes should not matter in America; they do not provide the mandate that ensures that the representatives in a republic have the confidence and support of a majority of the public in the legitimacy of their decisions.

Not only is ranked choice voting too complicated, it disenfranchises voters, because ballots that do not include the two ultimate finalists are cast aside to manufacture a faux majority for the winner. But it is only a majority of the voters remaining in the final round, not a majority of all of the voters who actually cast votes in the elections.

Ballot exhaustion is not just a minor problem with ranked choice voting. According to the 2015 study, "a substantial number of voters either cannot or choose not to rank multiple candidates, even when they have the ability to do so."<sup>10</sup> Instead, many voters "opt to cast a vote for their top choice, neglecting to rank anyone else."<sup>11</sup>

Additionally, some jurisdictions that have implemented ranked choice voting also limit the number of candidates that can be ranked. All of the localities in the study limited voters to ranking three candidates—even when there were more candidates in the race. Thus, "if each of a voter's top three candidates is eliminated, his or her ballot becomes exhausted and, as a result, is excluded from the final total."<sup>12</sup>

In other words, a ranked choice election will, in the end, boil down to only two opposing candidates, but many voters (not knowing how the roulette

wheel will spin) will not cast ballots between those two choices. That voter ends up with no say in the contest between the final two candidates in the black box elections governed by ranked choice voting.

Of course, had that election been between just those two candidates in the first place, that same voter would have heard debates, listened to the issues discussed, and made an informed choice between those two. With ranked choice voting, a candidate whose support was too marginal to get into public debates may end up winning—eliminating the process that informs the electorate and forcing average American voters into the world of mixed strategy game theory, where they are forced to try to predict the probability that particular candidates that they favor or do not favor will survive multiple rounds of vote tabulation.<sup>13</sup>

## Tactical Gimmickry

Ranked choice voting also provides voters with an incentive to tactically game the system and falsify their preferences for candidates.

For example, if enough Ross Perot voters had listed George H. W. Bush as their second choice over Bill Clinton in 1992, Bush might have won that presidential election instead of Clinton. Since Perot came in third in the race, his votes with Bush as the second choice would have counted for Bush in the second round of vote tabulation.

If you could convince enough other voters to do that, you could potentially eliminate a viable candidate from the next rounds of ballot tabulations—even though he is one of the two candidates in a multiple-member field with the largest plurality of support. As one analyst says, the tactic is to “up-vote your lesser-evil candidate and ‘bury’ your lesser-evil candidate’s most viable opponent.”<sup>14</sup>

While this might sound farfetched, in today’s social media world, it would not seem that difficult to implement and coordinate such a strategy, particularly in local elections where there is a much smaller electorate. It is easy to imagine sophisticated insiders and campaign consultants creating and employing such a strategy to reach their candidate’s supporters and voters for second-, third-, or fourth-round recalculations of voting results.

## The Solution: Runoff Elections

The answer to this gimmickry is runoff elections. In the normal electoral process in the vast majority of states, there is a runoff election several weeks after a general election in which no candidate won a majority of the vote.

It is true that some voters might not turn out for a runoff election that is held several weeks after the general election because their preferred candidate did not gather enough votes to be in the runoff. However, the added time window gives potential voters the opportunity to reexamine and reeducate themselves about the character and views on issues of the two candidates who received the largest pluralities in the general election. Voters have a greater opportunity to make an informed choice than with instant runoffs (i.e., ranked choice voting). Runoff elections guarantee that the winner of the runoff election has a genuine mandate from a majority of the voters—a crucial factor in a democratic system.

Runoff elections carry additional costs—but so do primary and general elections. Yet few people suggest abolishing them because of their cost. Consent of the governed matters.

Consent of the governed is what fosters domestic tranquility. When people believe that elections produce clear results between known opposing ideas, people learn to live with results even if they do not like the outcome. The vast number of Americans who are perfectly comfortable with how elections have been run for centuries will likely see ranked choice as a gimmick. When a body politic comes to believe election outcomes are a gimmick, beware.

A few years ago, there was a movement to add “none of the above” to ballots in some states. Ranked choice voting does the opposite—forcing voters who want to have any say to vote for “all of the above.”

## Birds of a Feather

For over a decade, we have been warning about the people and institutions who want to fundamentally transform our elections.<sup>15</sup> You should pay close attention to, and be highly skeptical of, anyone who wants to tinker with long-standing and revered electoral institutions, whether that is the people controlling redistricting, voter registration, citizen-only voting, or the Electoral College.

We have detected a pattern. Most of the time, when fundamental transformations to elections are proposed, the people proposing them have two characteristics. First, they think it will help their side win. Second, their ideological perspectives are usually rooted in a transformational extreme: They want to change the rules to manipulate elections outcomes in order to force the public into their distorted vision of a supposedly utopian society.

Foes of the Electoral College, for example, want to undo it because they want large, densely populated cities with their one-party control over

election administration determining who becomes the President of the United States. Foes of legislatures drawing district lines oppose the people having control over the process because they want friendly bureaucrats who sit on “independent” redistricting commissions and who are unaccountable to voters drawing lines instead.

## Conclusion

In the end, it is all about political power, not about what is best for the American people and for preserving our great republic. So-called reformers want to change process rules so they can manipulate election outcomes to obtain power.

Ranked choice voting is no different.

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## Endnotes

1. Ella Nilsen, "Maine Voters Blew Up Their Voting System and Started From Scratch," *Vox*, June 12, 2018, <https://www.vox.com/2018/6/12/17448450/maine-ranked-choice-voting-paul-lepage-instant-runoff-2018-midterms> (accessed August 17, 2019). However, ranked choice voting only applies to federal elections, not state elections, because the Maine Supreme Judicial Court held that the law conflicts with the state's constitution. *Opinion of the Justices*, 162 A.3d 188, at 209–211 (Me. 2017). Some municipalities in states like California, Minnesota, and Washington State also use ranked choice voting. Simon Waxman, "Ranked-Choice Voting Is Not the Solution," *Democracy Journal*, November 3, 2016, <https://democracyjournal.org/arguments/ranked-choice-voting-is-not-the-solution/> (accessed August 17, 2019).
2. David Sharp, "Ranked Choice as Easy as 1, 2, 3? Not So Fast, Critics Say," Associated Press, October 9, 2016, <https://apnews.com/62c997cfd2ab403ca0b3c3333e1a9312> (accessed August 17, 2019).
3. Craig M. Burnett and Vladimir Kogan, "Ballot and Voter 'Exhaustion' Under Instant Runoff Voting: An Examination of Four Ranked-Choice Elections," *Electoral Studies*, Vol. 37 (2015), pp. 41–49, <https://cpb-us-w2.wpmucdn.com/u.osu.edu/dist/e/1083/files/2014/12/ElectoralStudies-2fupfhd.pdf> (accessed August 17, 2019).
4. *Ibid.*, p. 42 (emphasis in original).
5. Waxman, "Ranked-Choice Voting Is Not the Solution."
6. Sharp, "Ranked Choice as Easy as 1, 2, 3?"
7. *Barber v. Dunlap*, 376 F.Supp.3d 125, footnote 6 (D. Maine 2018) ("Whether RCV [ranked choice voting] is a better method for holding elections is not a question for which the Constitution holds the answer.... To the extent that the Plaintiffs call into question the wisdom of using RCV, they are free to do so but...such criticism falls short of constitutional impropriety." *Barber*, at 135).
8. *Ibid.*, at 131.
9. *Ibid.*, at 132. Thousands of ballots were discarded in the Second Congressional District that was being litigated in this case, illustrating, according to Professor Gimpel, "that those voters guessed wrong due to an information deficit." *Ibid.*
10. Burnett and Kogan, "Ballot and Voter 'Exhaustion' Under Instant Runoff Voting," p. 49.
11. *Ibid.*
12. *Ibid.*, p. 44.
13. Mixed-strategy game theory "is a probability distribution that assigns to each available action a likelihood of being selected." See "Mixed Strategy," *International Encyclopedia of the Social Sciences*. 2nd ed., p. 290, <http://www.columbia.edu/~rs328/MixedStrategy.pdf> (accessed August 17, 2019).
14. Jason Sorens, "The False Promise of Instant Runoff Voting," *CATO Unbound*, December 9, 2016, <https://www.cato-unbound.org/2016/12/09/jason-sorens/false-promise-instant-runoff-voting> (accessed August 17, 2019). Sorens argues that ranked choice voting is worse than "the status quo because it neuters third parties" by eliminating their "blackmail power." Under our current system, Sorens contends, major parties have "an incentive to cater a bit to ideological minorities" to avoid those third parties fielding a candidate in a race that will take votes away from the major party candidate.
15. See J. Christian Adams, *Injustice: Exposing the Racial Agenda of the Obama Justice Department* (Washington, DC: Regnery Publishing, 2011), and John Fund and Hans von Spakovsky, *Who's Counting? How Fraudsters and Bureaucrats Put Your Vote at Risk* (New York: Encounter Books, 2012).