

Mulroy, Steven. *Rethinking Election Law: Unskewing the System*. Northampton: Edward Elgar Publishing, 2018. vii + 187 pages. Hardback, \$115.00.

Steven Mulroy begins *Rethinking Election Law* with what he describes as three “surprising facts.” Each of these facts is a variation on the theme that in recent years, Democratic political candidates consistently win substantially more votes than Republican candidates, and yet the latter party appears more consistently able to win and hold a majority of Federal offices. This empirical phenomenon, Mulroy tells us, contravenes democratic norms and seems incompatible with the idea of “government by the people.” What follows is an efficient and lucid examination of core features of the American electoral system that will not surprise many political scientists or economists but will provide a firm grounding for others to consider seriously some of the eccentricities of the US Constitution. More broadly, Mulroy’s book is an effective case study on the topic of how political institutions affect political outcomes. Written in a style accessible to undergraduates and even advanced high school students, *Rethinking Election Law* is an outstanding standalone work on a topic important to academics, students, and citizens in general.

Rethinking Election Law’s ten chapters are divided approximately equally between two main goals—diagnosis of the problems Mulroy perceives and proposed solutions to those problems. His diagnosis primarily targets three elements of the US system that frustrate advocates of a more majoritarian system: the Electoral College, malapportionment of seats in the Senate, and the ubiquity of partisan gerrymandering in the House. His arguments are, for the most part, unassailable. The first two elements are antimajoritarian by design, and gerrymandering certainly can and is used to weaken the power of majorities. Mulroy’s coverage

of these phenomena track that which can be found in standard US government textbooks, providing reasonable overviews for any reader unfamiliar with them.

The proposed solutions are one of two things that make the book a worthy read for a generally-interested audience. Mulroy advocates two main remedies, the adoption of non-partisan redistricting committees and the replacement of the US single-member district plurality (SMDP) electoral system with instant runoff voting (IRV) and a more proportional system of allocating House seats based on a party's share of the vote received. The author explores these systems appropriately and provides the reader a great deal of national and international context for appreciating the advantages these systems have over SMDP. These are systems and approaches that are likely to be unfamiliar to a significant majority of US readers, and Mulroy has a gift for distilling complicated, often technical, processes in a clear and intuitive way that also makes economical use of language.

Written by a professor of law, it is unsurprising that the book's greatest original contributions lie in its analysis of the legal issues and scholarship underlying any serious attempt at systematic reform of the US political system. The chapter on the Electoral College, for example, contains a remarkable discussion of constitutional issues that could potentially frustrate electoral reform, many of which should be unfamiliar to even serious students of the US government, such as the Compact Clause of the US Constitution. Exploration of the legal realities underlying gerrymander reform is also comprehensive and at the same time quite readable. There is a great deal here of real merit to scholars and students of related fields.

Rethinking Election Law's brevity unavoidably means that it is not and does not aspire to be a comprehensive treatment of either alternate voting systems or their desirability. It is on the

latter note that Mulroy's work can legitimately be criticized. For a reader who is already inclined to believe that the US system is "broken" and in need of reform, the book charts a very clear path toward a more majoritarian government. The reader who approaches the book as more of a blank slate should come away with both the perception that the US system is in need of serious overhaul and that such an overhaul is feasible and grounded in the real-world experiences of most of the world's democracies.

What Mulroy's book does not do, and does not aspire to do, is to convince the reader that a more majoritarian government is indeed desirable. This is, in my opinion, a noteworthy gap. There is no doubt that political systems can be changed to produce different outcomes. There is also no doubt that many other nations have implemented varieties of proportional representation and do not wrestle with gerrymandering and other problems faced by the US. The book, however, rests clearly on the assumption that majoritarian government is simply *better* than the status quo. There are many arguments to be made in support of that statement, and as much as I enjoyed this short book and consider it a worthy addition to the literature on the subject, I wish it had attempted to make some of them. Highly recommended.

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