

# Caring for minorities: The Flexible Decision Rule

Bruno S. Frey<sup>1,2</sup>  | Andre Briviba<sup>2,3</sup>

<sup>1</sup>Faculty of Business and Economics, University of Basel, Basel, Switzerland

<sup>2</sup>CREMA, Center for Research in Economics, Management and the Arts, Zürich, Switzerland

<sup>3</sup>Departement of Economics, University of Fribourg, Fribourg, Switzerland

## Correspondence

Bruno S. Frey, Faculty of Business and Economics, University of Basel, Peter-Merian-Weg 6, Basel, Switzerland.  
Email: [bruno.frey@bsfrey.ch](mailto:bruno.frey@bsfrey.ch)

## Abstract

Simple majority rule disregards the interests of the losing minority; their vote does not affect the outcome. When vote outcomes are narrow, close to 50% of voters, the concerns of a significant part of the voters are disregarded. This increases polarization in the population and endangers democracy. This paper proposes a new procedure for political decisions by referendums. The *Flexible Decision Rule* formally takes into account the percentage of voters accepting or rejecting a proposal. The higher the share  $y$  of voters accepting it, the more strongly the proposal is to be put into reality; the lower  $y$  is, the less strongly the proposal is to be put into reality. This procedure explicitly considers the concerns of both the supporters and the opponents thus raising the fairness of the vote procedure. In contrast to majority voting, each vote marginalizes the outcome and therefore raises the incentive to participate in the vote increase.

## KEYWORDS

democracy, Flexible Decision Rule, majority rule, political decisions, polarization

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## 1 | THE ISSUE

Most political decisions are taken using the simple majority rule: The proposal that gains over 50% of the vote wins. This rule is generally accepted; it is often considered a matter of course and sometimes even to be part of a definition of democracy. For example, Van Parijs (2011, p. 7) states: “I will define democracy as the combination of majority rule, universal suffrage, and free voting.” According to May (1952), when a decision is made between two alternatives, only the majority rule satisfies the principles of anonymity, neutrality, and positive responsiveness. In social choice theory, the majority rule is considered a cornerstone of democracy. Thus, Landemore (2020, p. 129) states that “majority rule forms the backbone of decision processes in a genuine democracy.”

However, the majority rule disregards the interests of voters that are in the minority. The majority rule is brutal<sup>1</sup> when the majority is only slightly more than 50%. Such an outcome tends to polarize society. A critical recent case is the 2016 Brexit vote in the United Kingdom. Just 51.9% of the electorate voted yes (for leave), and 49.1% voted no (for remain). The peace accord with the rebel group FARC in Columbia was only accepted by 50.2% of the voters; 49.8% disagreed with the agreement’s content.

Table 1 shows that in Switzerland, the country with the most citizen referenda,<sup>2</sup> several recent votes have been extremely narrow.

In only 3 years of citizen referenda, six had highly close outcomes. The interests of significant minorities were disregarded in these formal political decisions. The small majority was sometimes in favor, and sometimes opposed, to the propositions citizens had to decide.

For the losing voters, such narrow political decisions are difficult to accept. It means that the wishes expressed by almost half of the voters are disregarded while the expressed wishes of just a little more than half of the electorate are fully met. The simple majority decision leads to a dichotomy between the winners and the losers. Such outcomes contribute to a polarization of the population, endangering the working of democracy.

In democracies, some voting rules seek to protect the interests of a minority of less than 50% of the vote. The most extreme form is unanimity. Unanimity is rarely achieved because voters have a strong incentive to behave strategically and not to reveal their individual preferences honestly. Honest voting is likely to happen under the “veil of ignorance” when voters do not know in which position they and their descendants will find themselves in the future. Buchanan and Tullock (1962), Brennan & Buchanan, (1980, 1985), and Rawls (1971) build their theories on this condition. Less extreme voting rules than unanimity propose supermajorities,

TABLE 1 Close results of popular referenda at the central level in Switzerland, 2020–2022.

	Yes (%)	No (%)
Responsibility of large firms	49.3	50.7
Buying fighter jets	50.1	49.9
Hunting law	48.1	51.9
Law to reduce CO <sub>2</sub> emissions	48.4	51.6
Ban on wearing burqas	51.2	48.8
AHV 21	50.5	49.5

Note: Data retrieved from BFS, <https://www.bfs.admin.ch/asset/de/32006951>.

say two-thirds or three-quarters of the voters, to protect minorities. But even then, the preference of the losers is disregarded.

This paper proposes a new, unconventional voting procedure, the Flexible Decision Rule (FDR). It serves to overcome the problem of losing minorities and of dichotomy and polarization in society. The world is no longer seen dichotomously, in which a voting outcome produces complete winners or losers. The proposal is intuitively easy to understand and moreover is flexible over time. As with all decision rules, it has its advantages and disadvantages. It is reasonably applicable in many circumstances, but indeed not all.

Section 2 of this paper refers to related literature. Section 3 introduces the FDR. The following section discusses several possible applications. Section 5 considers the significant advantages and disadvantages of FDR, and the last section concludes.

## 2 | RELATED LITERATURE

There exist a considerable number of rules to decide political issues. Mueller, in his path-breaking book *Public Choice III* (2003, chapter 7, pp. 147–148), lists the following: majority rule, majority rule with runoff election, plurality rule, Condorcet criterion, the Hare system, the Coombs system, approval voting, the Borda count, and others (see e.g., Bohm, 1972; Dreze & de la Vallee Poussin, 1971; Thompson, 1966). A large number of mechanisms have been put forward to deal with the drawbacks of the majority rule, among them qualified decision rules, cumulative voting, and storable votes (Britz & Gersbach, 2021; Casella, 2005; Fahrenberger & Gersbach, 2010; Gersbach et al., 2022). Quadratic voting accounts for preference intensities by allowing voters to buy votes against a proposal at a quadratic cost (Liang, 2022).

Probabilistic voting (see, e.g., Hylland and Zeckhauser, 1979) is somewhat related to the FDR. It looks at the probability that a person votes for a particular alternative, introducing a continuity instead of a zero-one decision. Point voting proceeds in a similar direction (Mueller, 2003, pp. 169–174). In contrast to the FDR, it directly considers the preference intensities of individuals. However, voters have a strong incentive to dishonestly reveal their preferences, as these cannot be objectively observed from outside. Consequently, “the equilibrium obtained ... in the point-voting scheme is a Nash equilibrium, and strategizing steps or coalitions could overturn the results” (Mueller, 2003, p. 174).

To my knowledge, the FDR proposed here has not been discussed in the literature. A related proposal is the flexible majority rule suggested by Gersbach (2017), in which the majority threshold is flexible, and the nature of flexibility depends on the proposal to be decided. In contrast, FDR is based on a probabilistic approach and implements proposals proportionally based on the percentage of approval. Gersbach's (2017) rule must be embedded in a carefully structured decision environment and adjusted to specific choice issues. If this is not the case, no definite decision might be reached.

Emerson (2019) also discusses several issues of the simple majority rule that FDR aims to improve. His consensual procedure involves voters ranking multiple options in order of preference. Unlike FDR, which maintains a binary voting structure but implements outcomes proportionally based on support levels, Emerson's concept directly incorporates the intensity of preferences through a detailed ranking system. Both systems aim to enhance procedural fairness by mitigating the binary nature of majority rule, yet they differ fundamentally in their implementation: FDR simplifies the voting process while ensuring proportional outcomes, whereas Emerson's concept provides a more granular approach to capturing voter preferences.

### 3 | PROPERTIES OF THE FDR

The FDR<sup>3</sup> invites the electorate to vote on a referendum proposal. The vote outcome is that  $y$  percent approve and  $(1-y)$  percent reject the proposal. The size of  $y$  measures the supporters' concerns, and the size of  $(1-y)$  measures the opponents' concerns. The FDR takes the relative importance of these concerns into account. The higher  $y$  is, the more strongly the proposal is to be put into reality; the lower  $y$  is, the less strongly the proposal is to be put into reality. This procedure explicitly takes into account both the concerns of the supporters and of the opponents.

There is a crucial difference to the generally applied majority rule: The wishes of the minority are taken into account formally. This contrasts with the minority in majority rule decisions, where the losing minority has no formal weight; the decision rule totally disregards the interests of the minority voters.

An example illustrates the procedure in a simple way. Assume that parliament and government propose that young people get full voting rights beginning at age 16, and not as it is today at age 18. A popular referendum in the Canton of Zurich, Switzerland, in May 2022 proposed such a change. As the standard simple majority procedure has been used, this proposal was rejected as the share of votes approving the proposal amounted to only 35%. As a result, young citizens aged 16–18 are not allowed to vote. Following the FDR here proposed, the weight of the individual vote by a person of age 16–18 should be 35% in subsequent referenda rather than zero as decided by the majority rule. Attributing different voting weights to young voters between the ages of 16 and 18 is easy to arrange in a voting system that digitally collects the votes. The FDR considers the concerns of the 65% rejecting and the concerns of the 35% supporting the proposition precisely according to their weight in the poll. Voters below 18 can participate in future referenda and elections, but their voting weight is only 35% of the voting weight of older citizens.

In contrast to conventional majority decisions, youngsters are not excluded from future voting. They are incentivized to learn how the voting process works and inform themselves about a proposal, including its positive and negative sides. This incentive is much lower, and for many youngsters absent, if they are totally excluded from voting.

It should be noted that the FDR does not simply attribute fixed different weights to different voters. The point, instead, is that the extent of support or rejection of a proposal is formally reflected in the voting rule.

The question of which dimension to be voted on is a core element of FDR. In many, if not in most, cases, the referenda deal with determining government expenditure for a certain project. When FDR is introduced at the constitutional level, it should include a (parliamentary) commission, which either determines the most important dimension or constructs a weighted aggregate of the various dimensions of a proposal.

## 4 | APPLICATIONS FOR POLITICAL DECISIONS

### 4.1 | Explicit endogenous voting weights

The FDR can be used at the constitutional level to determine the voting weight to be attributed to various individuals, as suggested in the example provided in the previous section.

The procedure can, for instance, also be used to determine the voting weight of citizens of old age. This aspect has been discussed for a considerable time. For example, Longman

(1987, p. 143) argues: “In an aging population, the great danger is that the electorate will become more and more focused on the short term.” In a referendum, voters may determine that the vote of citizens beyond age 80 has a lower weight than that of citizens between ages 18 and 80. A reason advanced for such a change may be that older people will only partially experience the consequences of political decisions as they will no longer be alive in the future. The opposing view argues this is mistaken because many older people have children and grandchildren and therefore consider an extended time horizon when participating in political decisions. A referendum may propose a reduced voting weight for those above age 80. According to the FDR, if 70% support it and 30% reject it, then the voting weight of citizens above age 80 should be 70% in subsequent referenda.

Citizens of many countries may still vote even if they no longer live in the country of which they are citizens.<sup>4</sup> They lose their voting rights only after an absence of a certain amount of time, for instance, 10 years. The question arises how well-informed they are about current political issues. To this extent, they must bear the consequences of voting decisions. A proposition may be introduced that citizens no longer residing in their country lose their voting rights after 10 years. According to the simple majority rule, if more than 50% of the voters agree, these expatriates may no longer vote after 10 years of living abroad. If FDR is employed, then this issue may be made more flexible. If, say, 40% are against the 10-year limit, the citizens living in a foreign country lose their voting right after 14 years rather than 10 years.

Another application may be to the voting rights of noncitizens. In most countries, they have no right to vote in national elections. The discussion centers on how long they must have lived in the country, how well they know the local language, and to what extent they have integrated the country's formal and informal norms and rules. In contrast, it can be argued that foreigners should immediately have full voting rights because they are equally affected by political decisions as are nationals. The FDR allows us to take these opposing considerations into account. If, for instance, 20% of the voters support the proposal that every foreigner should immediately get the full voting right, but 80% reject it, an intermediate solution can be achieved by using FDR: From the very beginning, foreigners receive a voting right with a weight of 20% for future referenda. As is the case with young citizens who were excluded from voting, the FDR incentivizes foreigners to become better informed about the political process in the country to which they have immigrated.

In various countries, for instance, in some US States, convicts and ex-convicts lose their voting rights for good, even after serving their sentences. A proposition may be advanced to extend the vote right to all. According to the simple majority rule, if most voters agree, convicts get full voting rights as are enjoyed by all other citizens. However, such a rule may be firmly rejected by a minority of citizens, producing a polarized society. Using FDR, the larger the minority opposing such a voting right, the less weight the voting rights of convicts and ex-convicts should be.

## 4.2 | Implicit weights

The FDR may also be used when a political proposal to be voted on explicitly specifies a number to be decided. This was the case in 1993 when the Swiss government held a referendum to approve buying 35 jet fighters of the F/A-18 type. The proposal was approved by 57% and rejected by 43% of the voters. If FDR had been applied, the number of jet fighters would have to be reduced to 57% of the 35 proposed: to 20 fighters.

### 4.3 | Share of the population affected

In many cases, laws, rules, and regulations cover only part of the population or only to a minor extent. The different degrees by which different parts are affected may, for instance, relate to age, gender, or a person's health. With FDR, if a significant minority of the voters support such a proposition, the share of the population affected should be reduced.

### 4.4 | Adjustment of proposals

Assume the government proposes building a car tunnel with four lanes, costing  $Z$  million. If the voting results reveal that the minority is large, say 45%, this infrastructural project should be reduced in size and should only cost  $0.45 \times Z$ . This may mean that instead of four lanes, only three or two should be built to reflect the voters' wishes correctly.

Such adjustments are often possible with large-size infrastructural projects. The same applies to other government expenditures, for example, for social welfare, income redistribution, the natural environment, and tax increases.

Increasing costs imposed on citizens by an expenditure proposal typically reduces voter support for the proposal. This counters the strategic incentives to inflate the initial proposal to reach a certain desired sum because it will be predicted that support for such a strategic inflation of costs will be below 100%. For example, to reach a desired sum of 500 million, but according to FDR, if the rate of approval is 80%, the sum granted is only 400 million. However, the approval rate falls when, for strategic reasons, more money is asked, say 600 million.

As these examples of applications of the FDR suggest, there is room for innovative ways to ask the opinion of voters. Many issues can be formulated such that the FDR can be applied.

## 5 | DISCUSSION

### 5.1 | Advantages

The FDR has various positive aspects compared to the simple or qualified majority rule generally used in politics:

Most importantly, it takes the relative weights of different opinions revealed in a vote formally into account rather than disregarding the minority, which can be pretty significant in the case of the dominant simple majority rule, often reaching close to 50%. This helps to reduce the number of voters disappointed by the vote outcome. An essential advantage of FDR compared to majority voting is that every vote cast has a marginal effect on the vote's outcome and the resulting political and administrative decisions. This is not the case when the voters firmly believe a referendum will gain a majority. In that case, it is irrelevant to cast one's vote either for or against the proposal; the outcome is not affected.

In contrast, when the FDR is applied, each vote cast affects the outcome and the resulting democratic action. This raises the incentives to participate in politics. As a result, citizens also seek to be better informed (see the empirical evidence in Benz and Stutzer (2004), which raises the quality of a democracy.

FDR is expected to increase voters' perceived procedural fairness compared to the simple majority rule. This improvement is particularly significant in closely contested referenda,



where proportional implementation acknowledges the preferences of nearly half the electorate. Increasing the vote turnout through FDR enhances perceptions of procedural fairness by demonstrating that all votes are consequential and valued, thus promoting greater engagement and legitimacy in the electoral process.

The FDR is also flexible over time. When a referendum is repeated (after some time has passed) and leads to different proportions of supporters and opponents, the underlying issue can be adjusted accordingly. FDR can be used for allocative and redistributive issues and votes in popular referenda, parliamentary decisions, and other organizations such as firms and foundations. Finally, the FDR is easy to understand for laypeople.

## 5.2 | Disadvantages

The application of the FDR has some problems that have to be faced:

The FDR only applies to decisions where an issue can reasonably be formatted flexibly. This is not the case for fundamental issues with a resounding societal consensus. This applies, in particular, to basic human rights. An example is women's voting rights. In contrast, there is no consensus, as documented above, concerning the voting rights of those below 18 (in some countries below 21) or of foreigners. There is no consensus on these issues in society. This shows that there are specific cases where the effectiveness of a project is highly dependent on full implementation. Here, the FDR is inappropriate. However, such cases are exceptions rather than the rule. Most issues concerning welfare are sensible when incrementally decreasing or increasing.

As with every decision rule (see Gibbard, 1973), the FDR is also subject to strategic voting. In this regard, FDR is no exception, but neither is the majority vote. The extent to which a proposal will be implemented depends on the relative sizes of the majority and minority. The proposers, therefore, are incentivized to claim more than they want. They are aware that all voters rarely support the proposition but that the content of their proposal will most likely be diluted.

The citizens also have a strategic incentive to react. They are, or can be made aware of in the public discussion before the vote, the strategic move by the proposers asking for too much. In response, more voters are induced to reject the proposal. As a result, the extent of the proposal's outcome is reduced. The proposers, in turn, are aware of this adverse reaction by the citizens and, therefore, are induced not to claim too much. The final outcome thus depends on how much the proposers overstate their claim and how much the voters respond by reducing their support for the proposal. In this process, the state of information of both actors plays a crucial role. It is difficult for the proposers to know *ex-ante* how negatively the voters react to strategically extended claims. Much depends on the information provided by the press and social media. The fact that the proposers are likely to overstate their claim offers an incentive to journalists, experts, and other investigators to publicly indicate that the proposal is overdrawn and may even lead to damaging consequences. Such statements may attract the attention of the public. The crucial question is how many voters change their views and reject the proposal. To save at least part of their objective, the proponents are rational not to inflate their claim in order not to fuel further opposition. The outcome of these strategic moves depends on many factors and conditions. It cannot be generally predicted, but it is clear that the proposers do not have a free hand to overstate the extent of their claim. These strategic moves must be compared to when the majority rule is applied.<sup>5</sup> In contrast to FDR, with majority voting, a proposal is formulated that is accepted by just more than 50% of voters.

The FDR may be opposed because it violates the principle of “one person, one vote,” which may be considered a fundamental feature of democracy. However, this principle has been deliberately disregarded in many democratic constitutions. For example, in the European Parliament, citizens of nations with a small population have relatively more delegates than citizens of large nations. A vote cast in a small EU country thus has more weight than one cast in a large EU country. The same holds for one of the oldest democracies, Switzerland. The second chamber, the Senate (called *Ständerat* and copied from the US Constitution), produces an even more significant deviation from the principle of one person, one vote. A citizen of the Canton of Zurich, with about 965,000 citizens, can vote for two delegates to the second federal chamber, the same as the approximately 27,000 citizens of the Canton Uri. Each voter in Uri thus has over 35 times more influence on the selection of delegates for the second federal chamber. The difference between equal voting weight is striking but not haphazard. Instead, the deviation from the principle of equal weight of every vote cast has been constructed to bolster the federal system to which the United States and Switzerland are firmly attached. It may be concluded that the deviation from the one person, one vote principle implied by some applications of the FDR, such as lower voting weights for young citizens below age 18, should not be taken as a decisive reason for opposing it.

## 6 | ALTERNATIVES

The FDR is undoubtedly not the only way to consider the interests of minorities. In the case of the simple majority rule, this is up to 50% of the voters. However, it should be pointed out that supermajorities do not necessarily improve the position of minorities. If a three-quarters majority is required, the status quo is more challenging to change with a new proposal. It remains open whether the minority fares better under the status quo or the latest proposal. This means that a supermajority rule does not necessarily improve the position of a minority of voters.

Another major alternative for protecting minorities is to guarantee them certain rights, preferably at the constitutional level (see Przeworski & Maravall, 2003). If a vote outcome violates these rights, the vote is nil. This approach exists in democratic constitutions as a matter of course. However, if there are too many such rights, society may end up in a worse position, noted by Sen (1970) as a “liberal paradox”.

It may be argued that the FDR only refers to the formal majority voting procedure. It may be possible that the concerns of the losing minority are taken into account after the decision. This may be the case in a political system that tries to avoid breaking society into winners and losers as polarization threatens democracy. This reaction can indeed sometimes be observed in Switzerland. On November 26, 1989, 17 days after the fall of the Berlin Wall, the initiative of a political group that wanted Switzerland without an army was put to the vote of the Swiss electorate. The participation rate was unusually high, 70%, but the initiative was rejected by 1,904,476 votes and approved by 1,052,442 votes. The share of yes votes, 35.6%, was surprisingly high; the army was generally considered the loser of this vote. There was a strong political reaction. In particular, young people are no longer forced to serve in the military but may commit to an extended civil service. This political reaction could be interpreted as an implicit use of the FDR. As a result of a substantial and unexpected minority reflected in the vote, a part of what was previously considered an essential component of Swiss identity, serving in the army, was annulled.



Such a strong reaction unenforced by a formal vote does not generally occur. The groups favoring the majority view and not used to compromising have little incentive to consider the losers' opinions. Instead, the ruling majority exploits its power, sanctioned by the vote outcome.

## 7 | CONCLUSIONS

Our paper proposes a new procedure for making political decisions. It is of particular importance when supporters and opponents are of similar size. The FDR aims to overcome the significant disadvantage of majority rule, which disregards the interests of the losing minority, which in some cases is quite large. FDR considers the reasons why a proposal is both accepted and rejected, weighing them according to the shares of voters accepting and rejecting. The FDR is simple and intuitive.

FDR is applied to referenda among citizens, for example, in some US states, Australia, and most prominently, Switzerland. However, the FDR could, under appropriate conditions, be applied to other decision-making bodies, such as democratic parliaments and other organizations, such as firms and foundations.

The FDR may be considered revolutionary because FDR changes the political process as a whole. The interventions induced involve many diverse actors, including members of the government and parliament, public servants, lobbyists, the media, and individual citizens. Their incentives and constraints must be evaluated before an outcome can be predicted. The consequences may differ vastly between issues. This means that the FDR and majority rule, or any other voting rule, must be studied considering significant parts of the political process rather than the decision rule in isolation. It cannot be predicted in general how specific decision rules operate under varying conditions. What can be said is that the majority rule does not consider the proportions of winners and losers in a vote.

Consequently, the reactions of, for instance, a significant minority must occur outside the formal majority decision rule. In contrast, the FDR formally incorporates how much support and opposition to a proposal to determine the outcome. The inclusion of the interests of the losing minority tends to increase interest in politics and participation in its process. Such institutionalization of political decision-making may contribute to a more orderly democratic process as the wishes and concerns of minority citizens are considered.

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## CONFLICT OF INTEREST STATEMENT

The authors declare no conflict of interest.

## DATA AVAILABILITY STATEMENT

Data sharing is not applicable to this article as no new data were created or analyzed in this study.

## ORCID

Bruno S. Frey  <http://orcid.org/0000-0001-5380-6655>

## ENDNOTES

- <sup>1</sup> An important drawback of the majority rule, and many other rules, is that it does not take into account the intensity of preferences of voters. There are, of course, even more general problems with today's democracies. For an account, see for example, Runciman (2019).
- <sup>2</sup> Between 1848 and June 2024, 670 referenda were undertaken at the federal level.
- <sup>3</sup> This paper further develops a much shorter version of a book chapter in German (Frey & Zimmer, 2023, Ch. 6).
- <sup>4</sup> Most countries and territories allow voters abroad to cast ballots in some capacity. This is the case in 152 of the 216 countries and territories evaluated by the International Institute for Democracy and Electoral Assistance, at least for national legislative, European Parliament, and presidential elections. Among these, many allow external voting for legislative elections (124), presidential elections (88), and referenda (74), yet just 24 allow it for subnational elections. Nearly every country in Europe provides some form of external voting, and many allow citizens to vote from abroad for multiple types of elections. Most European Union countries (23 of 27) also allow citizens abroad to vote in European Parliamentary elections.
- <sup>5</sup> This is the same outcome as in the model of two-party competition (Downs, 1957; Hotelling, 1929; see the discussion in Mueller, 2003, Ch. 11).

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