Ballot Breakdown

Partisan gerrymanders. Voter purges. Cyberattacks. Electoral College backlash. With the voting system under stress — and with crucial elections looming — we asked Columbia professors for a status report on the central mechanism of US democracy. Here are eight things they want every reader to know.

By Paul Hond
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1. Faith in the system is fraying

“A healthy democracy is predicated on the electorate’s faith in the integrity of the voting system,” says Ester Fuchs, an expert in US elections and the director of the Urban and Social Policy program at the School of International and Public Affairs. “The losers have to accept the outcome of an election and in the period between elections have to be willing to abide by the laws and the decisions of those who are
elected. When the system is threatened — which is to say, when large numbers of people feel alienated or think that the system is rigged or that it’s not legitimate — you’re really threatening the foundation of democratic governance.”

For Fuchs, one of the major flaws in the voting system can be found in the Constitution itself: the Electoral College. In this much-maligned process, each state gets a share of 538 electoral votes, according to its number of senators and representatives in Congress. New York, for instance, has twenty-seven congressional districts, plus two senators, for a total of twenty-nine electoral votes. (Washington, DC, thanks to the Twenty-third Amendment, gets three.) The electors, handpicked by their state’s parties, pledge to cast their ballots for their party’s candidate. In most states, the winner of the popular vote gets all the state’s electoral votes. The candidate who nets a 270-vote majority becomes president.

“Interestingly, the founders put the Electoral College in place to take power away from the populace,” says Fuchs, who sits on the faculty steering committee of the Eric H. Holder Jr. Initiative for Civil and Political Rights, an undergraduate program that recently held events on the state of voting in the US. “In the early version of the Electoral College, electors were supposed to be independent — they didn’t have to follow the popular vote.” Alexander Hamilton, in Federalist No. 68, wrote that this flexibility “affords a moral certainty, that the office of President will never fall to the lot of any man who is not in an eminent degree endowed with the requisite qualifications.”

“But over time,” Fuchs says, “it became an accepted view that the Electoral College electors would be bound by the popular vote in each state, and would reflect it. So while in theory you might have a situation in which the popular vote does not reflect the electoral-vote victory, it would be like a hundred-year storm.

“Except that we just had Gore vs. Bush in 2000 and Clinton vs. Trump in 2016. Bush lost the popular vote, and Trump lost the popular vote. Once you win a state by 51 percent, that’s as good as winning by 98 percent, and the difference between the 98 and the 51 is lost in the national calculation. Votes are diluted in the presidential election because all those people beyond the 51 percent in each state are not counted.”

Until the 2000 election, the public never paid much attention to the Electoral College, Fuchs says, because the numbers usually worked out: not since the
nineteenth century — in 1876 and 1888 — had the popular-vote winner not prevailed. “But now that we’ve had these recent discrepancies, it’s just another area where people see the system as rigged against them. If you keep having elections where the popular vote is not consistent with the Electoral College vote, from a democratic-governance point of view, it’s a problem, and it’s dire.”

To abolish the Electoral College would take a constitutional amendment — a dim prospect, Fuchs says. “Because our politics is now so rabidly partisan and divided, and because each party is looking for leverage within legal and institutional arrangements, it will be more and more difficult to fix this. The small states and the rural states benefit from the status quo — why would they give up this system, when doing so would help more-populous places like California and New York be more fairly represented?”
SCOTUS opened a Pandora's box. Gerrymandering isn't going away.

The 1965 Voting Rights Act was a watershed in US history, outlawing repressive tactics, such as literacy tests, long used to suppress voting. Today, it's still under threat. The Voting Rights Act is a law of the land, but it's not a law of the land where the races are mixed.

Who's on the Ballot

Gill v. Whitford

While racial gerrymandering is prohibited by the Fourteenth and Fifteenth Amendments and by the Voting Rights Act, it's still a common practice. In Wisconsin, a state with a large Black population, a court ruled that a majority of the state's districts were drawn to the advantage of the Republican Party over the Federalists, with critics noting that one particularly contorted district resembled a salamander.

Bellovin is "much more worried about computer error — buggy code — than cyberattacks," he says. "There have been a lot of failures in election systems. The system is not perfect."

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But Prewitt's biggest concern is the addition of a controversial question.

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In June, five immigrants' rights groups sued the Commerce Department, claiming that a citizenship question would result in a loss of trust in the census. A federal judge allowed the suit to go forward, chiding the Trump administration for a "strong showing of bad faith."

While the threat of this data-bombing is evident, the actual fallout is nearly impossible to assess. "Surveys have shown that the people who are most likely to not respond to the census are the people who are most likely to be affected by bad data," Albright says. "The census is the only way to get that information."

The Supreme Court has been going "round and round" on the issue.

In the hours after the 2016 presidential election, Jonathan Albright, who is now research director for the New Yorker, wanted to know how this propaganda spread. How were the websites connected? What did these networks look like? Albright fired up his laptop and went on a search.

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The census was enshrined at the Constitutional Convention in 1787, including its infamous Three-Fifths Compromise, which is still a point of contention. "We're still fighting about that," Albright says. "We're still fighting about the census."

Gerrymandering is achieved in two ways, Briffault says: packing and cracking. "Packing is when districts are drawn in a way that dilutes the votes of a particular group. Cracking is when you take evenly divided areas and fragment them to the advantage of one party."

Healey believes that if you have a good election system, you should be able to go back and, if necessary, recreate the results. "In the end it's about trust in the electoral system. That's front and center, especially now."

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