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

Paul Hond

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. Under Section 5 of the law, states that had been found guilty of “voter dilution” were required to submit any changes to their voting laws to a federal court for approval, a process called preclearance. In a landmark 5–4 ruling, the Supreme Court effectively gutted Section 5 of the Voting Rights Act by declaring that “nearly 50 years later, things have changed dramatically.”

Gerrymandering is achieved in two ways, Briffault says: packing and cracking. “Packing is when districts are drawn in a way that concentrates the vote of one group into a small district. Cracking is when you take evenly divided areas and fragment them to the advantage of one party.”

This spring, the Supreme Court, in "Wisconsin is evenly divided politically between Republicans and Democrats, but because of packing, Democrats win fewer seats. Republicans win more districts by narrower margins," Briffault says. “There are no 90 percent Republican districts. So the matter has been kicked down the road, and we’re not really any further along than we were before,” says Briffault. “The issue remains live.”

Fraud is more likely to occur on the inside, through manipulations of the vote-counting machinery and absentee ballots, Briffault says. “Ballot security is the issue. Voter fraud is not. Yet all the rules we’re seeing around voter ID and purging pertain to fraud — which is basically nonexistent.”

Like Healey, Bellovin isn’t too worried about a national election being hacked, and advocates paper-based systems to ensure transparency. In the city of Perth Amboy, New Jersey, the paper ballots that are fed into the tabulating machines can be recounted by hand in the event of a dispute.

This spring, the Supreme Court upheld Ohio's law. "The majority said the state could reasonably treat this as evidence that individuals who fail to maintain a current mailing address are disenfranchising themselves," Bellovin says. But the early-voting restrictions took a toll. "Black Turnout Down in North Carolina After Cuts to Early Voting," NBC says.

Federal judges have ruled that limitations on voter registration, or purging of rolls, must be "rational" and not aimed at disenfranchising any group. "A state's voter-registration database "is probably the biggest vulnerability," says Steven Bellovin '72CC, a Columbia computer science professor. "Hackers can delete or alter records, or steal personal information to use for targeted propaganda."

Fuchs believes that the fundamental fairness of the voting process has been eroded. "You have these legal barriers being set up, and you have the president actually calling into question the legitimacy of institutions in this country, including the free press."

The census was enshrined at the Constitutional Convention in 1787, including its infamous Three-Fifths Compromise, which counted African Americans as three-fifths of a person for purposes of representation. AEP "will have a lot of questions about race," he says. "I'm not sure that everyone will feel pride in responding to it? You want to make it a celebration of the country. Will it feel like a celebration in 2020?"

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"If it appears that the census is being used by the administration to strengthen its constituency and not count the people it should, that will be a story that will feed into white nationalism," the Columbia's Tow Center for Digital Journalism says.

The census is used to apportion seats in Congress and redistrict states. "After each census, states redraw their congressional-district lines to reflect changes in the population, with the goal of maximizing the number of seats that can be carved up in ways that redound to their electoral benefit. This practice is known as gerrymandering."

"We are quickly moving into an era where the ability to edit images or videos — even to change faces — is going to improve so much," he says, "that you won’t be able to trust anything."