Backsliding in the U.S. - a negative feedback loop

Capitalism at work in the information industry

- “Creative destruction” in the news industry
- Discovering the profitability of righteous anger and tribal solidarity

Lack of innovation & adaptation in election rules and systems

- Sticking with voting rules that intensify conflict and allow minority rule
- Sticking with insider control of election rule-making and administration

Purification of U.S. two-party division

- Post-civil-rights-act defection of southern conservative Dems
- End of four-party coalition politics
Innovation and the world’s democracy learning curve

Cumulative Years of Global Experience with Democracy

Significant Innovations

- Independent election administration (Canada 1920)
- Popular election of upper chamber (U.S. 1913)
- Universal adult enfranchisement (New Zealand 1893)
- Independent redistricting (New Zealand 1887)
- PR - List System (Argentina 1873)
- Absentee voting (US 1864)
- Government printed secret ballot (Australia, 1856)
- Proportional representation – STV (Australia 1840)
- Voter registration (US, 1800)
- A bill of rights (US, 1788)

Data source: https://ourworldindata.org/democracy#citation

5,859 years, as of 2020
More learning, done by more and more countries

U.S. Share of Total Global Experience

3.8 percent, as of 2020

Data source: https://ourworldindata.org/democracy#citation
Adoption of Democratic Innovation

Innovation in democracy usually challenges the power of incumbents and elites.

US states’ adoption of the Australian ballot

- 7 years
- 1884-1891

State & federal adoption of women’s suffrage

- 50 years
- 1869-1919

The airplane, invented in the US, 1903

The single wing improvement, invented in France, 1906
Where US elections are among the best in the world: Options for voters

Percent of voters voting early or by mail

The U.S. is #2 worldwide, behind Switzerland

Sources: Ballotpedia, Wikipedia
Adoption of voting and registration reforms 2000-2021

Status in 2000
- No-excuse absentee voting
- Early in-person voting

Status in 2021
- Automatic voter registration
- Election day voter registration
- Membership in ERIC registration database

Reforms Tracked:

Sources: National Council of State Legislatures
U.S. vs Global Best Practice: Representation / voting rules

Global Leader

- Constituent servicing
- Strict standard for equal districts in states
- Unequal representation in the Senate
- Only 2 parties in the national legislature
- Few restrictions on fundraising + outside spending
- Allocation of seats distorted by gerrymanders
- Simple plurality single member districts w primaries
- District with no representation
- Electoral college

Global Laggard

Source ERN Analysis, draft work in progress
U.S. vs Global Best Practice: Election Administration

Global Leader

- Number of elections conducted
- Party monitoring & involvement
- Risk limiting audits

Global Laggard

- No independent election management body
- Dominant role of legislatures in election rule making
- High rate of court involvement via rule appeals
- Legislatures judge election of members
- No national level election management body
- High variation in voting w/in jurisdictions
- Election officials chosen in partisan elections

Source ERN Analysis, draft work in progress
Why is the U.S. a “democracy innovation laggard?”

- Pioneering spirit, a commitment to individualism, decentralized federalism – other countries share these characteristics with us, but none is as much an outlier as we are.

- Some other ways to explain America’s democracy exceptionalism:
  - “First mover disadvantage”- we set up difficult to change rules at the beginning of the world’s learning process about democracy.
  - Democracy grew in the U.S. under the influence of slavery.
Why being a laggard is a problem

1. Partisan redistricting
2. Unlimited and undisclosed outside campaign spending
3. Single-member-districts with plurality primary and general elections
4. The Electoral College
5. Legislative role in judging close elections
6. Partisan election administration

All about how votes translate into power

These are enablers of minority rule
Some countries completing establishment of independent redistricting:

- New Zealand, 1887
- Britain, 1944
- Canada (federal), 1964
- Ireland 1980
- Canada (all provinces), 1996
- Japan, 1994
- Australia (all states), 2005
- France, 2010
Redistricting in the U.S.

Most states have legislative-controlled redistricting, which:

- Causes **conflict of interest** between legislators’ duty to the electorate and their self-interest in safe districts for reelection.
- Has occasioned many instances of **fraud and bribery**.
- Results in **less competitive districts**, which in turn **empower more extreme wings** of both parties.
- Enables the majority party to maintain power even if it **loses** majority support.

![When the Minority Rules](chart)
Reform, then backsliding?

“No liberal democracy has ever embraced a commission only later to dismantle it.”
Nicholas Stephanopoulos, “Our Electoral Exceptionalism” (2013)

States w/ redistricting commissions

Politics and Government

“We’re (expletive) idiots”: Some Democrats regret Colorado’s new redistricting process now that their party is in charge

If Y and Z hadn’t passed, Democrats would now have nearly unfettered power to draw new congressional districts ahead of the 2022 election, and more say over how legislative districts are drawn.

Jesse Paul 11:55 AM MST on Jul 8, 2021
Partisan Election Administration in the U.S.

The Problem:

• The most senior election officials all have close ties to a competing political party.
• Election-result-deniers are running for secretary of state in six swing states. Bipartisan boards and canvas commissions are increasingly gridlocked.

The Solution

• Structural reform:
  • Replicate the nominating committee model used in 22 states to select supreme court justices for selection of the top election position

• Ethics reform:
  • Ban endorsements and party activity by senior election officials
  • Require recusal from situations of conflict of interest
  • Build the infrastructure to strengthen independent, professional election administration

The Economist:
“Partisan election administration is a greater worry than voter suppression”
## Impartial Election Administration: U.S / Canada Comparison

<table>
<thead>
<tr>
<th>Official Feature</th>
<th>U.S. States</th>
<th>Canadian Provinces/Territories</th>
</tr>
</thead>
<tbody>
<tr>
<td>Official is explicitly empowered to interpret and adapt election code as they consider necessary</td>
<td>0 / 40 (0%)</td>
<td>13 / 13 (100%)</td>
</tr>
<tr>
<td>Official is explicitly empowered to modify some deadlines and timetables established in the election code outside of emergency situations.</td>
<td>0 / 40 (0%)</td>
<td>13 / 13 (100%)</td>
</tr>
<tr>
<td>Official is primary authority in making election changes during an emergency.</td>
<td>4 / 40 (10%)</td>
<td>13 / 13 (100%)</td>
</tr>
<tr>
<td>Official has some responsibility to appoint local/regional election officers.</td>
<td>5 / 40 (12.5%)</td>
<td>11 / 13 (85%)</td>
</tr>
<tr>
<td>Official may not be a candidate for any election while in office</td>
<td>0 / 40 (0%)</td>
<td>13 / 13 (100%)</td>
</tr>
<tr>
<td>Official is explicitly required perform duties impartially by oath and/or by statute</td>
<td>10 / 40 (40%)</td>
<td>13 / 13 (100%)</td>
</tr>
<tr>
<td>Official is barred from voting in elections</td>
<td>0 / 40 (0%)</td>
<td>7 / 13 (54%)</td>
</tr>
</tbody>
</table>

Source: Forthcoming ERN Report, “Independent and in Control: Comparing Canadian Chief Electoral Officers with U.S. Secretaries of State
### Near term actions to end the enablers of minority rule

<table>
<thead>
<tr>
<th>Action</th>
<th>Action Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Partisan redistricting</td>
<td>Federal law at least establishing criteria (in Freedom to Vote Act)</td>
</tr>
<tr>
<td>2. <em>Citizens-United</em></td>
<td>28th Amendment</td>
</tr>
<tr>
<td>3. Legislative role in judging elections</td>
<td>Revise the Electoral Count Act</td>
</tr>
<tr>
<td>4. The Electoral College</td>
<td>Expand the House of Representatives</td>
</tr>
<tr>
<td>5. Partisan election administration</td>
<td>States change to selecting secretaries via nominating committees</td>
</tr>
</tbody>
</table>
There is strong grassroots Republican support for some critical reforms

"Below are the main provisions of the proposed For the People Act. For each proposal, saw whether you support or oppose it."

Net approval among “Republican” or “lean Republican” voters

- Limit the influence of money in politics
- Require all states to use non-partisan commissions to draw Congressional districts so that no one party has an advantage
- 15 days of early voting
- Limiting voter purges
- Same day registration
- Automatic voter registration for all eligible voters
- Restoring voting rights to people convicted of felonies who have completed their sentences
- Give every voter the option to vote by mail

## Results of 2018 ballot initiatives in “Trump Counties”

<table>
<thead>
<tr>
<th>State</th>
<th>Reform</th>
<th>Overall Approval</th>
<th>Approval in counties Trump won by &gt;25 pts in 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colorado</td>
<td>Independent redistricting</td>
<td>71%</td>
<td>69%</td>
</tr>
<tr>
<td>Ohio</td>
<td>Independent redistricting</td>
<td>75%</td>
<td>69%</td>
</tr>
<tr>
<td>Michigan</td>
<td>Automatic voter registration, no excuse absentee voting, election day registration</td>
<td>67%</td>
<td>58%</td>
</tr>
<tr>
<td>Missouri</td>
<td>Redistricting, lobbying reform, campaign finance reform</td>
<td>62%</td>
<td>57%</td>
</tr>
<tr>
<td>Florida</td>
<td>Felon enfranchisement</td>
<td>65%</td>
<td>56%</td>
</tr>
<tr>
<td>Michigan</td>
<td>Independent redistricting</td>
<td>61%</td>
<td>52%</td>
</tr>
<tr>
<td><strong>Total across 12 states with reform ballot initiatives</strong></td>
<td></td>
<td>66%</td>
<td>56%</td>
</tr>
</tbody>
</table>
About Election Reformers Network

• Founded in 2017 by former colleagues with extensive overseas & U.S. election experience
  – expertise in comparative election systems
  – focus on rule change as a means to reduce dysfunction and polarization

• Core hypotheses:
  – In democracy, U.S. exceptionalism mostly hurts our country
  – Ideas from global best practice can play an important role in improving U.S. elections

Note: The logos of Democracy International, National Democratic Institute, The Carter Center, International Republican Institute, and International Foundation for Electoral Systems are displayed here because members of Election Reformers Network gained election experience at these organizations. All Election Reformers Network members participate on a personal basis only.
Thank You!

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