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Redistricting and Voter Suppression in a Post-Pandemic America

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The 2020 election was a referendum on many pressing issues of the time. COVID-19, climate change, and civil unrest propelled Americans to the voting booth in unprecedented numbers, shattering previous turnout records for both previous Vice President Joe Biden and the incumbent Donald Trump. Biden and the Democratic Party field won, but narrowly. With the Democratic Party ostensibly holding only a slim majority in the House and the Vice Presidency as a tiebreaker in a dead-locked Senate, there have been large cries of a "stolen election" and "rampant voter fraud." This has prompted several states, usually with Republican majorities, to pass sweeping restrictions on voting. Using both historical and contemporary lenses, this paper investigates the causes, effects, and motivations to curb voting accessibility and redistricting with an emphasis on red and swing states in the aftermath of the 2020 election, as well as potential solutions to combat the push to further restrict voting rights.

Key words: suffrage, voting rights, civil unrest, 2020 US presidential election.

Introduction

Voting in the United States has always had a history fraught with division when it comes to the young nation's electorate. Who should vote, how one should vote, and where to vote have all been hotly contested issues since this country was founded. The right to vote was originally only for wealthy, white male landowners. As time went on, however, the right to vote has gradually expanded to eventually include women and people of color. Not without struggle, the ease and accessibility of voting has both grown and been restricted with time. And with the 2020 election in the history books, it will remain one of the most consequential elections in American history. This paper does not focus on the politicians who won or lost – although they have a part to play – but rather on the resulting fallout and controversy from that election, the push and pull from those seeking enfranchisement, as well as what history teaches us in the constant battle between the two ruling parties, and what we can learn and expect moving forward into a decade of uncertainty.

To begin, selected data can provide a glimpse into early American elections and some early suffrage trends. As noted above, it is important to bear in mind that between 1782 and 1828 the only people permitted to vote were white landowners or taxpayers. At the time this would have constituted only about 6% of the population. Voter expansion and restrictions do not always proceed in a straight line, however; historically they ebb and flow, even from the earliest days of the young republic. According to Stanley L. Engerman and Kenneth L. Sokoloffin in The Journal of Economic History, "Overall, the dominant trend over the colonial period was the movement away from the idea that the right

to vote should be based solely on the ownership of land" (Engerman 7). This is most apparent in the 1776 New Jersey Constitution which defined eligible voters as "Inhabitants," and while this was contentious at the time, New Jersey was the only state which understood this to mean free black people, single women, and white men who could satisfy the 50 Pound financial requirement (Curry-Ledbetter 707). While policy across different states varied quite a bit for the early American electorate, the norm was that taxpaying and land-owning white people were permitted the right to vote. Over time this would change, as the trend toward removing tax and property restrictions became somewhat popular. However, this seemingly progressive trend in voting rights was also being used as a means of control. This push was led by the newer states entering the union, which wanted as many people as possible to secure power in the form of statehood. Also worthy of note is that the 1828 presidential election was the first election in which poor or non-property-owning white men could vote, and by the end of the 1820s universal white male suffrage was the norm. Property-based voting restrictions were largely abandoned by this point, although a few states such as Ohio or Virginia held onto a tax-based voting qualification.

Legacy of the Civil Rights Era

So, what do voting restrictions from hundreds of years ago have to do with today? The roots in this original system are still influencing elections in the United States to this day. This is most apparent in the South and other traditionally "red" states. For example, in what is a first since the Civil Rights Act was adopted in 1965, itself born out of the discrimination of Reconstruction and the Jim Crow era, many states with a history of widespread discrimination will be able to draw up their voting districts without oversight from the federal government. This is done through the process of packing. Packing is a term used when minority voters are compressed into a small number of districts when they could effectively control more. This results in cracking or spreading minority voters thinly into many districts, which according to research by Loyola Law professor Justin Levitt and University of Colorado Law School professor Doug Spencer, would disenfranchise millions of Americans through a process known as minority vote dilution (Levitt, Spencer). This subversion comes at a time in which national tension and division seem to be at an all-time high. According to trends observed from the Pew Research Center, the American electorate is divided on a plethora of pressing issues such as whether the Trump administration had a good response to the COVID-19 Pandemic (Dimock, Wike). Additionally, "roughly eight-in-ten registered voters in both camps said their differences with the other side were about core American values, and roughly nine-in-ten – again in both camps – worried that a victory by the other would lead to 'lasting harm' to the United States" (Dimock, Wike). Suffice it to say, such high levels of division can and do lead to civil strife and conflict.

A Uniquely American Challenge

So why this division? Other nations have diverse populations, along with a history of strife and conflict. What makes the American situation so different from that of the United Kingdom, New Zealand, or France? The answer is multifaceted. Other nations have similar issues to the United States; however, despite sharing modern social media, partisan news networks, and cultural and regional divides, these other nations have a more equitable parliamentary system of government. This is to say that the United States, for all practical purposes, condenses wide swaths of various policies and debates into two extremely rigid blocks divided among the Republican Party and the Democratic Party. These blocks, combined with an electoral system that is winner-take-all, with the balance of power on any election hanging by a razor's edge, result in an electoral system that is cutthroat and appears as a zero-sum game where if one side wins, that automatically means the other side loses. Additionally, it is worth looking at how over the past 25 years or so, these competing camps have been overlayed onto people's identities. According to Thomas Carothers and Andrew

O'Donohue, this sort of personalization is "especially multifaceted," as "powerful alignment of ideology, race, and religion renders America's divisions unusually encompassing and profound. It is hard to find another example of polarization in the world that fuses all three major types of identity divisions in a similar way" (Carothers and O'Donohue 1). This divide in American culture was simmering for some time, long preceding the relatively recent rise in populism (Carothers and O'Donohue 2). But with the murder of George Floyd and the outbreak of COVID-19, these events served to bring these divisions to a head over the spring and summer of 2020, which saw widespread protests and unrest across the country from Portland to Minneapolis. Unfortunately, there was an overwhelmingly violent response to them. In a report written by Roudabeh Kishi from the ACLED using data taken from the US Crisis Monitor at Princeton University, it was found that 93% of demonstrations were peaceful (Kishi). Additionally, of the less than 10% that contained some level of violence, the majority of those scenarios were perpetrated by instigators and provocateurs not associated with the movement, and this violence, especially in Portland, was contained to a small handful of city blocks. Yet for the reasons mentioned above, this has led to a disproportionate view, where in the same study over 40% of respondents associated these same protestors with attempting to incite violence and destroy property. This imbalanced perception also led to an increase in interventions from government and police, interventions that used tear gas, rubber bullets, and pepper spray over 50% of the time. Subsequently, this violent reaction has led to a deepened mistrust and suspicion in many communities across the country (Kishi).

A Lasting Divide

Americans are divided. We recently had an election with record voter turnout on both sides in the middle of a deadly pandemic. What happens next? With a close victory in the Electoral College, the Democratic Party now has a slim majority in the House of Representatives, the tie-breaking vote in the Senate, and the Executive Branch. In this winner-take-all system, the Democratic party has, for all intents and purposes, won. However, after this defeat the Republican Party has not sat idle. After the 2020 election, a plethora of Republican states and their legislatures launched a barrage of investigations and inquiries into the validity of the outcome of the election – a practice Democrats dubbed "The Big Lie," which claims that the election was "stolen," or that former President Trump was "cheated" out of winning reelection despite there being no evidence to support this. This may be seen as an effort to save face. This action has been described as a firehose of falsehoods, which according to the ACLU has led many states with Republican leaders and legislators seeking to curtail certain accommodations that proved popular during the pandemic. These popular accommodations include items such as early voting and removing mail-in voting. This curtailment of popular policy is combined with purging voter rolls and expanding voter ID laws which disproportionately affect people of color. According to the Associated Press, the Montana state legislature recently passed a law that limited the use of college or student IDs for voter registration as well as eliminated same-day voter registration on Election Day. In Texas, according to the *Texas Tribune*, legislators are working on a two-pronged approach to maintaining their dominance in the coming decades through a combination of redistricting in a way that can reduce Black and Latino voting influence specifically, as well as the removal and bans of popular changes to how people vote, such as drive-through voting, and restrictions on mail-voting, even though people of color make up 95% of Texas's new population increase (1). These restrictions exist solely to reinforce the grip the party has on their state strongholds. By peddling "The Big Lie," the Republican leadership has a convenient scapegoat to rally against, despite there being no evidence to suggest that widespread voter fraud, election theft, or stealing of any kind took place during the 2020 election. In fact, according to the *Washington Post*, the rate of voter fraud was only %0.0025 in data taken between the 2016 and 2018 midterm elections. To put the data from this study into perspective, this would be about 372 possible cases of voter fraud out of 14.2 million votes cast (Viebeck, Elise).

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Conclusion

What are some takeaways from this? Active participation in our democracy is important for its health, and efforts to undo our democratic process should be confronted. Sustained protests, constant marches, and peaceful disruptions of the day-to-day lives of lawmakers will likely be consequences that stem from these gradual efforts to restrict the accessibility to which people exercise their rights. Additionally, laws such as the John Lewis Voting Rights Act offer a possible remedy before the midterms and next general election if passed, which would help curb gerrymandering and district cracking. Furthermore, adopting a national standard that gives everyone ample time and accommodations to vote, such as mail-in ballots and drive-through voting would likely have a positive impact on our democracy as more voices and voters would be heard at the polls.

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