SSN SCHOLARS STRATEGY NETWORK

KEY FINDINGS

WHEN ELECTION RULES UNDERMINE DEMOCRACY

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Democracy comes in many different forms, because communities and nations can devise various rules to shape elections and the processes of government decision-making. The specific rules chosen matter a great deal – especially the rules adopted for voting and elections. After all, who gets to vote, how, and when determine citizen access in a democracy – and decisions about such matters influence the balance of power in government and what public officials are likely to decide about war and peace, taxes and the economy, education, and social benefits. The outcomes of fights over the rules for elections can determine who has a seat at the table of government at all, and whose interests will matter or be ignored.

Limiting Majority Rule

Political elites in America have always understood just how much institutional rules matter. At the time of the nation's founding, for example, the leaders who wrote the U.S. Constitution wanted to protect elite prerogatives against the threat that popular majorities might quickly and radically redirect policies. They created the Senate to represent small and large states equally, and they instituted such arrangements as the Electoral College (where state delegations rather than citizen majorities vote for the president and vice president).

Beyond Constitutional provisions, election arrangements have been repeatedly used to reduce the influence of particular segments of the population. For example, America's system of electing single representatives from each Congressional or legislative district was implemented to defeat nascent workers' parties early in the 19th century. Those parties might have won enough votes to select one of several representatives in a district, but they usually could not get 51% of the votes. In addition, at the turn of the twentieth century, many U.S. cities consolidated power in the hands of unelected city managers and moved it away from elected city councils thought to be overly influenced by popular interests.

Modifications of election rules that pose obstacles to popular participation are still very much in the spotlight:

- Controversy swirls around "felony disenfranchisement" rules used by states to limit the voting rights not just of convicted felons currently in prison, but also of ex-prisoners who have completed their sentences and parole terms.

- Heavy-handed gerrymandering of the boundaries of election districts is another currently controversial practice, as parties holding office in the states following each Census look for ways to protect or advance their candidates by redrawing districts in fine-tuned and often highly-contorted ways.

- Shifts in voter registration rules, early voting rules, and rules about the kinds of identification citizens must show to vote are all currently debated because such practices can restrict and reduce participation, perhaps to the benefit of certain candidates or parties.

The Challenge of Eliminating Anti-Democratic Arrangements

Could Americans just decide to rule out all manipulations of election rules that unfairly restrict citizen rights? That sounds good, but it would not be easy to achieve for several good reasons:

- *Institutional permutations are almost infinite.* Scholars have shown that even small shifts in voting rules and decisions about district boundaries can have a significant impact on which groups gain leverage in government. This can be seen with something as simple as the decision to allow early voting. Maybe some groups are helped or hurt by the days chosen, but the effects are subtle and usually outweighed by the benefits of greater participation.

- *Particular rules are not usually inherently "undemocratic."* Even the practice of felony disenfranchisement, which may seem to be on the shakiest ground, can be justified in democratic theory. What makes this practice so contentious in the United States right now is that felony convictions have been disproportionately higher for certain minority groups.

- *The way institutions function is highly dependent on the context.* A practice that excludes groups in one setting may help them to achieve their goals in another. For example, the use of referenda can help minority communities bypass intransigent legislatures; but referenda can also be used against minority communities who do not have the resources or organization to mount effective campaigns.

Steps We Can Take

Democracies must have institutional arrangements and rules in order to function at all – so our goal cannot be simply to de-regulate the electoral process. We must also accept that any form of regulation will have effects on who can participate and how easily. Our goal should be to eliminate repeated, systematic bias against particular groups of Americans – and the way to do that is to make information about electoral rules and processes widely available to citizens and watchdog organizations.

Census data, for example, are very important to decisions about electoral rules – these data help people understand the composition and needs of different communities and the implications of decisions about election rules. But census data can be expensive to obtain, and tools to analyze political implications are often not available or easy to use. Computer software to reveal the implications of alternative ways to draw election district lines has been developed in recent years, but most applications are costly and hard to use without highly specialized knowledge. We should find ways to make census data easy to use with accessible software – so that many groups could easily figure out the implications of redistricting choices.

Electoral institutions are inherently complex, allowing insiders and elites to manipulate the rules in their own interests. We cannot get rid of the complexity, but we can include more voices to improve the chances that rules will maximize rather than restrict citizen participation.

Read more in Amel Ahmed, *Democracy and the Politics of Electoral System Choice: Engineering Electoral Dominance* (Cambridge University Press, 2012).