



Digital Politics 2016

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I first wrote about digital politics 20 years ago.

What little has changed has been for the worse.

In 1996 I wrote that, if used to support democracy, digital politics “could possibly change political communication from internal, organizational, and private, to external, constituent-based, and public.”¹ However, I saw some downsides: “The electorate is in for an overload of cyberbabble, with little attention paid to important political issues and an avoidance of the pretense of public debate. The digital town hall will quickly become another channel for political infomercials.” I also worried about whether the Web and other networks would be relegated to the status of inexpensive propaganda tools rather than tools facilitating participatory democracy.

When the politicians got their hands on the Internet, I foresaw a host of problems, including:

- › *Cyberjunk proliferation.* The electorate will become desensitized through meaningless, digital overcommunication.
- › *Canned spam.* Politicians will look to automated,

prepackaged, predigested information categorized and delivered according to predicted audience

appeal, thus avoiding any use of the technology to gain meaningful input or feedback from voters.

- › *Declamation.* Internet technology will encourage content-optional political speech for its own sake, with scant attention paid to the value of its content.
- › *Constituent bundling.* Internet technologies (the Web and email) will be used to capture, store, and repurpose user names, IP addresses, and as much other contact information as can be acquired to build and sell databases for political purposes.

I held out hope that databases, indexing tools, and search engines might make politicians more accountable—because every congressional vote could be cross-indexed by topic, theme, political party endorsement, outcome, and elected official. Voting records would be available on demand in an easy-to-use form, making it possible to expose pork-barrel legislation, logrolling,

paired voting, and patronage appointments for public inspection, thus eliminating the veil of anonymity that politicians had once been able to hide behind. Admittedly, it was a long shot, but hope springs eternal.

When I revisited the Internet's influence on politics four years later,² I realized I'd nailed it. I found that nothing had changed. "We seem to be porting the same old, tired political rhetoric from the placard, bumper sticker, poster, and sound bites over to today's Web billboards, political screensavers, and streaming video. The medium has changed, but not the nature and shallow content of the message. ... All the available evidence suggests that electioneering on the Web in 2000 is even more mired in propagandizing than its 1996 progenitor."² My earlier hope, I confessed, significantly underestimated the political inertia for embracing new network technologies and experimenting with the innovative ways in which they could be used to improve the political process.

EPIPHANY

And so it was in November 2000. I had come to view political use of the Internet as crude and underdeveloped. Any hopes that it would help foment digital participatory democracy and meaningful exchanges among the public were well dashed by then. However, to my horror, the 2000 presidential election results were certified not by the people, nor the Electoral College, but by the US Supreme Court! The Rehnquist Five determined the election results by terminating the ballot count in Florida. After this, politicians' use of the Internet was no longer the major issue—clearly we now needed to focus on the subversion of the electoral process. And while I was still recoiling from the 2000 election scandal, the 2004 presidential election provided even more offensive political chicanery to make my loss of faith nearly complete (see the "Suffering Suffrage" sidebar).

I'm no neophyte. I've lived through Vietnam, Watergate, not one but two "October Surprises" (1968 and 1980), the Iran–Contra affair, two Iraq wars, an Afghanistan war, and sundry other US conflicts around the world. But just when I thought nothing could surprise me, the presidential elections of 2000 and 2004 came along. No, the use of the Internet as a political weapon of mass deception isn't the core problem in politics. It's ethics, and the ethical problems that loom largest in modern politics—as these elections have brought to light—have a significant computing component.

VOTER DISENFRANCHISEMENT

Full enfranchisement in the US was not guaranteed by the original Constitution but became law through later constitutional amendments (the Fourteenth in 1868, the Fifteenth in 1870, and the Nineteenth in 1920) and legislation such as the 1964 Civil Rights Act, the 1965 Voting Rights Act (with key extensions in 1970 and 1975), the 1993 National Voter Registration Act, and the 2002 Help America Vote Act. This piecemeal approach has led to vagaries, inconsistencies, and loopholes making consistent application and enforcement of the laws difficult for more than a century. Under Chief Justices William Rehnquist and John Roberts, the Supreme Court has exacerbated this problem. It's worth noting in this regard that the concept that the Bill of Rights applied to the states remained in dispute through the 1960s,³ and racial apartheid continued to attend the US political process for more than a century after the Civil War. If it took two centuries to fully embrace the Bill of Rights, the later amendments and statutes could continue to seem illusory for quite a while.

In the US, voter disenfranchisement has been with us in many forms since the republic's founding. The most direct form of disenfranchisement is voter suppression, either legally or illegally. Voter suppression

has historically been based on gender, race, and ethnicity—a product of the "bigoted populism" of the past.³ The first serious attempt to minimize voter suppression was the Fifteenth Amendment, which sought to achieve black suffrage. The Fifteenth was part of the "Reconstruction amendments," which triggered the era of Jim Crow laws seeking to thwart federal civil rights legislation by disenfranchising voters at the state and local levels.

Although early efforts at disenfranchisement were generic attacks on universal suffrage, subsequent efforts had more specific targets. Some of the techniques exist to this day. Caging, for example, is the practice of sending registered voters a "do not forward" card in the mail; if the card comes back undelivered, the voter's registration or absentee ballot is challenged. Caging has been a staple of partisan politics since the 1960s. Indeed, one of the most contentious issues Rehnquist faced during confirmation hearings for his appointment as Chief Justice was his degree of involvement in the suppression of minority voters in Phoenix during the early 1960s.^{4,5} Purging, similarly, involves the removal of names from voter rolls, usually with some partisan bias and little or no opportunity for timely challenge.

Disenfranchisement isn't just about voter suppression; election manipulation—usually with some reliance on computing technology and achieved through some kind of social engineering—is a widespread and effective way to subvert the people's will and with it the democratic principles our country was founded on.

In terms of disenfranchisement, one tactic looms largest because of its acceptability to the Supreme Court: voter identification (ID) legislation.

VOTER IDENTIFICATION LAWS

Voter ID laws enjoy a special status due to their popularity in Republican states in recent years. It's critical to understand that no one is opposed to

SUFFERING SUFFRAGE

Voter disenfranchisement is universal. The only difference is how states accomplish it. In some countries it involves violence, in others it's more subtle. A representative spectrum of voter disenfranchisement techniques used in the US—past and present—appears below. There are many worthy overviews of voter disenfranchisement tactics in print, including those by John Conyers and Anita Miller,¹ Mark Crispin Miller,² Tova Wang,³ Greg Palast,⁴ Ian Millhiser,⁵ and the US Election Assistance Commission⁶ (although its focus is primarily on individual voter fraud and not the more prevalent systemic election fraud). The outline below is derived from these sources.

VOTER SUPPRESSION (CURRENTLY LEGAL)

- » Purging of voters from rolls
- » Caging (challenging voter registration status)
- » Identification laws (requiring government-issued photo ID, proof of citizenship, or multiple IDs)
- » Voter registration provisions
- » Challenges
- » Secret ballots
- » Felon exclusion

VOTER SUPPRESSION (CURRENTLY ILLEGAL)

- » Poll taxes
- » Literacy and comprehension tests
- » Grandfather clauses
- » Capricious residency requirements
- » Partisan election managers
- » White primaries (enabling participation of white voters only—used in Texas and other Southern states from the late nineteenth century until the 1960s)

ELECTION MANIPULATION (VIA SOCIAL ENGINEERING)

- » Blocking voter registration drives
- » Exclusion/ejection of voters from precinct meetings
- » Voter intimidation
- » Inadequate voting facilities
- » Inconvenient location of or access to voting facilities
- » Erroneous voting instructions
- » Bad ballot design
- » Polling place ejection
- » Long lines (read: "time tax")
- » Vote buying
- » "Eight-box laws" (indirect literacy tests used in some Southern states after Reconstruction that required voters to correctly submit ballots for different offices in

different boxes for the votes to count)

- » Insufficient support (such lack of verbal or written explanations, too few support personnel)

VOTE NULLIFICATION

- » Spoiling ballots
- » Tossing provisional ballots
- » Rejecting mail-in ballots
- » Ballot-box stuffing
- » "Extra" votes cast
- » Military ballot mishandling
- » Voting machine "sleepovers" at homes of partisan poll workers
- » "Prestdigitizing" (Palast's term for digital election fraud)

VOTE DILUTION (KEEPING LEGITIMATE VOTERS FROM THE POLLS)

- » Redistricting (partisan gerrymandering to prevent competitive elections)
- » Apportionment for partisan ends
- » At-large elections to diminish minority representation

To learn more about past instances of these tactics, how prevalent some of them continue to be, and what's being done to develop standards and mitigate current abuses, I recommend reading the recent report from the Presidential Commission on Election Administration (www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf) as well as the Verified Voting Foundations' Principles for New Voting Systems (www.verifiedvoting.org/voting-system-principles).

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ensuring that those who vote are so entitled. The contention surrounds the consequential effects ID laws have on voting suppression; specifically, voter ID laws tend to impose additional bar-

riers that significantly, predictably, and negatively impact some constituencies more than others. The effects of voter ID laws are subtle because they involve secondary effects: voter ID laws are indirect means to achieve otherwise illegal covert objectives. In swing states, these requirements have a rather dramatic effect on election outcomes—an undisputable fact at this point. The only matter in dispute is the intent of the voter ID laws. Detractors see them as de jure suppression techniques akin to the poll taxes and literacy tests of a bygone era. There are various economic and sociological reasons why some segments of the legal voting population tend not to have the type of required IDs—for example, a driver’s license is unnecessary if you can’t afford a car.

vote for Democratic than Republican candidates ... thus the new law injures the Democratic Party.” The coup de grâce is Posner’s claim that, although the Democratic Party has standing, the

detering voter fraud, even if it doesn’t exist and irrespective of partisan voter disenfranchisement (www.supremecourt.gov/opinions/07pdf/07-21.pdf).

By focusing on in-person voter impersonation fraud rather than the much broader and more prevalent election fraud, both courts fail to deal with the fact that partisan voter suppression is just de facto election fraud. And even if voter impersonation fraud existed, one would expect it to appeal to the typical criminal opportunist irrespective of party loyalty; thus, common sense would indicate the effect on elections to be minimal, random, and offsetting. However, election fraud is provably maximal, partisan, and focused.

The concept of “one person, one vote” means nothing unless the votes are counted and reported.

plaintiffs don’t because they couldn’t individually demonstrate that they were disenfranchised by the new law, and hence their argument is vitiated.

Nonpartisan scholarship seems to support two claims: individual voting fraud is a rarity in modern times, and voter ID laws disadvantage identifiable subclasses of the electorate. So wherein lies Posner’s “compelling state interest?” Indirect disenfranchisement of targeted minorities is still disenfranchisement of targeted minorities regardless of any legal lip gloss. To further confuse things, Posner subsequently disavowed his support of voter ID laws (www.nytimes.com/2013/10/16/us/politics/judge-in-landmark-case-disavows-support-for-voter-id.html) and then disavowed his disavowal (<https://newrepublic.com/article/115363/richard-posner-i-did-not-recant-my-opinion-voter-id>). His real opinion on voter ID laws seems to be a moving target. The first-order approximation of his view would have us believe that judges lack sufficient understanding of electoral behavior to offer informed decisions. And although we might agree on that point, the transition to the second step is tenuous: it is for judges to decide something even if it’s wrong? In the end, Posner’s decision appears to have a similar effect as *US v. Cruikshank*, which placed limits on federal protections of voting rights. We note that the Supreme Court sustained what appears to be a specious argument that states have a compelling interest in

VOTE NULLIFICATION AND DILUTION

Another category of election fraud that has proved to be fairly widespread is vote nullification, which is the elimination of a vote after it has been cast. This activity has been widely criticized since the contested national election of 2000. Perhaps the most authoritative study of vote nullification was undertaken by Representative John Conyers (Dem.—Michigan) on behalf of the House Committee on the Judiciary.⁶ The committee found significant voter disenfranchisement and vote nullification in Ohio during the 2004 national elections, including 83,000 spoiled ballots, 10,000 “extra” votes that correspond to unparalleled voter turnout (more than 93 percent in some counties), leading his committee to conclude that there were “numerous, serious election irregularities ... and massive and unprecedented voter irregularities and anomalies in Ohio.” One of the most ribald of these was the Ohio Secretary of State’s requirement that voter registrations must be on a particular weight of paper stock to be valid. One best prepares for voter registration in Ohio when accompanied by both a qualified attorney and stationer.

The central theme of vote nullification is the disqualification of legitimately cast votes through their false

classification as either illegitimate or as having unrecognizable intent. Perhaps the most familiar of these procedures was the questionable interpretation of attached ballot chad during the 2000 election cycle. Since 2000, vote nullification has become far more sophisticated and insidious. In the past several national election cycles, nullification has been used effectively to cancel millions of votes through spoilage; ballot tossing; the mishandling of military, provisional, and mail-in ballots; and the partisan imposition of a time tax (long lines) in select precincts.

This leaves the most important voter disenfranchisement for last: vote dilution through gerrymandering, apportionment, and at-large elections. These are the strategic vehicles of choice to ensure noncompetitive elections resulting in a disproportionate representation in Congress incommensurate with actual vote count. Current schemes favor packing an opponent's voters into dense, uncompetitive districts so that the partisan "redistrictors" can give their supporters the most "spread" (www.washingtonpost.com/blogs/wonkblog/wp/2014/05/15/americas-most-gerrymandered-congressional-districts/). It's especially ironic that partisan gerrymandering could be easily eliminated at the hands of computer scientists with straightforward, unbiased algorithms (see Warren Smith's website <http://RangeVoting.org>; search: splitline algorithm). Incidentally, John Mackenzie offers a formal definition of "gerrymandering index."⁷

That these forms of voter disenfranchisement violate the Fourteenth Amendment's "equal protection under the law" section seems incontrovertible. Indeed, the concept of "one person, one vote" means nothing unless the votes are counted and reported.

THE GENESIS OF THE PROBLEM

Voter disenfranchisement derives its support from some deep-seated

antagonism to the strong democracy first described in Plato's *Republic*. Plato introduced the concept of "noble lies" that must be used by the power elite to ensure the compliance of the masses. This concept remains in play in modern times—think of those master modern propagandists Edward Bernays, Walter Lippmann, Leo Strauss, Vladimir Lenin, Adolf Hitler, and, of course, modern politicians.

There's also an anti-intellectualism associated with voter disenfranchisement. For evidence of this, consider the Trilateral Commission's claim in 1975 that a "weakening of the coherence, purpose, and self-confidence of political leadership" results from the public's suspicion of governmental authority.⁸ In short, the problem with democracy is that it's too democratic and the public ask too many questions. On this account, strong democracy is never sustainable under threat so long as citizens challenge prevailing authority.

This pessimism about strong democracy (versus "weak" forms of democracy such as oligarchy, polyarchy, and so forth) has been with us so long that it's part of our national character. Let me just conclude with some numbers concerning the effects of voter disenfranchisement. According to journalist Greg Palast, in 2008 alone 767,023 provisional ballots weren't counted, 1,451,116 ballots were declared "spoiled" and not counted, and 488,136 mail-in ballots were ignored.⁹ Numbers of this magnitude can easily alter election outcomes.

It's incumbent upon all thoughtful citizens to expect complete non-partisan explanations for the handling of votes, and to insist on election standards that are consistent with the Constitution. This is a critical time for computing professionals in democracies: scrutiny and critical analysis of traditional types of voter disenfranchisement will necessarily force anti-democratic forces to turn their attention toward computing and network

technologies, a topic to which we'll return in a subsequent column. 

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