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Heather K. Gerken: The Democracy Index

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Introduction:

Why We Need a Democracy Index

Our election system is run badly. Although many people are aware of the problem and eager for a solution, reform efforts have gotten surprisingly little traction. This book explains why election reform has yet to catch hold and offers a promising new solution for getting change passed: a “Democracy Index,” which would rank states and localities based on how their election systems perform.

THE PROBLEM

The best evidence we have suggests that our election system is clunky at best and dysfunctional at worst.* Ballots are discarded. Poll workers are poorly trained. Registration lists work badly. Lines can be too long. Machines malfunction. Partisan officials change the rules of the game to help themselves and hurt their enemies. Election administrators cannot agree on what constitutes a best practice, or even whether there is any such thing. Authority is decentralized, so it’s hard to know who’s to blame when a problem occurs. Most experts agree that the system we use to run our elections is chronically underfunded, often poorly run, and sometimes administered in a partisan fashion.

*Rather than repeat the phrase “the best evidence we have” in every other sentence of this book, let me offer a general caveat about the diagnoses offered here. As chapter 2 makes clear, it is difficult to make precise claims about the current state of the election system because the data are so sparse. What I describe here are the symptoms that experts routinely see and the field’s best guesses as to their root causes. These assessments are based on the best information available, but better information would be necessary to state these claims with certainty. One of the main points of the book is that we should be deeply troubled by our inability to know whether the system is working or not.

2 Introduction

People assume that the fiascos we saw in Florida in 2000 and Ohio in 2004 are outliers, crises caused by a level of partisanship and mismanagement that does not exist elsewhere. Partisanship and mismanagement surely played a role in those debacles. But both states were also in the wrong place at the wrong time, victims of a turnout tsunami that too few states are equipped to handle. A crisis is not around every bend in the United States. But that's only because elections usually aren't close enough for these routine problems to affect the outcome. Unless we fix the underlying causes, debacles can occur almost anywhere.

In 2006, a hotly contested congressional race took place in Florida. The margin of victory? 373 votes. The number of people who went into the voting booth but did not cast a ballot that counted? 18,000.¹ A malfunctioning computer in Carteret County, North Carolina, lost 4,400 votes during the 2004 election, with no means of recovering them.² The same year poll workers in Orange County, California, gave the wrong ballots to 7,000 people in a primary election, a mistake that may have affected the results in several races.³ During a 2006 primary, election workers in Maryland forgot the cards they needed to start up the election machinery. More than 200 precincts could not open until late morning.⁴ That same year, a group of computer scientists discovered it was surprisingly easy to steal votes by inserting a virus into the electronic voting machines used by 10 percent of Americans.⁵ In Colorado, long lines at polling places deterred about 20,000 people from voting, 20 percent of expected turnout.⁶ A subsequent review largely blamed Colorado's new software, which was "of decidedly sub-professional architecture and construction and appears never to have been tested in any meaningful manner."⁷ That's expert speak for "tut, tut, tut."

Cuyahoga County, Ohio, is probably lucky that MSNBC's Keith Olbermann doesn't choose a "worst election system in the world." Problems seem to occur every cycle. After suffering the long lines and chaos that afflicted many Ohio counties in 2004, Cuyahoga denizens opened their morning papers to read headlines like "Election Staff Convicted in Re-count Rig."⁸ In May 2006, election workers lost 70 computer memory cards containing voting records, 15,000 absentee ballots had to be hand-counted because the machines could not read them, and numerous polling problems occurred. It took five days to report the results.⁹ All of

this led Ohio's new secretary of state, Jennifer Brunner, to demand the resignations of the entire board.¹⁰ But problems persist. In November 2007, the server used to count votes repeatedly froze and crashed.¹¹ Worse, administrators discovered that "20 percent of the printouts from touch-screen voting machines were unreadable and had to be reprinted."¹² All of this might be quite funny—a local government version of *The Office*—if election results weren't riding on it. "God help us," said one county official, if the next presidential race "depend[s] on Cuyahoga County."¹³

At first glance, it looks like reform ought to be easy to pass in the United States. There's a good deal of agreement that we have a problem and a myriad of proposals for solving it. Not a week goes by without someone issuing a report or proposing a change. In 2007, close to one hundred reform bills were circulated in Congress, with more than nineteen hundred proposed in state legislatures. Hundreds of academic articles addressed reform issues. Dozens of good-governance groups offered hundreds of reports and proposals on their websites.

The political environment also seems receptive to change. Who, after all, is against democracy working better? One suspects that the word *democratic* is routinely appended to policy proposals only because it conveys more gravitas than "motherhood" or "apple pie."

Finally, the fiascos we've seen in recent years should have provided a powerful impetus for change. Reform is a notoriously crisis-driven industry. It is always tough to get anything on the legislative agenda. But "electoral meltdowns"¹⁴ have been a regular occurrence in recent years. Just ask any academic who specializes in elections. Many of us have moved from laboring in obscurity to serving as commentators on CNN. Like a plague of tweed-clad cicadas, we return from academic hibernation every couple of years to feed on whatever election controversy is brewing.

Despite all of this, serious reform has not yet gotten traction in this country. Even in the wake of the 2000 fiasco—which made the United States an international laughing stock—all Congress could do was pass the relatively toothless Help America Vote Act. The Act has helped us make genuine progress in several areas, as I explain in the next chapter. But it addressed only the symptoms of the Florida debacle, not its root causes: inadequate funding, amateur staffing, and partisanship.

Just think about that for a moment. There's a strong consensus that we have a problem, lots of potential solutions, a reform community ready to act, and a cause that voters support. Yet even a crisis like the 2000 election prompted only modest reform. If that's not a sign that we need a new approach to reform, I don't know what is.

WHY WE HAVEN'T FIXED THE PROBLEM

Why hasn't reform gotten much traction in the United States? Partisanship and localism generate political tides that run against change. Unlike most developed democracies, state and local officials run our elections, leading to what one scholar has termed "hyper-decentralization."¹⁵ Worse, many of those local officials have strong partisan ties. This unusual combination of partisanship and localism not only results in a poorly run system, but makes change hard to come by. At worst, election officials administer elections in a partisan or unprofessional fashion. At best, they have few incentives to invest in the system and lots of reasons to resist change. These factors combine to stymie reform.

Unfortunately, voters and reformers have been unable to alter this perverse political dynamic. Voters have only a haphazard sense of how well elections are run, and no comparative data that would tell them which systems work and which don't. We do not even know how many people *cast a ballot* during our last presidential election,¹⁶ let alone how well our election system is performing. Voters learn that there's a problem only when an election is so close that the outcome is in doubt. That's like measuring annual rainfall by counting how often lightning strikes.

Reformers similarly struggle in today's political environment. Even when lightning strikes—when there's a crisis that could energize a coalition for change—debates about reform quickly descend into highly technical arguments that voters have no yardstick for judging. Even when reformers manage to get policymakers' attention, they lack the information they need to make a credible case for change. Reformers work hard to overcome these obstacles, but most ask policymakers to ignore their self-interest and do the right thing. Little wonder that reform hasn't yet gotten much traction.

The dilemma is clear. While the basic ingredients for change exist—a national consensus that there’s a problem, an active reform community, an intuitively popular cause, and semiregular crises to place the issue on the agenda—political incentives create a drag on reform efforts. The problem is hardly insurmountable. If reformers can persuade legislators to restore the voting rights of felons,¹⁷ improving our election system is surely a cause with political legs. But we need to align the incentives of politicians with the interests of voters on this issue. We need to give local officials a reason to pay attention. We need a new approach to election reform.

A NEW APPROACH

This book offers a new approach. It argues that we should create a Democracy Index that ranks states and localities based on election performance. The Index would function as the rough equivalent of the *U.S. News and World Report* rankings for colleges and graduate schools.* It would focus on issues that matter to all voters: how long did you spend in line? how many ballots were discarded? how often did voting machines break down? The Index would tell voters not only whether things are working in their own state, but how their state compares to its neighbors.

The Democracy Index is unusual because it works with political incentives, not against them. By providing the right information in the right form, it has the potential to create an environment that is receptive to change. It is a data-driven, information-forcing device designed to generate pressure for reform while helping us make more sensible choices about which reforms to pursue.

First, the Democracy Index pulls together the right information: comparative data on state and local performance. Comparative data on bottom line results should reveal problems that haphazard data conceal, helping us pinpoint solutions and make the case for change. Today reformers and

*This sentence might not inspire confidence in those familiar with the foolishness the *U.S. News and World Report* rankings have engendered. As I explain in chapters 2 and 4, however, the Index addresses easily quantifiable, nuts-and-bolts issues that lend themselves to quantitative measurement in a way that educational quality does not. Moreover, while “teaching to the test” is always a worry for any ranking, a well-designed Democracy Index is a good deal better than having no test at all.

election officials argue incessantly about which direction we should go. But no one has a map that tells us where we are now. Comparative data would give us that map.

Second, the Index packages the data in the right form: it *ranks* states and localities against one another. By distilling performance data into a highly accessible form, the Index gives voters a rough sense of how well their system is doing, precisely the information they need to call election officials to account. A ranking should work for the simplest of reasons: no one wants to be at the bottom of the list.

Because the Democracy Index provides the right information in the right form, it should harness the two major obstacles to reform—partisanship and localism—in the service of reform. An Index would make election problems visible and concrete to voters and policymakers alike. And it would give politicians a reason to care about how well the system is working.

Even if the Democracy Index failed to gin up political support for reform, it should still improve the handling of elections. We typically assume that voters and politicians alone can hold administrators accountable for their missteps. In many fields, however, bureaucrats police themselves based on shared professional norms. Peer pressure, it turns out, can be just as effective in the workplace as it is in high school. By providing a professional touchstone in the field, the Democracy Index could help generate a consensus on best practices, something sorely needed in election administration.

GETTING FROM HERE TO THERE IN ELECTION REFORM

While the book's central purpose is to make the case for a Democracy Index, it is animated by a larger theme. We have a "here to there" problem in election reform. We spend a great deal of time thinking about what's wrong with our election system (the "here") and how to fix it (the "there"). But we spend almost no time thinking about how to get from here to there—how to create an environment in which reform can actually take root. Reform advocates work tirelessly to help specific projects blossom. But they are fighting this battle on difficult terrain, and almost no one is

thinking about how to change the terrain itself. We've spent too much time identifying the journey's end and not enough time figuring out how to smooth the road that leads there.

There is little point in continuing to fight the same fight in the vague hope that something will eventually take. We should take a step back and figure out how to create an environment that is more receptive to change generally. It is time to think less about the end game and more about the interim strategies and institutional tweaks that will help us get from here to there. The Democracy Index is just such a solution.

The "Here to There" Problem

The "here to there" problem is endemic in election reform circles. Scholarly proposals often have a "just add water" quality, as if merely announcing a good idea is enough to get it passed. The problem is perfectly captured by a *New Yorker* cartoon, with two professors poring over a complicated math problem. A simple notation explains the key step in the equation: "Then a miracle occurs." To be fair, some academics have thought hard about why reform is difficult to pass, with partisanship and localism being the usual suspects in most analyses. But phrases like "the perils of partisanship" or the "problem of localism" are usually punch lines to the story, not starting points for the analysis.

A handful of scholars have written sporadically about the here-to-there question.¹⁸ Unlike scholars who specialize in areas like campaign finance or redistricting, however, we do not think of ourselves as addressing the same question or writing in the same field.¹⁹ We haven't thought systematically about what connects our work to each other's or to the broader project of election reform.

This is surprising. After all, most arguments for election reform depend on a single premise: process shapes substance. Academics are quick to tell you that the structure of our political process (campaign finance law, redistricting rules) helps determine the substance of our policies (who gets elected, what gets passed). But they do not apply that lesson to election reform. The structure of our political process also determines what kind of election reform gets passed. Or, in the case of the United States, it creates an environment where precious little gets passed.

The here-to-there problem is not confined to the academy. Blue-ribbon panels and good-governance groups often propose overhauling our election system or enacting laundry lists of nuts-and-bolts proposals. Though reformers who labor in the political trenches are painfully aware that we cannot “just add water” to get change passed, most spend too much time describing the change they want and too little time thinking about fashioning a political environment that is receptive to it. Take a look at the final report of the Carter-Baker Commission,²⁰ the most high profile reform effort in recent years. It offers pages of detailed recommendations but says almost nothing about what we could do to ensure that at least some of these recommendations see the light of day.

Reformers, of course, spend a lot of time thinking about the here-to-there problem for specific projects. They work tirelessly to build support for this or that proposal—educating the public, lobbying officials, filing lawsuits. But good-governance groups lack the resources they need to grapple with the here-to-there problem writ large. That’s because reformers are beholden to funders. And funders tend favor big over small, end goals over interim solutions, silver bullets over institutional tweaks, substantive proposals over procedural fixes. As one reform advocate ruefully told me, “Process is not sexy.”²¹ And the here-to-there question is process squared—changing the reform process to make more significant procedural reforms possible. For funders anxious to see concrete results—bills passed, reports issued, news articles written—“smoothing the path for election reform” looks like a nebulous project indeed.²² The result is that the people who know the most about how the reform process works have the fewest opportunities to change it.

Solving the Here-to-There Problem

If the work of reformers is to be something other than a Sisyphean task, process should be our main focus, and smoothing the path for change ought to be at the top of the reform agenda. Here-to-there proposals may seem modest when compared to typical reform proposals, like calls for public financing or nonpartisan election administration. But these wide-ranging reform proposals have been met with a deafening silence. We have plenty of ideas about what kind of change we want. What we need is an environment in which change can happen.

The Democracy Index offers a quintessentially here-to-there solution. It does not create national performance standards. It does not take power away from partisan officials. It does not even endorse a set of best practices for administering elections. Instead, it pushes in the direction of better performance, less partisanship, and greater professionalism. The Index does so not by trying to resist the fierce push against change generated by our political system's twin engines—partisan warfare and local competition—but by harnessing partisanship and localism in the service of change. It is a modest reform that makes bigger, better reform possible. It gets us from here to there.



This book is organized as follows.

Chapter 1 canvasses the problems we see in our election system and identifies their root causes: partisanship and localism, which have produced a badly run system and stymied efforts to change it. The chapter argues that the first step toward meaningful reform is to reverse the political tides that have run so long against reform. A Democracy Index—described in some detail at the end of the chapter—represents one such solution.

Chapters 2 and 3 explain why the Democracy Index should alter the political incentives that too often prevent reform from getting traction. While most businesses and government agencies measure relentlessly, election administration—which is ripe for quantitative analysis—is a world without data. These chapters show how difficult it is to run an election system—let alone improve it—in a world without data. And they explain why a ranking system represents a particularly effective strategy for distilling election performance data and prodding election officials to improve. An Index should affect the three major leverage points in the reform process, giving voters the information they need to hold election officials accountable, putting pressure on policymakers to do the right thing, and helping administrators police themselves.

While a Democracy Index can correct the perverse political incentives that stymie reform, chapter 4 warns that it could also introduce different problems into the reform calculus. A poorly designed ranking might push states to compete along the wrong dimensions and create incentives for election administrators to cook the books. There are strategies for mitigating

these problems, but these risks go hand in hand with the benefits associated with ranking, and it is important not to ignore them.

Chapter 5 considers the here-to-there question in miniature—how to make the Democracy Index a reality. This chapter first addresses the political question—whether the Democracy Index itself is likely to get traction. The proposal has already garnered significant attention from policymakers, academics, and foundations. It has been incorporated into separate legislation by Senators Hillary Clinton and Barack Obama. Congress has set aside ten million dollars to fund model data-collection efforts by the states. And several major foundations have already poured significant resources into the early stages of the Index’s development. Nonetheless, as further detailed in this chapter, obstacles remain. Chief among them are collecting the necessary data and getting buy-in from election administrators. While there are reasons to be optimistic about the idea’s future, even a modest proposal like this one will need some help along the way.

This chapter also returns to the question introduced in chapter 1—what should a Democracy Index look like? It details the challenges involved in creating one. Any effort to assemble it will involve what political scientist Paul Gronke calls a “pushmi-pullyu” process.* The designers of the Democracy Index will have to toggle between the ideal and the real—the things they want to measure and the data that actually exist—in determining what is ultimately included in the Index. This chapter suggests some creative strategies for obtaining the data we need and offers examples of the metrics the Index might include.

The book concludes by returning to the broader theme that animates it: how to get from “here to there” in election reform. The Democracy Index is part of a larger shift in reform circles. The new generation of reformers is moving away from top-down regulation to market-driven solutions. They eschew civil-rights rhetoric for data-driven policymaking. Unyielding in their idealism, they are pragmatic, even eclectic, in their approach. The concluding chapter notes that the Democracy Index offers some larger lessons about what drives reform and argues that the Index beats out most other reform proposals for a simple reason: it should help make those proposals a reality.

*One hopes that the process gets farther than did the magical creature in the Dr. Dolittle books.