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# Biden democracy challenge: Fix voting and the Electoral College to head off a 2024 crisis

*Democracy can't afford 2024 to be the debacle that 2020 almost was. Biden can name a commission now and aim for bipartisan approval of a report by 2022.*

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America lucked out. The 2020 election had all the ingredients for disaster: A president who called it rigged before a single vote was cast, a pandemic that produced an unprecedented mail-in response and attempts at inference by Russia and other adversaries.

Democracy can't afford 2024 to be the debacle that 2020 almost was.

To repair the voting process that is the beating heart of a democracy, the Biden administration needs to create a bipartisan commission to address two principal problems.

The first is the sanctity of the vote itself and the right of every adult citizen to participate.

The mechanics of the most recent election failed to convince a large fraction of the populace that votes were fairly cast and counted. We were amazed and encouraged that such a rickety, balkanized system displayed no material evidence of fraud.

Yet, the methods of counting and recounting are far from transparent. Nor is there much rigor in the timing or the tallying of votes at the state and local level.

A commission should determine what steps to take at the state and federal levels to ensure the right to register and vote easily anywhere; the right to have all votes definitively counted and, where necessary, recounted; and a guarantee that national and state totals are announced in an authoritative non-partisan way in an expedited manner.

## Make better use of technology

Many of the answers undoubtedly lie in better use of technology. Individual tax returns are highly confidential and personal documents, yet 89% of Americans file them electronically from home or office. A federal statute 20 years ago made electronic signatures legally valid.

So why can't the country with the best technology brains in the world find more efficient methods of voting than lining up for hours or sticking something in the mail and hoping it gets there in time? Or better methods of counting than a process that takes several weeks?

And how can this more efficient process be secure, trusted and independent of interference by foreign governments or candidates themselves?

The second challenge for the commission is the Electoral College. In four elections out of six in this century, the winner of the national popular vote has lost or nearly lost the Electoral College.

This year, Joe Biden won three swing states — Wisconsin, Georgia and Arizona — by less than three-quarters of a percentage point. If Donald Trump had changed the minds of just 22,000 voters in those states, electoral votes would have tied at 269, and the House of Representatives, with each state caucus casting one vote would have determined the president, almost certainly inciting deep bitterness and even violence.

Even in a close election, presidential candidates win by millions of votes, and disputes over a few thousand or a few hundred ballots in individual states become meaningless. A new National Bureau of Economic Research study found that “the Electoral College today is about 40 times as likely as a National Popular Vote to generate scenarios in which a small number of ballots in a pivotal voting unit determines the Presidency.”

Americans were reminded this year that it is electors, not voters, who choose presidents, and that Article II, Section 1 of the Constitution endows state legislatures with the power to determine the method for picking those electors. A scheme was even afoot to have states ignore voters and make that decision after the election.

Perhaps worst of all, the system causes political parties to align themselves on the two sides of fault lines that run through swing states, which rarely represent the demographics of the country. That’s how you win a swing state.

## **System makes partisanship worse**

The system intensifies partisanship in presidential selection and governance, inviting a lack of comity that threatens the survival of the democracy. Far more than social media or the character attributes of political leaders, it is the rules themselves that cause the game to be played counter to the interests of the mass of Americans.

The commission should offer legally sound proposals for changing this system in time for the 2024 election. Specifically, what measures can make a difference even if adopted in a handful of states and could constitutional amendments possibly be fashioned to appeal to the vast majority of Americans?

The president-elect can appoint the commission even before he is sworn in — no legislative approval is necessary — with a goal of gaining bipartisan congressional approval for its recommendations by 2022.

The commission might also examine other dangers that arose this year, including reliance on a single federal bureaucrat to start the transition process. But the main focus must be to secure the right of every American to vote, to have that vote counted equally no matter where one lives, and to tally the results accurately and swiftly. Our republic depends on it.

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