

LEGITIMACY OF THE U.S. ELECTION SYSTEM

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In recent years we have seen presidential elections where the candidate with the most votes (Al Gore) or who was leading in polls on election day (John Kerry) were denied the presidency. We now have a President whom many Americans believe was born in Kenya and not legally allowed to be in office. And we are seeing now essentially unlimited amounts of money being poured into state and federal elections.

First of all, this is a question of perceptions: how do the people perceive their government and the process by which it is selected. Is it Legitimate or illegitimate. Are we governed by legally elected authority or by illicit raw power ... government by the people or government by hidden forces.....?

But let me regress for a few minutes....When I was younger – in high school and in college – I had three political heroes:

John Kennedy, his brother Robert, and Martin Luther King.....

All three were killed.

John Kennedy was president when I was in high school, in 1963, just beginning to think about politics. His death seemed to me as a strange tragedy in which the whole country shared. They said he was killed by a lone gunman, who was himself killed two days later on national television. At age 14, I had no reason to doubt that.

President Kennedy, who was trying to end the war in Vietnam, was killed in the state of Texas, and he was succeeded by a man from Texas who enlarged that war.

Later when I was in college here in Cambridge, I was deeply involved in politics, passionate about civil rights and in ending the war in Vietnam. In 1968, April, Martin Luther King was killed. I was living in Roxbury that year, and watched my neighborhood burn in the riots that followed... in other cities it was much worse, in 1968 and several years to follow.... Only ten years ago, I watched Los Angeles burn from riots... or perhaps they were really rebellions... instigated by a perception that the government did not represent the people, that the judiciary did not stand for justice. **No justice ... no peace....has been the call for a long time....**

But that night in 1968 when Dr King was murdered, as cities burned across the US, Robert Kennedy spoke to a largely black crowd in Indianapolis. Kennedy was campaigning for President to end the VietNam war and to bring back together a bitterly divided nation....

“ What we need in the United States is not division; what we need in the United States is not hatred; what we need in the United States is not violence and lawlessness, but is love, and wisdom, and compassion toward one another, and a feeling of justice toward those who still suffer within our country, whether they be white or whether they be black.... the vast majority of white people and the vast majority of black people in this country want to live together, want to improve the quality of our life, and want justice for all human beings that abide in our land.”

Two months later Robert Kennedy was killed in Los Angeles..... *his death broke my heart more than any other.*

In 1968 it was clear to me – and many others - that these killings were not at all the work of lone crazed gunmen as we were told. **They were in fact political assassinations**, though the real perpetrators remain hidden, never brought to justice.

The man who was actually elected to the Presidency in that dreadful year of 1968 was Richard Nixon, who was the antithesis of these men who had been assassinated. He was later forced from office after his corrupt, even criminal, election practices were revealed in the political drama known as Watergate.

So by age 20, I had no desire to be involved in politics again, no matter how deeply I felt what was wrong with my country. Why bother – the game was rigged, it was pointless to become involved, to try to change it ... and anyone who represented what I cared about would be killed.....

Eventually, though, after many years I did become involved, during the 1990s – mainly because my students urged – or shamed – me to do so.....during the first Clinton campaign.

Robert Kennedy had said: *“Every time we turn our heads the other way when we see the law flouted, when we tolerate what we know to be wrong, when we close our eyes and ears to the corrupt because we are too busy or too frightened, when we fail to speak up and speak out, we strike a blow against freedom and decency and justice.” ... The purpose of life is to contribute in some way to making things better.*”

That means getting involved – I really had no choice.....

John Locke wrote 300 years ago: --- “The legitimacy of political authority in the civil state depends on whether the transfer of authority has happened in the right way.... Legitimate political authority creates political obligations, among which are to obey the laws and to participate in the political process.”

Clearly in the 1960s transfer of authority did not happen in the right way...between political assassination and Nixonian criminality....and this has left a powerful legacy in the US over the past 50 years. So let’s look at recent years....

Generally, fewer than 50% of US citizens vote – more in Presidential elections, fewer in congressional by-elections. This is a significantly worse turnout than 50 years ago... so the sense of ‘political obligation’, the reflection of Lockean legitimacy, has seriously deteriorated. Upwards of half the citizenry believe that it is pointless to make the effort to be involved, that they really have no influence – or stake – on the outcomes....

“In response to the question of whether the current government has the consent of the governed, currently only 22 percent of likely voters say “yes.” The partisan divide is strong;

Democrats split evenly, but only 8 percent of Republicans say yes... for a Democratic president... But 6 years ago, when George Bush – a Republican – was president -- the end number would have been similar, with opposite splits....with Democrats then believing that the government was not legitimate.....

This is a far different case than only 20 years ago.....

What has happened?

I'd start during the Clinton Presidency, when Republicans tried to remove Clinton from office via impeachment, by setting him up on charges of lying to the court in a case of sexual infidelity...this was a dramatic change in the political process...**never before had one party used the Congressional impeachment process for political reasons to try to remove a legally elected president....**

The result of this episode was that Republicans believed that Clinton no longer should be president – he had lost any legitimacy in their eyes – while Democrats understood that Republicans would use any means to subvert the legal election process.

In the 2000 election, it got much worse.....

In 2000, the presidential election was between the Democrat Vice President Al Gore and the Republican George W Bush (son of the President Bush whom Clinton had defeated in 1992).

It was the strangest and longest election night America had ever witnessed....

Gore clearly won the popular vote, by over ½ million....But in the US presidents are not elected by strict popular vote—rather by an odd process —The Electoral College – where each state has votes roughly proportional to its population but those electoral votes are determined by winner-take-all decision in each state....

So, by midnight, everyone knew that Gore had the most popular votes, but the electoral vote was so close that it all came down to who would win one state – Florida – where the vote was excruciatingly close.....

At 8:00 that night the networks called Florida – and the election -- for Gore, based on exit polls

At 10:00 they retracted that prediction, as Bush took an apparent lead

At 2:00 in the morning, Bush's lead seemed sufficient that the networks called Florida – and the whole election – for Bush --- and Gore conceded. This network decision had begun with Fox News – a Republican voice --- Turns out a Fox reporter -- John Ellis – had spoken to the Florida governor, who told him the vote count was showing Bush with a clear lead.....

Sounds good....

However....

The governor whom John Ellis had spoken to was his own cousin --- Jeb Bush – who was also brother to George Bush....

Something strange was going on with the vote count in Florida....

By dawn, the networks retracted their call, and Al Gore retracted his concession....and the tally seemed to show that Bush had a 300 vote lead in Florida ... out of 6 million votes cast....

A series of recounts ensued, mandated by Florida's court system and opposed and obstructed by Jeb Bush's state government, which tried to stop the recount and maintain George Bush's slim lead.

The case to stop the recount went to the US Supreme court – which ruled 5-4 for Bush, with all the 5 Republican appointees voting for Bush, in what most people consider a purely political court decision....

Thus – in the end Bush won an election in which he had significantly fewer votes than his opponent.....determined by the votes of a state controlled by his brother and by a Supreme Court vote on a party line. It is likely that the Florida state government manipulated the vote count in various ways, and a year later a Florida news group recounted the votes by hand and determined that Gore had indeed won. But it was too late.....Bush had won Ultimately by a vote of 5 – 4....in the Court....all votes of the citizenry be damned

This election was clearly seen as lacking legitimacy by at least 1/3 of Americans .. and in bestowing the decision on the man with fewer votes, the formerly highly-respected Supreme Court also lost its legitimacy in the eyes of many people – especially Democrats.

The election of 2004 --- John Kerry is running against now President Bush. Passions are high in the country—especially due to a war being waged in Iraq that most Americans considered as foolish and immoral.

I had become heavily involved in politics by now – mainly spurred by my opposition to this war.....my candidate, Howard Dean, did not win the democratic nomination – but I then strongly supported Kerry.

Election night comes round again --- exit polls are showing Kerry is well on his way to victory ... but by later in the evening news outlets report a Bush victory – winning in the electoral college by the decision in the state of Ohio....

However.... After the election of 2000, many people have little faith in the election process.

This time it revolves around the use of electronic voting machines – where a vote can not be manually rechecked – no paper trail -- and where it seems possible that people in charge of the machines can very well manipulate the final tally. There is a reasonable chance that this occurred in Ohio, where the Secretary of State was also a Bush campaign manager, and where the manufacturer of the voting machines in use was a strong Bush partisan who had vowed to do anything he could to get Bush elected.

So much doubt had been sowed by the election of 2000 that Democratic partisans believed that Republicans would subvert the electoral process in any way they could in order to win.

My former candidate and friend Howard Dean – then chair of the Democratic Party -- *said "I'm not confident that the election in Ohio was fairly decided... We know that there was substantial voter suppression, and the machines were not reliable. It should not be a surprise that the Republicans are willing to do things that are unethical to manipulate elections. That's what we suspect has happened."*

In 2008, a friend of mine was researching electoral fraud for an article he was writing, and he spoke to Kerry....

Kerry said: “I know I won the election. But by the time my lawyers could come up with a smoking gun in Ohio, it was too late.” He has said the same thing to at least two other reporters....My question is, how come Kerry has never come out publicly and talked about that.....

Joseph Stalin once said – *“it does not matter who votes...rather it is who counts the votes...”*

This is the extreme case of maintaining the pretense of democracy, when in fact the substance has disappeared.

The point in the 2004 election is not whether in fact the vote count was rigged .. which it may or may not have been --- but rather that a significant segment of citizens believe that it was rigged, and that once again George Bush was elected president by fraud, on the heels of the prior election.....

But political leaders rarely talk about this – **it sounds like conspiracy theory**, like claiming that the Kennedy brothers were killed by larger forces than solitary gunmen. Both Gore and Kerry publicly accepted the results – trying to maintain the perception of what they call the sacred process as legitimate – and also to hold onto their future political prospects....

But there remains a vast sense in this country that the system is rigged.

And it is not just Democratic partisans who feel this way...

Recall the ongoing discussion of whether or not Barack Obama was actually born in the US – a constitutional prerequisite for serving as US President. Even now, after the Hawaiian birth certificate has been made public, some 1/3 of Americans – and a majority of registered Republicans – believe that he was born in Kenya, and is illegally serving as President. Many believe he was elected due to fraudulent votes cast by hordes of felons and illegal immigrants who were paid to vote by shadowy Democratic groups like ACORN. And that he is a Muslim and a socialist/communist who was put in place to subvert the American way of life.

They believe that quite as strongly as I believe that the 2000 election was stolen.

But what lies behind all these conspiracy theories – for this is what these really are – though that does not mean that some may well be true.... **It is the belief that unseen, illegitimate powers are really controlling the US....**that the CIA killed the Kennedys or that Bush was fraudulently elected or that Obama is a Muslim secret agent born in Kenya.

This sense of illegitimacy in US elections is rampant ...partisanship runs so deep and poisonous that people not only doubt the fairness of elections, they also consider the victor to be a traitor to what they consider the TRUE nation

This sense is common on both sides of the intense American partisan divide. It is amplified by the current manner in which political news and commentary are digested – each tunes into stations, channels and blogs that already agree with him, and there becomes an endless political echo chamber, ratcheting up the anger and hatred.....

Some People say: *I don't know anyone who voted for Bush*

–the other side says *I don't know anyone who voted for Obama*

– *the election must have been rigged... THEY – THOSE PEOPLE -- have stolen it, and have stolen our country....*

Yes, many of these theories are unhinged....but they stem from an underlying undeniable truth: There are indeed forces that shape our political process ... that subvert what Lincoln termed government of the people, by the people and for the people....

What are these forces? As was said in the days of Watergate – Follow the Money...

This election cycle....there will be upwards of \$2 billion spent in the presidential election alone. Over \$6 billion will be spent on all federal elections this round.

How does this happen? And why?

First of all, money will always follow power. If the government can offer financial benefit to your business or personal wealth, somehow you will find a way to influence the election. Return on investment for lobbying – buying influence in Cingress -- ranges from 22,000% to 75,000%

... 220 to 750 times investment. Investment in a candidate is greater: if your candidate wins.

Money buys influence, it buys power....it buys the government

For years, Congress has been trying to limit the amount of money that could be contributed to campaigns, understanding that we should not have a system where elections could be bought by the wealthy, knowing that this subverts the entire process.....

But all those legislative attempts to regulate campaign finance have been nullified by recent Supreme Court decisions. Remember the Court – those fellows who brought us the 2000 election fiasco....

In a 2010 Supreme Court decision, *Citizens United v. Federal Election Commission*, a bitterly divided court ruled 5 to 4 (familiar ratio....) that the government may not ban independent political spending by corporations, as well as by labor unions and other organizations, in candidate elections. Other decisions followed, by the same 5-4 vote, making the situation even worse.....based on two key ideas:

- **Political contributions are the same as political speech, and the Constitution guarantees unfettered free speech, especially in the realm of politics**
- **Corporations are legally “persons”**

so these decisions have three key points:

- **Corporations and unions can contribute the same as individuals**
- **There are no limits on contributions to “independent” groups that “technically” do not coordinate with the campaign**
- **Contributions can be made so that contributors names are unknown.**

One couple, Mr & Mrs Sheldon Adelson, are likely to spend \$100 million this campaign on Republicans. Adelson is an American whose primary business is in Chinese casinos (in which he is currently under indictment for corruption) and whose primary interest is an alliance with right-wing Israeli politics.....one might consider him a dual foreign agent heavily influencing US elections. What would his influence be in a Romney administration???

This is not a Democratic or a Republican issue – both sides get obscene amounts of money from special interests which then expect special consideration from the Government...

The big Media conglomerates will not speak out against such decisions, of course, since they are the ones who most benefit from all the money being spent as advertising.

In 1864, Abraham Lincoln said that once *“corporations have been enthroned....an era of corruption in high places will follow, and the money power of the country will endeavor to prolong its reign by working upon the prejudices of the people until all wealth is aggregated in a few hands and the Republic is destroyed.”*

This is what is now happening.....it is called a plutocracy

Let me also note one further means by which our political process is being subverted: **suppression of votes, especially the votes of the poor and minorities.** This is being done in two ways – requiring additional identification for voters, and purging voter rolls of reputed felons.

The Brennan Center for Justice at NYU Law School has recently reported that these photo ID restrictions are going to cause MILLIONS people to lose their right to vote. -- that includes 6 million seniors; 5.5 million African Americans; 8.1 million Hispanics, 4.5 million 18-to-20-year-olds and 15 percent voters with household income under \$35,000 a year. These are all mainly Democratic voters.

As regards reputed ‘criminals’ – let’s look again at Florida: After the former governor, Republican Charlie Crist, restored voting rights to 154,000 ex-convicts who’d been jailed for nonviolent crimes, new governor Rick Scott in 2011 overturned that decision – which instantly disenfranchised 97,491 ex-felons and prohibited another 1.1 million prisoners from being allowed to vote after serving their time.

In most southern states, felons lose their right to vote -- and the laws in place far disproportionately affect minorities, especially blacks. **In South, these are called “the new Jim Crow laws.”** Disproportionate convictions of minorities for prison time, for which they then lose the right to vote...this is not an accident...

Bill Clinton has said *“There has never been in my lifetime...such a determined effort to limit the franchise that we see today.”* In 2012, states in which voting rights have been restricted will provide, 63% of what is needed to win the presidency.

Does anyone doubt that whoever wins next month will be seen as fraudulent – illegitimate – by half the country?

It’s a bleak picture for fairness in US elections. **But I teach politics and government to mostly minority students.** And I keep emphasizing how important it is for everyone to become involved in the political process, in which voting is only the most basic form of involvement. How do I square this with what I know to be the inequities in the system?

We know that the increased money in politics, and the associated control of the government by the wealthy, has contributed to laws that have made the US have a higher degree of wealth inequality than any developed state in the world: The top 1% control 43% of the wealth; the top 5% control 73%. The bottom 80% of the population control only 8% of the nation’s wealth – this sounds like pre-Revolutionary France....

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Edmund Burke once said, *“All that is necessary for the triumph of evil is that good men do nothing.”*..... if we lose our young people to cynicism about our political process, we lose everything....

Change comes from the young, not from us old folks. Elites and older generations never – never - relinquish their power without pressure –

- not for the rights of women and blacks to vote here in the US,
- not for the rights of the people in Egypt or Libya or Syria
- Or rights in Poland or Korea or China or Pakistan....anywhere...

I will paraphrase Abraham Lincoln: The US – at its best – *is a nation conceived in liberty and dedicated to the proposition that all men are created equal. Now we are engaged in a great battle.... testing whether that nation or any nation so conceived and so dedicated can long endure....*

I have been talking about the United States..... but this is not just a US or a Western issue.

Participation is everywhere most critical.... As is organization (my quarrel with the Occupy movement). Whether on a local or a national level.

What you do here in urban planning is a great example of the constant choices between entrenching elite power vs responding to the needs of the underserved and the citizenry as a whole. Whether in Pakistan or Brazil or in Roxbury.

This doesn't mean including the underserved by graciously bestowing benefits from above – but rather by encouraging and listening to those who are not normally a part of the political process, and helping them to organize to become effective in the process. In the US just as in most of your countries – the elites will seek to control as much as they possibly can – but this is not the means to a viable political process....or a healthy nation.

Politics is local as well as national....you can affect what is most immediate to you ... beginning with yourself ... like a small stone in a pond, the ripples extend outward to the farthest banks....

When I worked on Howard Dean's campaign 8 years ago – we pioneered the use of the internet to organize and raise funds through small contributions to balance the big money coming from corporations and the wealthy....I was a “manager” – but mainly I just listened to the young people who told me how it could be done.

We lost that election, but the young people had created a new means of organizing...

...And four years later this was how Obama won the presidency, with Howard Dean as chair of the Democratic Party.....using the tools we pioneered.... whether Obama has done enough to help those people who elected him is an open question....but nonetheless his election was a watershed event in US politics and international relations.

Social media played an important part in the recent Arab Awakening – one man burned himself to death in rural Tunisia and it sparked millions of young people to bring down governments all across North Africa...it is a means of organizing that the old and entrenched elites find difficult to shut down.

What can in the end counteract the influence of big money and entrenched power will only be the organizing tools and the idealism that young people bring to the process...that is our future....young people will find new ways to organize and connect, if they want to change the world as we now know it ... this kind of idealism is the heart and soul of any political system. The young ... all of you... have the most at stake ... your future has a longer arc ahead than mine does....

I will quote Bobby Kennedy again – *All of us might wish at times that we lived in a more tranquil world, but we don't. And if our times are difficult and perplexing, so are they challenging and filled with opportunity.*”