

# What Would Democratic Elections Look Like?

An Agenda for Meaningful Electoral Reform (#4 in our series of primers on political transformation)



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## Resources

**U.S. Public Interest  
Research Group (PIRG)**  
218 D St. SE  
Washington, D.C. 20003  
202-546-9707  
pirg.org/democracy

**Center for Voting &  
Democracy**  
6930 Carroll Ave. Ste. 901  
Takoma Park, MD 20912  
301-270-4616  
fairvote.org

**Initiative & Referendum  
Institute**  
1825 I Street, NW, #400  
Washington, D.C. 20006  
202-429-5539  
ballotwatch.org

**National Voting Rights  
Institute**  
27 School St.  
Boston, MA 02108  
617-624-3900  
nvri.org

**Ballot Access News**  
PO Box 470296  
San Francisco, CA 94147  
415-922-9779  
ballot-access.org

If we aspire to truly representative and participatory democracy, we should start by asking what conditions would be necessary to realize it. We view as a fundamental requirement that an individual's political influence must be a direct result of the quality of ideas and the energy put into promoting them--independent of one's wealth to the greatest degree possible.

Unfortunately, most approaches to political reform begin instead with a damage control perspective of "what can we do to make this deeply flawed system less corrupt?" It's a fundamental difference in approach, and the latter cannot yield the results most of us desire.

The lack of fair competition and the excessive power assigned to money is glaring. Even in the 2002 Congressional races, where money was less dominant as the determinant of the victors than in 2000, 95% of all House seats and 75% of Senate seats were won by the higher-spending candidate. Incumbents won 97% of races in which they ran.

And money is a conclusive determinant of who can compete. One hundred fifty-seven candidates--a third of all those running for the House or Senate--effectively ran unopposed. Thirty-five had no opponent at all, while another 122 faced challengers who spent less than \$5,000. No wonder only 75 of the 435 House races were even marginally competitive (margin of victory less than 20 points).

The depth of our problems in specific realms such as campaign financing is explored in detail in other primers (see "Primers" page on our website). Here, we aim briefly to explore an overview of some of our most vitally needed electoral reforms.

- 1. Abolish the "Money As Speech" Doctrine**
- 2. Revoke the Illegitimate Application of Bill of Rights Protections to Corporations**

These destructive Supreme Court creations both lack Constitutional basis. The first precedent dates to the late 1800s when the Court applied the Fourteenth Amendment and "due process" guarantees--designed to protect the rights of freed slaves--to corporations, an entity mentioned nowhere in the Constitution.

The 1976 *Buckley v. Valeo* decision authorized some limits on political donations, but equated campaign spending with speech and legitimated political

donations at levels beyond the reach of all but the wealthiest Americans. Just one tenth of one percent of Americans gave a \$1000 contribution in the 2000 election--one-quarter the present \$4000 limit for investments in an individual candidate per election cycle (after the 2002 "campaign reform" legislation doubled the "hard money" contribution limits).

Public campaign financing is a worthy intermediate step in some cases, but ultimately we must confront these two roots. While banning "soft money" may prevent direct corporate funding of parties, it doesn't touch corporate interference in democracy via advertising, lobbying, and many other activities.

Consider the combined effect of these two premises: give an institution (the corporation) with an unlimited ability to amass wealth many key rights of citizens, then allow money to translate freely to political power. Now ask yourself if we can possibly realize the ideal of one person, one vote with these two perversions of our Constitution intact. These issues are at the heart of our diseased democracy.

### **3. Establish a Constitutional Right to Vote**

Voting is one of the fundamental elements of citizenship and democracy, and most Americans assume universal suffrage to be a struggle already won--but we lack any Constitutional right to vote! Yes, the 15th, 19th, and 26th Amendments outlaw voting discrimination on the basis of race, sex, or age, but those protections are hollow because all citizens may be disenfranchised so long as it is done without bias. The Supreme Court on at least three occasions has affirmed that voting is a privilege granted at the discretion of those in power (see our primer devoted to this topic for details).

Our lack of Constitutional voting rights enables any state to ignore our votes in presidential elections (as the Florida legislature made clear in 2000), and to disenfranchise individuals for life for a single crime. Even crimes that are misdemeanors in many states can be used to justify disenfranchising a citizen for life in others.

Our lack of voting rights also allows the United States government to deny residents of Washington D.C., who outnumber the residents some states, any voting representation in Congress whatsoever. A Constitutional Amendment is needed to rectify this problem.

#### 4. Institute Instant Runoff Voting (IRV)

The unhealthy dilemma of voting one's conscience vs. voting for the "realistic" contender should be eliminated. IRV offers a neutral and proven method for correcting this problem. Voters simply rank candidates in order of preference. If a candidate receives a majority of first choice votes, she/he wins. If no candidate receives a majority of first place votes, the candidate with the fewest first choices is eliminated, and ballots cast for that candidate are counted for one of the remaining candidates according to those ballots' second choices.

IRV ensures a majority winner, frees minor-party candidates from a spoiler role, and allows voters to express their true preferences rather than voting out of fear. It also spurs cleaner campaigns, as candidates have an incentive to avoid mud-slinging when they compete for second-choice votes. IRV can work at any level of government, and states are free to implement it for federal elections.

#### 5. Stop Permanent Disenfranchisement

In Florida, over 400,000 citizens, including a whopping 30% of all black men, were prohibited from voting in 2000. Some did not even have actual felony convictions--the official justification--but were purged illegally from the rolls by a private corporation (Choicepoint Inc.) contracted by the state. Lifetime voting prohibition laws, enacted by several states, effectively are racist as long as our criminal justice system remains so and must be repealed.

#### 6. Establish Democratic Presidential Debates

The nationally televised presidential debates are the single most influential forum for most Americans in deciding whether they should vote in the race and for whom. They offer a rare opportunity to hear candidates' ideas unedited and in context.

Since 1988, these debates have been controlled by the Commission on Presidential Debates (CPD), a private corporation created and controlled by the Democratic and Republican parties. The CPD operates with no public oversight and exists primarily to further the interests of those two parties--to the detriment of democracy. The greatest harms to democracy are the exclusion of legitimate candidates outside of the CPD owners' parties and the exclusion of many vital issues from introduction into the debates.

ReclaimDemocracy.org has initiated a coalition to present the debates in 2008 and beyond and institute debates that serve democracy, not duopoly (see our primer: Debates to Serve Democracy).

#### 7. Reduce Ballot Access Barriers

State laws often raise absurd barriers to challengers to the two party duopoly. National standards should be enacted for all federal offices to

prevent this discrimination. One example: any party accomplishing the arduous task of gaining a spot on the presidential ballot of 40 states should automatically be placed on all 50 in order to prevent one state from infringing the rights of all.

#### 8. Electoral College reform

Presently the vote of individuals for president in the smallest states carries three times the weight of that of citizens in some more populous states. In addition, the winner-take-all system, used by most states, is profoundly anti-democratic because it wipes out the vote of all those within the state not voting for the winning presidential candidate. Eliminating the Electoral College requires a Constitutional amendment--a long-term challenge. But states can implement Instant Runoff Voting and alternative methods of assigning delegates to improve the system dramatically.

#### 9. Make Election Day a Holiday

Too many citizens are impeded from voting because of limited voting hours and work obligations. A "Democracy Day" to actively engage citizens in Election Day activities, including voting, is a worthy investment. Citizens can work for this change in their own state or federally.

#### 10. Institute Fair Procedure Standards

The stories from Florida and other states in 2000 are well known and some initial steps toward prevent future problems have been taken. Other crucial procedures receive little public attention, such as the once-per-decade redistricting that currently is an incumbent protection racket, used to eliminate real competition for almost every House district in the country. Candidates of the dominant parties routinely receive unfair advantage via biased ballot design.

We need federal standards for fair ballot and voting procedures, such as neutral candidate listing order and clear layouts and we need to mandate non-partisan (*not* bi-partisan) bodies to draw legislative districts in order to allow natural competition.

#### 11. Reduce Barriers to Voting

Eliminate pre-registration requirements. Such laws are economically and racially discriminatory and a senseless deterrent to voting. A federal mandate for same-day registration is a long overdue update of the Voting Rights Act.

Of course, this list is incomplete and many other ideas deserve consideration, but key to all truly fundamental reform efforts is to begin with the end goal in mind and not be deterred by current leanings of the Supreme Court or "political reality." Government of, by, and for the people only will result if the people repossess it.

### More Resources

**Brennan Center for Justice**  
at NYU Law School  
161 Ave of Americas, Flr 12  
New York, NY 10013  
212-998-6730  
brennancenter.org

**The Sentencing Project**  
1516 P St. NW  
Washington, D.C. 20005  
202-628-0871  
sentencingproject.org

**Common Cause**  
1250 Connecticut Ave., 6th Flr  
Washington, D.C. 20036  
202-833-1200  
commoncause.org

**Center for Responsive Politics**  
1320 19th St., NW, # 700  
Washington, D.C. 20036  
202-857-0044  
opensecrets.org

#### Sources by issue number

- #1&2 ReclaimDemocracy.org  
U.S. PIRG, NVRI.
- #3 See "Right to Vote" article  
on our website for more
- #4 Center for Voting and  
Democracy (CVD)
- #5 The Sentencing Project
- #6 ReclaimDemocracy.org
- #7 Ballot Access News
- #8 CVD, Ballot Access News
- #10 CVD
- #11 Brennan Center

#### Resources on other issues

Vote count tampering  
[blackboxvoting.com](http://blackboxvoting.com)  
Direct democracy:  
[philadelphiatwo.org](http://philadelphiatwo.org)  
Public campaign financing:  
[publiccampaign.org](http://publiccampaign.org)  
Proportional representation:  
[fairvote.org](http://fairvote.org)

#### Engage Locally!

contact (818) 893-9095  
or [lapersonhood@  
yahoo.com](mailto:lapersonhood@yahoo.com)