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The Republican War on Democracy

If you can't win playing by the rules, you change them.



By **Jamelle Bouie**
Opinion Columnist

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The demographic changes coming over the next few decades — the continuing rise of a more diverse electorate, with more liberal views than previous generations — won't destroy the Republican Party or make it electorally insolvent. But it may make right-wing conservatism a rump ideology, backed primarily by a declining minority of older rural and exurban white voters. You can already see this taking shape. Among the youngest Republicans, 52 percent say the government should be “doing more” to solve problems, as opposed to 23 percent of Republican baby boomers.

In this environment, the only way to preserve right-wing conservatism in American government is to rig the system against this new electorate. You tilt the field in favor of constituencies that still back traditional Republican conservatism in order to build a foundation for durable minority rule by those groups. In just the last week, we've gotten a glimpse of what this rigging looks like in practice.

Let's start with the census dispute that's now before the Supreme Court. The Trump administration wants to add a citizenship question to the 2020 census, asking Americans to declare their status in order to participate. The government asks a similar question in the American Community Survey, a more frequently performed survey that is given to a sampling of households. But it hasn't asked all households the citizenship question on a decennial census since 1950. Wilbur Ross, the secretary of commerce, whose department oversees the Census Bureau, wants to bring it back. He has the authority to do so. The problem is that he circumvented the official process. The case before the Supreme Court deals with whether the question can stand, given Mr. Ross's decision to, as a federal judge put it, upend the rules that govern adding a question to the census.

The citizenship question is likely to make the census less accurate, to put it mildly. In the face of the harsh anti-immigrant policies sponsored by the Trump administration, as well as uncertainty about their own status, immigrants may not want to reveal their legal status to the government.

According to an analysis from the Census Bureau itself, 5.8 percent of households with a noncitizen — or about 6.5 million people — would not respond to a census with that question on it. There's some evidence that this outcome is the point. Kris Kobach, a Trump ally who pushed anti-immigrant policies when he was secretary of state for Kansas, was a proponent of adding the citizenship question to the census.

This matters because the census determines congressional apportionment as well as the distribution of Electoral College votes. If millions of immigrants decline to answer the census, then the areas they live in will be undercounted relative to places with fewer noncitizens, which means political power and representation will probably shift as well. A move of just a few Electoral College votes from immigrant-heavy blue states to more white and rural red states could help Republicans win the White House while yet again while running behind in the popular vote. (As it stands, Republicans have lost the popular vote in six of the last seven presidential elections.) The Republican Party can maintain a hold on power without changing its priorities or making a fundamentally different appeal to the public.

That said, this is an almost subtle way to rig the architecture of democracy, comparatively speaking. More recent efforts by Republican-held state legislatures to erect large barriers to voting are more explicit. Republican lawmakers in Tennessee, for example, are pushing broad new restrictions on large-scale voter-registration drives, including civil penalties for groups that unintentionally file incomplete voter-registration forms and criminal punishment for those that don't attend state-mandated training sessions, according to the Tennessean.

It's not as if Tennessee has a particular problem with registering voters. What it does have are organizing groups that successfully brought a greater number of black Americans and other people of color to the polls in 2018. In that context, this bill is a form of electoral intimidation — a direct attempt to hinder those groups and their ability to make similar gains in 2020 and on into the future.

Last November, Florida voters approved a constitutional amendment to end felon disenfranchisement. Unable to stop the change, Republicans chose to put barriers to its implementation. On Wednesday, the Florida House of Representatives passed legislation that would require former felons to pay fines as part of their criminal sentence before they can vote again. It's a poll tax. And like those under Jim Crow, it is an ostensibly neutral policy that falls hardest on black communities, which have a higher share of former felons.

Each of these moves works in concert with the others. Pre-existing malapportionment helps Republicans capture the presidency despite losing a majority of voters. This allows them to build a Supreme Court majority that rules in their favor on key questions of ballot access, voter participation and campaign finance.

Republican lawmakers in the states use the legal leeway from rulings like *Shelby County v. Holder* to erect new barriers to voting, while Republicans in Washington look for new ways to embed their partisan interests in the electoral system. At the same time, their wealthy allies take advantage of campaign finance loopholes to spend huge sums on behalf of Republican candidates and conservative causes. And on the chance that Democrats overcome these obstacles and win political power — after the election of Barack Obama, for example — Republicans break the norms of politics to keep them from actually governing the way they want to.

Mitch McConnell's leadership in the Senate during the years he had a majority — and in particular, his “blockade” of Obama's judicial nominations, including the Supreme Court nominee Merrick Garland, is a paradigmatic example of the latter strategy. But Republican lawmakers in several states have gone even further, using legislative majorities to strip constitutional authority from newly elected Democratic executives. Republicans in Kansas introduced legislation earlier this week that would strip the recently elected Democratic governor, Laura Kelly, of her power to fill vacancies in top state offices. They cite fairness as a reason to support this proposal, although a leading Democratic critic called it “morally wrong” and an example of legislating for narrow partisan gain.

Wisconsin Republicans attempted something similar after Tony Evers, a Democrat, unseated the Republican governor, Scott Walker. They advanced bills to restrict his ability to run public benefits programs and to curb his authority to set rules on implementation of state laws. They also established a new legislative power to intervene in litigation challenging state laws and wrested the right to decide on legal action against the Affordable Care Act from the attorney general's office, placing it with the heavily gerrymandered legislature's budget committee. A judge eventually blocked these efforts, but Republican state leaders have appealed the ruling. And Republicans in Michigan made a similar push to rein in executive power after Democrats won all three statewide races, in an attempt to keep Democrats from overturning Republican actions once they took office.

It's clear, then, that from the White House and its allies on the Supreme Court down to individual state lawmakers, conservative Republicans have decided that their agenda cannot survive fair competition on equal ground. They reject efforts at electoral expansion — early voting, automatic registration and mail-in balloting — and embrace strategies that put the burden on voters themselves.

Americans have long struggled over the scope of voting and representation. Democracy is — and always will be — a fight. And the lines of this particular conflict are clear. Rather than try to expand our democracy or even preserve it as it stands, Republicans are fighting for a smaller, narrower one that favors their voters over all others so that their power and the interests they serve become untouchable.

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