

GUEST ESSAY

Would You Trust This Man With Your Elections?

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By Richard L. Hasen

Mr. Hasen is the author of several books about elections and democracy. He is working on a book tracing the arc of American democracy from 1964 to 2024.

With Republicans potentially losing their current seven-vote majority in the House in next year's midterm elections (or, less likely, their six-vote majority in the Senate), President Trump has been sending clear signals of his intent to interfere with the fairness and integrity of those elections.

After saying in a social media post on Monday that “DEMOCRATS ... CHEAT AT LEVELS NOT SEEN BEFORE,” he promised to sign a new executive order aimed at “MASSIVE VOTER FRAUD” in order “to help bring HONESTY to the 2026 midterms.” Mr. Trump also promised to “lead a movement to get rid of MAIL-IN ballots and also, while we’re at it, Highly ‘Inaccurate,’ Very Expensive, and Seriously Controversial Voting Machines.” He also claimed that the United States is the only country using mail-in balloting. (In fact, it is used in Canada, Britain and many other countries.) Mr. Trump’s claim that “the States are merely an ‘agent’ of

the Federal Government in counting and tabulating the votes” is as legally wrong as it is politically dangerous. That can also be said about his plans to issue an executive order interfering with how states run their elections.

The fear that Mr. Trump will try to subvert the 2026 elections is real — after all, he tried to overturn the results of the first presidential election he didn’t win. But even if Mr. Trump fails to keep the House and the Senate in Republican hands, he will have delegitimized future Democratic victories in the eyes of his MAGA base.

Mr. Trump wants his supporters to believe that Democrats can win only by cheating. “Democrats are virtually Unelectable without using this completely disproven Mail-In SCAM,” he wrote in his Monday post. (Never mind that he raised his claim after he was apparently lectured on the supposed insecurity of mail-in ballots by the noted democracy enthusiast Vladimir Putin.) It’s a recipe for further polarization and, as someone in Mr. Trump’s orbit told The Times, “maximum warfare, everywhere, all the time.”

It is going to be up to states, the courts and ultimately the American people to stop this further erosion of American democracy.

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For decades, I argued that the United States should join other modern democracies in having national nonpartisan administration of elections. What we have instead is a hyper-decentralized system that gives states the primary role in running elections, and states in turn give their counties the authority to conduct elections and count ballots. I had thought that the variety of voting rules, machines and personnel was inefficient and particularly dangerous in polarized times, when every local mistake becomes evidence of some claim of a stolen or botched election.

What I had not factored into my thinking was that centralizing power over elections within the federal government could be dangerous in the hands of a president not committed to democratic principles. It is among the many things I had thought about American democracy that have been overturned by the advent of Mr. Trump.

This latest missive by Mr. Trump is not his first foray to attempt to meddle in American elections. During his first term, he set up a commission, headed by Vice President Mike Pence and Kris Kobach, now the attorney general in Kansas, purportedly to investigate voter fraud and recommend tightening voter registration rules. The commission disbanded after legal challenges without accomplishing anything.

In his second term, Mr. Trump issued a voting-related executive order in March that, among other things, tried to direct an independent federal agency, the U.S. Election Assistance Commission, to change federal paperwork to require individuals to provide documentary proof of citizenship, such as a birth certificate or a naturalization certificate, in order to register to vote.

Many of the things Mr. Trump tried to do in his first executive order exceeded his authority, and he is very likely to overreach in any new executive order he might issue on mail-in balloting and voting machines. The truth, as Colleen Kollar-Kotelly, a Federal District Court judge in Washington, D.C., wrote in issuing a preliminary injunction against a portion of the earlier Trump executive order, is: “The president has no constitutional power over election regulation that would support unilateral exercise of authority. The Constitution vests that power in the States and Congress alone.”

Article I, Section 4 of the Constitution clearly provides that Congress, not the president, may alter state rules for conducting congressional elections. And that power extends only to federal elections — states can apply different rules for state and local elections, so long as they comply with the other requirements of the Constitution and federal laws passed under Congress’s other powers. The

president, as Article II, Section 3 declares, has only the power to “take care” that the laws passed by Congress are “faithfully executed,” language that is hardly a license for a federal branch takeover of state elections.

That limit on authority is unlikely to stop Mr. Trump from his assault on the election system. He has directed federal government departments to vacuum up state voter registration data and to investigate voter fraud. He has been sending federal troops into American cities, and we cannot discount the prospect of his ordering ICE and other federal agents into Philadelphia, Milwaukee or other places with large minority populations around Election Day. He might even try to use the 2017 designation of the U.S. election system as “critical infrastructure” — a designation aimed at assuring adequate federal protection of state election systems, made during the Obama administration — as an excuse to meddle with secure and safe state and county election processes.

The broad grant of immunity that the Supreme Court bestowed on American presidents in the 2024 case *Trump v. United States* and the court’s embrace of the theory of “unitary executive” power over executive branch functions only compounds the problem of an amoral president insistent on manipulating the rules to hold onto — and expand and increase — whatever power he has.

Even if Mr. Trump’s efforts to exert power over our elections fail, he has once again set up prime conditions for the persuasion of his MAGA supporters and fellow travelers that if “unelectable” Democrats win, it’s because of their “scam.” These corrosive claims undermine American democracy by turning every election into an existential battle of good versus evil.

States can serve as the primary bulwark against this attempted election subversion. States are not federal “agents.” They control election systems and can assert their longstanding rights to run elections. This is no longer a red state-blue state issue: Either all states have the power to run elections, despite the president’s make-believe grievances, or none of them do. The Republican Party

objected when President Joe Biden issued an executive order to federal agencies to encourage more voter registration. Mr. Trump seeks to exert far greater authority than anything Mr. Biden had in mind.

Courts are the second bulwark against presidential meddling in elections. Federal courts have already issued orders blocking parts of Mr. Trump's earlier executive order that infringe on state sovereignty. Although courts, including the Supreme Court, have not been strong in recent years on voting rights protection — and things seem poised to get worse on Voting Rights Act enforcement after the court returns in October — so far they have amassed an admirable record in stopping attempts at election subversion. The most recent example was when Judge Richard E. Myers, a very conservative Federal District Court judge in North Carolina, blocked an attempt by a Republican candidate who tried to get North Carolina's Supreme Court to retroactively change the rules for voter eligibility, after the election, in an attempt to turn his election loss into a win.

We need to continue to praise judges from across the political spectrum who ensure that elections remain fair and that winners of fairly conducted elections are able to peacefully assume office. This judicial backstop against election subversion is all the more important in the wake of Mr. Trump's grant of clemency to nearly 1,600 people who participated in the Jan. 6 insurrection, who may now believe that their election interference is being rewarded, not punished.

In the end, the American people also have a key role to play in pushing back against Mr. Trump's meddling. People will need the courage to go vote even in American cities that may have federal agents swarming around them. "Voter protection" in recent decades has not meant protection from government-led violence and intimidation, but it may come down to that. Democrats, Republicans and other members of the public should monitor voting procedures, as allowed by state law, to make sure that state and county election officials stand up to federal pressure and do the right thing as they conduct elections and tabulate ballots. Local civic and business leaders need to back our election administrators, who

may find themselves subjected to pressures to bend or break the rules. All of this organizing needs to happen now, not next November. To keep us from sliding further into autocracy, it is civil society we must make great again.

This remains true because even if Mr. Trump refrains from trying to run for an unconstitutional third term, he isn't finished working to manipulate election results in his favor. To counter this, we will have to rely on the resilience of our commitment to democracy, which is far stronger than the rantings of a would-be strongman. Seen in this light, the diversity of our rules for running elections becomes our strength.

Mr. Trump may think his word is law, but neither a social media post nor an executive order has the power of a royal edict. The American people will have to show him that they know the difference.

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