

RICHARD: Election 2020 is just weeks away and, for some, voting has already begun. North Carolina was the first state to send out absentee ballots in early September. But many challenges remain to holding a free and fair voting process of the middle of the COVID-19 pandemic. Will this November's election be a smooth exercise of democracy, or could it result in a constitutional crisis?

ASHLEY: This is Let's Find Common Ground. I'm Ashley Milne-Tyte.

RICHARD: And I'm Richard Davies.

ASHLEY: In this episode, we look at the election itself. What's different this time? Are there areas of common ground between the two parties? Were useful lessons learned from the primaries? Will the election results fairly reflect the wishes of the people?

RICHARD: We speak with David Hawkings, Editor in Chief, and Tristiaña Hinton, Audience Development Member of The Fulcrum, a nonprofit online news site that covers the workings of democracy and attempts to reform it.

ASHLEY: We asked David first about the biggest threat to holding a fair election.

DAVID: This is a more confusing election process than most Americans are used to, and the biggest single threat, I think, is that Americans will be confused and easily dissuaded, either dissuaded from voting or confused about the rules that apply to them and end up not playing by the rules that apply to them through no fault of their own, and that their vote won't be cast. And connected to that is the work that some politicians are doing to discourage people from knowing the rules and to discourage from playing by the rules.

ASHLEY: Obviously, one of the biggest controversies of the year has been over mail-in voting. The president claims there could be massive fraud if many people use mail-in voting. Is he right to be concerned?

TRISTIAÑA: I would say he's not right to be concerned. Even if we look at the states that have been doing mail-in voting for their full elections, there are so few instances of fraud that it's not even something to be considered, really. I think it's Paterson, New Jersey that has had the instance of fraud that's probably the one thing that anyone could point to, and it was a pretty small election. And the likelihood that fraud is going to be an issue is very minuscule.

DAVID: And the thing about Paterson would be, yes, it was one city council race, and it was discovered straightaway. It was discovered even before election day was over.

RICHARD: Are there some mail-in voting systems, though, that are better than others? I mean, there's some states that have a lot of experience of this, and one of the problems with mail-in voting, as we've seen in several primaries, is it can take a very

long time for votes to be counted when more people are using mail-in ballots than is normally the case.

DAVID: But one question would be whether that should be categorized as a problem or just as a cautionary note that people should just be aware of going in. We do have sort of a tradition in this country of viewing election night as sort of a holy moment when the polls and, miraculously, within just a couple of hours, more than 100 million ballots are counted, and we know who the presidential winner is. There's essentially almost no shot that that is going to happen this year. If we believe the polls, it's not going to be a landslide one way or the other. It's going to be closely contested. It's going to be closely contested in several states that are not used to lots of mail-in balloting.

RICHARD: So we may not get the full results on election night from some of the swing states that could be crucial to the result. What are examples, David?

DAVID: Pennsylvania and Michigan, two of the three states that created Donald Trump's upset four years ago, the laws in those two states, while no-excuse absentee voting is allowed, anybody can vote absentee, the law has not been changed, and election administrators aren't even allowed to open ballot envelopes until the polls close on election day. Even though there's going to be, presumably, a flood of mail coming in in the days leading up to the election, state law prohibits those envelopes from being touched until election night. It would be astonishing if we knew the results of Michigan or Pennsylvania within a couple of days.

ASHLEY: Whose job is it to prepare Americans for the fact that it won't just be a one-night thing?

TRISTIAÑA: Well, I think the media plays a big role in that, in helping people prepare. That's something that we've been talking about recently. How do we make sure that people understand that election night is probably going to be very different than the ones that we've seen in the past? So journalists play a big role in making sure that people understand because of the changes that we're going to see this election, things aren't going to function the same way that they have in the past. That's not a bad thing, and it's not something to be scared about or a reason to have to worry about the results. It's just a function of the way that the election is going to go this year. So there is some concern that the longer it takes for the results to come in, the more likely it is to be contested. So I think that's also a big part of our role, is making sure that people are ready for the way things are going to look in November.

RICHARD: Are both of you confident that the count will be largely accurate?

DAVID: There is no one single count. There are at least 51 counts because my hometown, the District of Columbia, counts for the purposes of this election and this election only. Then, within those 51 jurisdictions, there are many sub-counts. There are some places where the tabulation is done by county, by city. There's lots and lots of

different counts. I think we should go in with the supposition that the count will be accurate, but the count will just take a while, and that any claims of victory, nationwide victory on election night, are highly unlikely to be reliable because the vote count that we have on election night, grand total of votes that have been cast that will have been tabulated by the time we all fall asleep the morning of the election, is not going to be comprehensive enough for one side or the other to claim victory. But I do think, in the end, the counts will... Well, I think there'll be tons of litigation, but in the end, the counts will be accurate.

TRISTIAÑA: We've talked about the fact that there are states that cannot open absentee ballots or mail-in ballots until the end of election day, but there are also states that allow absentee ballots to come in after election day for a certain amount of time that can also be counted. So that is another thing to consider when we're talking about the timeline, is that some states will still have ballots coming in for days after the election that will be able to be counted. So it's just a matter of being patient and waiting for all of those numbers to come in.

RICHARD: If no election result comes in, though, in some states or some congressional districts for weeks, is that a screw-up?

DAVID: The supposition should be that it's not a screw-up. I think the supposition should be that, for the reason again, that's an excellent point. Two out of every three states, the ballots have to be in-hand by the time the polls close in order to get counted. But in the rest of the states, there are ballots delayed in the mail will still be counted. Sometimes they have to show up just one day late, sometimes as long as two weeks late in order to be counted. Again, it varies state to state. So, in a very, very close race, we could be waiting for weeks.

ASHLEY: So, if one side is ahead on election night, the results might change some days later. There were Congressional races in 2018 where the Republican candidate was ahead but the Democrat was later declared the winner after mail-in votes were counted. David?

DAVID: This was the case, famously, in a Senate race in Arizona two years ago, where it seemed that the Republican candidate was quite comfortably ahead on election night. It certainly looked that way, and the Democrat ended up winning quite comfortably when all the votes were counted. Similarly, in California, there were four, I think, Congressional races that looked like the Republicans seemed to have them in hand on election night or early the next morning, and by the time all the votes were tabulated, the Democrats won. So no one has alleged fraud in any of those cases.

ASHLEY: This election is going to be held during a pandemic. That has to make the job of local election officials a lot harder. Are they up to it?

TRISTIAÑA: I think time will tell. I think what we've seen so far is some places have done a decent job with their primaries of adjusting to holding those in-person elections during a pandemic, and other places have not been as successful. So, hopefully, election officials have been taking the opportunity to learn from what has happened and implement things that are going to help folks out, but only time will tell. I think one of the big issues is going to be if there are going to be enough poll workers. We saw a lot of poll workers call out in the primaries, and that's also a big concern, especially given the fact that poll workers tend to be older, which means that they are at the biggest risk when it comes to the coronavirus. So there is the possibility that there just won't be enough people to operate some of these in-person polling places. I live in Maryland, and one of the things they're talking about is shutting down a lot of the polling sites and switching over to polling centers. So that could be what a lot of people are seeing, that they're not voting in the places that they're usually voting.

DAVID: Republican and Democratic election administrators were united in begging the Congress for money to help in an array of ways, to help produce a credible, comprehensive, and healthy election. And Congress has essentially not come through. It came through with a small down payment in March. These election officials essentially rallied around a figure of \$4 billion that they've collectively needed. Congress came through with, I think, about \$450 million of that. Yeah, this is creating additional worry that the count will be slowed, maybe not wrong but slow, slow, slow.

ASHLEY: This is Let's Find Common Ground. I'm Ashley.

RICHARD: And I'm Richard Davies. We're speaking with journalists David Hawking and Tristiaña Hinton of The Fulcrum, and this show is the latest in our series of election briefings. One interesting fact: about four in five American voters this year are eligible to vote by mail.

ASHLEY: Before we hear more from Tristiaña and David, a word about something new. It's the Common Ground Committee Scorecard. It helps you see to what extent the candidates seek agreement on the issues that'll help move America forward, whether they're Common Grounders.

RICHARD: Learn whether our senators, governors, and members of Congress shed light, not light by checking their rankings on the Common Ground Scorecard.

ASHLEY: Find out more at commongroundscorecard.org.

RICHARD: That's commongroundscorecard.org. Be an informed voter. Move our nation away from polarization.

ASHLEY: Now more from David and Tristiaña.

RICHARD: We've been talking mostly about whether we can hold a fair election, but before even the first vote is cast, will this be an unfair election? Is it much more difficult for some people to be able to vote than others?

TRISTIAÑA: Yeah. So I think, in communities of color, in particular, there are a lot of things working against folks when they are trying to cast their ballot, right? If we look at the Native American community, for example, and we talk about mail-in voting and how it's supposed to be a way to help people vote more safely, but if we look at the way that mail-in voting would work for folks living on the reservation, it actually disenfranchises Native American voters. There was actually a lawsuit filed in Arizona recently about mail-in ballots being able to arrive later than election day because of the fact that postal service on the reservation is so unreliable, and actually being able to get those ballots back by election day is not likely. So, when we talk about some of the larger issues like people concerned about postal service, these are issues that affect some communities all the time. And so, when we compound some of these issues that we're talking about like longer lines at polls that serve voters of color, particularly in the Black community, wait times are often much longer for Black voters than they are for white voters. And we talk about the fact that there are going to be fewer polling sites for people to go to, and voters of color are going to be more likely to end up having to vote in person. So all of these things are compounded by normal election problems that we see every year, and the pandemic is just going to make them that much worse as we continue to move forward.

ASHLEY: Do Republicans and Democrats have fundamentally different beliefs about whether the vote count will be accurate?

DAVID: No. The president has a different view than both Democrats and most Republicans, and the disconnect is so stark that last week, the president's own son, Donald Trump, Jr. was persuaded by the Republican Party to do what's called a robocall or automated call to known Republican voters encouraging them to request their absentee ballots. So the Republicans governors and Republican secretaries of state, not only do they believe the system will work, but they believe the system will work for their candidate. In Florida, which has a disproportionately aging population, elderly people tend to vote Republican. Elderly people, one might assume, would be the most inclined to take advantage of Florida's no-excuse absentee voting system. There's a genuine fear among Republicans in Florida that the president is talking these people out of voting because he's saying, "There's no point of voting by mail if you're going to be part of a rigged election if you vote by mail." And they're being told by everyone else, "If you can avoid going to a polling place, avoid it if you're elderly because you don't want to be exposed to the virus at a polling place."

RICHARD: Given that answer, David, do you think there are possibilities or ways of reaching common ground?

DAVID: I do. I do. I think just beneath the president's rhetoric about fraud and rigged election, I think just beneath that, there is a deep vein of common ground among election administrators of both sides that people know how to run elections, and if there's enough money to be spent... There is a challenge with the money, but that they know how to do it mechanically. Before this year, there were four states, one of them one of the most red states in the country, Utah, that were conducting all of their elections by mail. And there were widespread agreements that it worked and that it produced accurate counts. Voters felt more enfranchised. They felt like, by seeing the ballot a couple of weeks out, their civic engagement was higher because they were confronted with the ballot at their kitchen table, and they could sit and do the research of saying, "What's the difference between City Councilman Fred and City Councilwoman Sally? And I can figure out which is which." People, time and time and time again, say voting from home is the best way to have a more civically engaged election.

ASHLEY: Most state and federal elections are fought only between Democrats and Republicans. But what about Independents? Polls suggest that more voters describe themselves as Independent than either Republican or Democrat, and yet, in many states, they're prevented from voting in party primaries.

DAVID: That's a very important point, which is that if you're a Republican Primary voter or a Democratic Primary voter, you've probably been through this pandemic-altered drill once this year, but if you're an Independent voter, in many states, you haven't been because there are plenty of states where Independents, even if they feel compelled to enter the partisan fray for a year, they're not able to. So, in terms of the mechanics of the election, yes, I think there are some Independent voters who are still getting their head around all the complexities of this year in a way their more partisan neighbors have already tried it. As you say, Independents generally, in our democratic system, feel kind of boxed out. We often end up referring to it in our copy at The Fulcrum as the duopoly, and the duopoly tends to box out Independent voices.

RICHARD: Tristiaña, I see you nodding.

TRISTIAÑA: Yeah, I think it's especially prevalent in the closed primary system. I live in Maryland, and we also function under a closed primary system. So, if you're an Independent voter, you don't really count until the general unless you're voting for school board. I think it can be very difficult for Independent voters just when they're trying to function under the system.

DAVID: I would say one of the most important elections that doesn't involve a person in the country this year is going to be this referendum in Florida, so our largest purple state, the third largest state. The people of Florida are going to decide this fall whether to do away with partisan primaries altogether and to open up all of their primaries to all candidates of all parties and just allow the top two finishers, regardless of party, to

advance to the November general election. So when it comes to the voices of Independents, this is a very, very big deal.

RICHARD: Let's talk about another potential reform, ranked choice voting, first because I know that The Fulcrum has been thorough in its coverage of this issue.

DAVID: Oh, you're too kind.

RICHARD: Could one of you explain what ranked choice voting is, first?

TRISTIAÑA: Ranked choice voting is essentially a voting method where people get to vote for people in the order that they would like. You get a first choice, a second choice, a third choice, and so on. The way it's calculated is a little bit complicated, but there's a threshold, and if your first choice meets that threshold, then your vote is counted for them. If not, then your vote gets counted in the next round for your second choice until there is a winner.

RICHARD: And why could that be a fairer system?

TRISTIAÑA: It keeps people from having to do the, "Well, this person's not going to win, and if I vote for them, then I'm splitting the vote," calculation in their head, which is a big conversation that I'm hearing from a lot of folks right now. Instead of being able to vote for a third-party candidate, because they feel like that's taking a vote away from whichever major party candidate they would like to win, they just go for their second choice candidate. With ranked choice voting, they would be able to vote for their first choice candidate, and if that candidate doesn't meet the threshold, then their vote is counted towards whichever of the other candidates they've chosen as their second choice. So it gives people more options to be able to vote the way that they really want to vote instead of having to vote with all of these other calculations in mind.

DAVID: But in the end, the winner is the first person to emerge as having been mentioned on a majority of ballots. So the winner can always claim to have a majority support. The idea is, in order to curry favor, you've got first choice, second choice, and third choice candidates will tack more to the center. They'll be more consensus-driven. They'll be less polarized. It'll be less about cultivating a hardened base than it will be about broadening appeal.

ASHLEY: Who's doing this right now? How many states are using this system?

DAVID: Maine and only Maine, and the voters of Massachusetts will decide this fall whether to do it for all of their elections. It's mostly done at the city level. New York City, most notably, will go to ranked choice voting for the election of mayor next year.

RICHARD: Gerrymandering has been widely cited as another example of unfair elections. This has to do with the way maps are drawn. Describe what gerrymandering means.

TRISTIAÑA: When legislative maps are drawn, politicians can, based on where voters live, draw the districts in a way that favors them to be able to win that district.

RICHARD: I just looked at some states with their electoral maps, and there are some really strange-looking Congressional districts, for instance the Snake on the Lake in Northern Ohio. And boy, there's also some weird ones where you live, Tristiaña, in Maryland. What's the Snake on the Lake, first?

DAVID: Oh, the Snake on the Lake. Yeah, the Snake on the Lake was drawn 10 years ago when the Republicans decided that they had the opportunity to get rid of one of the two Democratic members from Ohio, and all they needed to do was figure out a way to put the two of them in the same congressional district. All that required was essentially drawing a congressional district that was about 120 miles long connecting Akron, I believe, to part of Cleveland. So the Snake Along the Lake was drawn.

RICHARD: Yeah, it's 120 miles long and, what, half a mile wide or something?

DAVID: Something like half a mile wide, right, barely big enough for them to drive up and down. So there are plenty of these. It is because the legislatures themselves draw these districts. The big debate that The Fulcrum covers and that will be on the ballot, also, in several states this fall, Virginia most notably, is whether to take the pencils out of the hands of the politicians and turn the cartography job over to independent, nonpartisan actors. This is now done, at the state legislative level, in about 11 states; at the congressional level in about eight states. The idea is if independents can be, as told, draw the maps without partisan consideration in mind, draw them to keep communities together, draw them to keep like-minded constituencies together, draw them to keep them compact -- California does this, and it has worked pretty well.

TRISTIAÑA: I just want to point out that, when it comes to partisan gerrymandering, both parties are guilty of this. It's not something that just one party's doing. Everybody does it. Like you said, Maryland has some pretty bad gerrymandered districts, and it's a Democratic state.

DAVID: There are some aspects of making elections run smoother and making it easier for people to vote that probably, if there was a partisan-blind taste test applied, you'd get most Republicans voting for it. For example, I think the notion of automatic voter registration, where you are automatically registered to vote whenever you deal with the motor vehicle bureau in your state, I bet there would be common ground if only that proposition were put before the voters, or allowing people to register closer to election day. I think there are some, but they're sort of the second-tier things.

RICHARD: What keeps you up at night? What is your biggest fear with regard to this coming election? Tristiaña?

TRISTIAÑA: I think, for me, it's the disenfranchisement of minority communities, which is something that always exists in our elections. But I worry that with the added complication of the coronavirus, that there are going to be a lot of communities that are disenfranchised come election day.

ASHLEY: David?

DAVID: I would say my biggest fear is that when the election is over, and I think it is possible that the election might not be over until early next year, but once we know who will be the president on January 20th, my biggest fear is that we will have even more work to bridge the divide than we have now and that we're already torn as a country pretty emphatically, and it's hard for me to see too many scenarios where the tear doesn't get worse by the time this is over.

RICHARD: Thank you very much for joining us on Let's Find Common Ground.

ASHLEY: David Hawkings and Tristiaña Hinton from The Fulcrum, an online publication that shares news stories about the workings of democracy. In the coming weeks, we'll have more briefings on election issues.

RICHARD: Let's Find Common Ground is a production of Common Ground Committee. Thanks for listening.