A Ban on Opinion polling Coverage before Elections Could Save our Democratic Integrity

The final forecast from FiveThirtyEight in the 2016 election gave Donald Trump a 29% chance of winning the Electoral College. The majority of Americans had believed this amongst other reports that had shown Donald Trump losing the 2016 election. This is because voters use polling information, whether it is reputable or not, as influences on their voting stance. In 2016, the actual number of voters was less than the polls had predicted there would be, hence the change in the election outcome. The polls relied on using registered voters as markers for who would win, and many of those registered voters that stayed home instead were democratic-leaning. Since the predictions had said that Trump would lose, many democratic voters did not cast their votes. The U.S. polls in 2016 show an extreme example of how a failure of the polls is detrimental to a democratic society, as they show a direct interference in voter turnout.

In American politics opinion polling is the dominant strand of coverage of presidential races and politics in general. This completely undermines the citizens in their ability to be well informed because polls are often biased and framed to fit certain audiences. These types of media have been shown to alter voter turnout and overall transparency of elections. A study comparing voter turnout in the November 2007 special election for congressional chairs showed that voters that received either the Washington Post or the New York Times had increased in voter turnout by 2.8% (12). Since many news sources have moved toward covering candidates rather than their policies, this increase is important to note. Media requires profits, and using opinion polling type reporting can increase subscriber interaction, especially now that internet media is the most used form of news coverage. The issue is that since these media stories are affecting voter turn-out, they could influence the election in a negative manner if citizens are basing their vote off of these kinds of publications. Cases like these do not help our democracy elect the candidates that the people want representing them. Several journalists have weighed in as these issues ripple in effect on our nation. As Richard Thomas says, "But what interests the public is not necessarily in the public interest – and election coverage might not be helping citizens make sense of the policies that will affect their lives after polling day."

Polling in the media has been a large source of media confusion. What I mean by this, is that opinion polling has been used to fit different news networks views and often fails to be an unbiased source of information. As for bias, a study in 2006 showed that "opinion polling even when done by the best – presumably the NES and the GSS – seems beleaguered by intractable problems of response falsification,"(14). Even when polls are completed with the least amount of bias, the way that media reports on them increases the likelihood of the falsifying of information to the public. This is a key issue. The media needs to be held to a standard in which data is not bent to fit whatever agenda that they please.

Polls fail to capture the right audiences in order to accurately predict outcomes of elections. For example, according to the New York Times, on average Republicans are now less

likely to respond to opinion polls (12). Without being able to know that the sample of voters that are polled are an accurate sample of the entire population, polling cannot be heavily trusted. This discrepancy may be due to President Trump's claims that the media is against him. Still, with the two party system that has been established in the U.S., only having data from one political party is not enough. Polling missed the mark in 2016.

In 2020 it was predicted based on polling that Joseph Biden would win by a landslide. However, now that votes have been cast this does not seem to be the case as he did not win nearly as many states as projected. The New York times also reported that, "The misses are especially vexing because pollsters spent much of the last four years trying to fix the central problem of 2016 — the underestimation of the Republican vote in multiple states — and they failed,"(13). For several years now, polls have consistently been inaccurate. What can be done about this? As of right now, many social media giants like Facebook and Twitter have both taken clear stances as to how to regulate the political climate of the online world. This does not stop polls that are not highly trusted by the public. On average, Americans' trust of the media has dropped to only 31% (16). When citizens cannot trust their media to give them reliable information, we run into issues much like this year's election where we have hundreds of thousands of Americans who believe that the media is lying to them about Joseph Biden winning. This translated into there being talk of riots along with hundreds of businesses in the District of Columbia deciding to board up their storefronts just in case. On November 8th, 2020, the Independent reported that two thirds of Americans had expected there to be post-election riots and violence (17). In strong healthy democracies, this sort of violence should not occur, and the media should not perpetuate polls like these that only instill this further.

Perhaps the way to fix this issue is to add regulations. A great idea has emerged from other countries surrounding this by having written laws that address these issues. One very popular option is election silence. This means that before an election ends, there are strict regulations on what can and cannot be published regarding the election. It helps to ensure that citizens are not swayed by biased coverage. To examine what plan would be best, I focused on one country that uses written laws because I believe that the U.S. would be most successful with this approach.

Canada's Take

Canada is a great example of a strong parliamentary democracy that utilizes an intervention of the media in order to preserve its democracy as a whole. Canada has chosen to ban opinion polls three days before an election very similarly to France. "The New Act (section 328) imposes a blackout on publishing or broadcasting new survey results on election day, with exit poll broadcasts (section 329) banned (on pain of summary conviction and fine) until the close of polling,"(9). This act was met with a lot of backlash as some believed that it defied the Right to Free Expression in Canada. To address these claims, by only banning the publication of new surveys, they are able to bar false claims from being circulated.

Additionally, in an attempt to make surveys more transparent, the first media outlet to post a survey must include the, " survey methodology, including the survey's sponsor, who

conducted it, when it was held, the population from which the survey sample was drawn, the number of people contacted to participate, and the margin of error," (9). I think that these should already be available to the public, so it is good that these specifications are required. Adding transparency to data like this will hopefully make the public more informed. This legislation also bans citizens from posting about the election on election day, but it does not stop many Canadians from looking toward other sources of news like U.S. coverage on their election online. This way citizens are still able to receive news updates without the bias of their own media. I think this model has the capacity to work in the U.S.

As for the citizens' opinions on how this affects their government, it is important to note coverage on the 1997 election in Canada. According to a study completed in 2000, the amount of polling was so high that it was covered more than the actual issues in politics. The study reads, "the emphasis on the polling is especially evident considering less coverage was given to unemployment and health care—the two issues of greatest public concern (Andersen)—than to polls. National unity was the only important substantive issue to receive more attention than polls. In other words, the media showed more interest in discussing the election as a contest than providing information about issues of public concern," (15). This is very similar to the state of U.S. media today. Canadians recognized the need for this regulation as their media shifted away from putting the public interest first. Democracies are supposed to serve the people that run them. Without some kind of intervention in the media, this sort of coverage is bound to harm the democratic system.

Although these types of regulation would solve a lot of issues that we have today in American politics, there are some downfalls to consider. Many American citizens would view this sort of regulation as a breach of their right to free speech. Some might even argue that this sort of regulation is censorship. It would be wrong to think that this would be an easy feat. America's First Amendment Rights have been protecting the media for centuries. To alter the First Amendment would be nearly impossible. However to counter this claim, a study completed in 2012 by the University of Hong Kong showed that 38 out of 83 countries that they studied had some form of banning polling before elections (18). There are a great mix of strong democracies and weak democracies in the countries that had been asked, for example places like Peru and Ecuador. It is important to note however that many strong and healthy democracies have placed regulations like this. Other democracies that have intervened in their media successfully include France, Canada, New Zealand, Australia and Poland. These countries have been able to return the media back to aiding in the democratic process rather than hindering it. Since many other democracies have found success in this, it makes sense that we should also try to implement it. Perhaps this would sway public opinion to be in favor of the legislation. Another viable option could be an agreement amongst news outlets to stop publishing opinion polls on the day before elections in order to foster a healthier democratic environment. There are not many accounts of this working but it is a nice thought . In America, I think that our media is too fractured for this sort of agreement to be put in place.

What we should do

The 2016 U.S. Presidential election is a clear example of how the media failed its readers. In America, we need to have legislative change in order to make opinion polling less rampant during elections. I believe that by implementing some of these regulations that other countries utilize in order to keep their democracies healthy and strong we will aid in the building back of trust of the media. We would also benefit minimally by using the specifications that Canada uses by releasing polling information that puts context into the data being presented. Since even the most unbiased polls are still able to be manipulated, by adding these extra regulations they are less likely to be tampered with. These steps will allow for the media to be more transparent before the election comes closer and leave the citizens with more reliable polling information. Once this is set in place I think that a ban on polling the day before the election would work best here in the U.S.

Media outlets are supposed to serve the public and keep them informed, and we should get back to that being the main focus . Many media outlets had been sharing polling information through various mediums in this most recent election and I saw many people criticising the polls along with saying people should ignore their findings, continue to campaign, and urge others to vote. If these polls had been more reliable by saying who sponsored them and who specifically was polled, perhaps the public would have been able to trust them more. The emphasis on political coverage must be more unbiased and move towards matters like policy and agendas rather than on scandals and clickbait stories.

So, moving forward, Americans should focus on banning opinion polls the day before elections and move towards making polls more transparent in the media.

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