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## Portrait of a country on the verge of a nervous breakdown

**With only nine days to go and the polls showing Bush and Kerry still neck and neck, the result is once again likely to turn on the minutiae of the voting system. But this time the whole country seems poised to descend into post-election chaos. Andrew Gumbel reports on the traumatising effects of this bitter campaign and how, as the world's most powerful democracy talks of exporting freedom to Iraq, it is at risk of becoming an object of international ridicule**

24 October 2004

No need to wonder if this year's US presidential election is headed for another meltdown: the meltdown has already started. The voting machines have already begun to break down, accusations of systematic voter suppression and fraud are rampant, and lawyers fully armed and ready with an intimate knowledge of the nation's byzantine election laws have flocked to court to cry foul in half a dozen states.

Nine days out from election day, we don't yet know whether the state-by-state arithmetic will lead to a post-election stalemate similar to the 36-day battle for Florida in 2000. It is, of course, possible that the margins of victory in the 50 states will be wide enough to avert the worst - even if overall conditions are likely to fall short of the usual definition of a free and fair election.

Given the nail-bitingly close numbers in the opinion polls, however, Election 2004 could just as easily produce a concatenation of knockdown, drag-out fights in several states at once, making the débâcle in Florida four years ago look, in retrospect, like the constitutional equivalent of a vicarage tea party.

Last week saw the start of early voting in Florida

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and a clutch of other states, and with it came a plethora of problems. In three heavily populated counties - around Tampa, Orlando and Fort Lauderdale - the network connection used to verify voter identifications broke down on the first day, creating hours of delay. In Jacksonville, where poor ballot design in 2000 knocked out the votes of 27,000 poor, predominantly black, predominantly Democratic voters, the county elections supervisor chose the first day of polling to resign, citing ill health. He had come under fire for failing to make early voting available in the city's African-American neighbourhoods - something his interim successor is now going some way to remedy.

Elsewhere, there were computer breakdowns during early voting in Memphis. Pre-election testing of electronic machines in Riverside County, California, and in Palm Beach County, Florida, led to multiple computer crashes. Elsewhere, machines have manifested problems handling basic addition - especially when asked to display instructions in a language other than English. Several county administrators have chosen simply to skip the non-English language part of the test.

In Nebraska, dead people were found to have applied for absentee ballots. In Ohio, a representative of the National Association for the Advancement of Colored People was found to have offered crack cocaine to a known drug addict in exchange for completed voter registration forms, which he duly submitted in the names of Mary Poppins, Janet Jackson and Jeffrey Dahmer, the notorious cannibal serial killer.

This is just the beginning. The Kerry campaign alone has signed up 10,000 lawyers around the country to oversee registration and absentee ballot procedures, keep tabs on computer voting companies, collect stories of alleged disenfranchisement or irregularities at the polls, and watch state elections officials with hawk-eyed attention for every ruling that might be construed as having a partisan, rather than a public interest intent.

"The lawyering won't start the day after the election," said Kendall Coffey, a Democratic Party lawyer in Miami who was deeply involved in the 2000 fiasco. "It's already under way." Florida Congressman Robert Wexler, who is deep in litigation with his state government over the failure of Florida's electronic voting machines to produce an independent paper trail, concurred. "The dangers are limitless," he said. "They are limited only by the inventiveness of those who would tamper with the system and create havoc."

It beggars belief that the world's most powerful democracy should find itself in this hole for the second time in a row - becoming an object of international ridicule, scorn and not a little alarm, even as the country's leaders talk idealistically about exporting American freedom and democracy to Afghanistan, Iraq and beyond.

After the last fiasco everyone from President Bush down vowed to fix the system and ensure another Florida could never happen. But three big things went wrong. First, the new generation of computer touchscreen machines - brought in at dizzying speed and at even more dizzying cost to replace the discredited old punch-cards - turned out to be poorly programmed, unverifiable, prone to all manner of failure and susceptible to undetectable foul play.

Secondly, the Bush administration dragged its feet about enacting funding its own new election laws. As a result, most states won't have their electoral procedures fully updated and coordinated until the next presidential election in 2008. That, in turn, is opening up furious arguments about the ill-defined rules for provisional ballots, absentee ballots, ID card requirements at polling stations and other seemingly esoteric bureaucratic niceties that could have a huge impact on turnout - especially among the poorer, less educated classes who have traditionally been ignored, if not excluded, by the two major parties.

Thirdly, the political leadership allowed itself to be deluded into thinking that the dysfunctions of the US electoral system were purely a matter of technology. Fix the machines, the thinking went, and everything else will be fine. What should

have been glaringly obvious in 2000, and is even more glaringly obvious now, is that the failures of the electoral process were a direct result of the ferocity of broader political battles. The blithe incompetence of local election officials and their wonky machinery were side-effects of these battles, not the cause.

In 2000, much of the agony of Florida could in fact have been avoided if the parties had agreed to a state-wide manual recount - as happened in an equally close, but amicably resolved, Senate race in Washington state that year. It was the high stakes of the White House, not the messy accumulation of hanging, dimpled and pregnant chads, that sparked the crisis. And we know the stakes are infinitely higher this time, in what has been called the most important US election in memory.

There has been nothing to match the current passions in American politics since the Civil Rights era and the Vietnam War. Campaigns have never been dirtier, or more intensely fought or more expensive. Both major parties have vowed to do whatever it takes to win, and each has accused the other of engaging in out-and-out cheating.

The whole country - never mind the woefully inadequate electoral system - is now living on the edge of a nervous breakdown. Little wonder, then, if many are predicting some sort of collapse on 2 November. "Only a miracle, it strikes me, can prevent this election from descending into post-election chaos," John Dean, the Watergate-era White House counsel who knows a thing or two about electoral dirty tricks, wrote last week.

What has been striking is the sheer nastiness of the fight. In Oregon, Pennsylvania and Nevada - all swing states - a Republican political consulting group called Sproul & Associates has been accused of passing itself off as a non-partisan or even a Democratic civic organisation to collect voter registration applications outside libraries and supermarkets. In at least two instances now under criminal investigation, company employees have been accused of processing the applications of declared Republican voters while throwing the forms marked Democrat into the nearest rubbish bin. Sproul, which has received more than \$600,000 (£330,000) from the Republican National Committee, has denied ever endorsing such practices. Still, the discarded voter registration forms have been paraded on television for all to see.

In Ohio and Florida, it is the Republican secretaries of state - who oversee elections - who have been accused of putting partisan preference above their solemn civic duties. Ohio's Ken Blackwell won points from voting rights activists earlier in the year when he chose not to go ahead with a massive state-wide buy of electronic voting machines. Since then, however, he has tried to insist that all voter registration forms be submitted on 80lb stock paper - a ruling struck down by the courts after he was accused of blatantly attempting to suppress the votes of likely Democrats.

He has also tried to make life harder for provisional voters, saying their ballots will be recognised only if they show up at exactly the right precinct. This too was struck down in court because it was deemed likely to suppress votes - especially among transient students and low-income workers. But Secretary Blackwell has continued to implement the policy in defiance of the court order, prompting a harsh rebuke from the judge.

In Florida, Secretary of State Glenda Hood has been repeatedly accused of doing the political bidding of the man who appointed her - Governor Jeb Bush, the President's brother. Her more recent exploits include directing county supervisors to throw out registration forms where applicants have signed a statement declaring they are US citizens but have forgotten to check a citizenry box elsewhere on the form. This, too, is seen as a vote-suppressing mechanism. It, too, is now in the courts.

Secretary Hood has also been waging a months-long campaign to ban what limited manual recounts the electronic voting machines permit. Her initial ruling was struck down by the courts, but now she has come up with a staggeringly devious rewrite. The state will now permit analysis of the computerised machines'

internal audit logs in the event of a close race, she said, but if there is any discrepancy the county supervisors are to go with the original count. In other words: we will do recounts, but if the recounts change the outcome we will disregard them.

Secretary Hood's actions illuminate the real attraction of the electronic voting machines in the states where they have been introduced. They may work no better than the old punch-card machines - studies suggest they fail to record as many votes as their predecessors. In the absence of an independent paper trail, however, all evidence of problems is hidden away in the binary code of an electronic black box and is, to all intents and purposes, invisible.

This raises intriguing and troubling questions about what a post-election contest might look like. One can reasonably anticipate - based on past experience - an avalanche of stories about voters turned away from polling stations, told they are on a felons list even if they have no criminal record, or kept waiting for hours because of technical glitches. No doubt people will tell some of those thousands of lawyers how they pressed the screen for one candidate, only to have the other's name light up.

The problem is, even if lawyers for the losing candidate are able to prove that the system failed, they will find it very difficult to talk specific numbers and demonstrate that enough votes were lost to alter the outcome.

How the courts will react to this hypothetical state of affairs is anybody's guess. They could accept the given election results, however flawed. They could allow the arguments to rage until December, when the electoral college is supposed to meet, or even into the new year, when an undecided election would be thrown into the House of Representatives.

Or they could be trumped, once again, by the Supreme Court. The most disconcerting possibility is that the highest court in the land could remove the electoral process from the voters altogether and turn it over to the state legislatures. Technically, they can do this under Article II of the Constitution, which offers no automatic right to vote. We know from the deliberations in 2000 that two, possibly five, of the nine justices have doubts whether the people should be the ultimate arbiters of presidential elections - a strict, literal reading of the Constitution that no modern Supreme Court countenanced before the current crop of ultra-conservatives. "After granting the franchise in the special context of Article II," the majority declared in its Bush vs Gore ruling, "[the state] can take back the power to appoint electors."

Were this scenario to play out it would leave the fate of many of the electoral battlegrounds in the hands of Republican-controlled state legislatures (in Florida and Ohio, for starters), who would promptly hand the election to George Bush. Talk about a nightmare scenario - which is why every elections official and every "small d" democrat in the land is praying it won't get that close.

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