

FROM CRISIS TO REFORM

A Call to Strengthen America's Battered Democracy



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Special Report

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ON THE COVER

Demonstrators surround the reflecting pool at the Lincoln Memorial in Washington, DC, on the 57th anniversary of Rev. Dr. Martin Luther King Jr.’s “I Have A Dream” speech at the same location. Image credit: Drew Angerer via Getty Images

From Crisis to Reform

A Call to Strengthen America's Battered Democracy

by Sarah Repucci

Introduction

The events of the past several months amounted to an acute crisis for democracy in the United States. An incumbent president attempted to overturn election results, a violent mob assaulted the Capitol as Congress met to formalize his defeat, and lawmakers failed to hold the outgoing leader accountable for his reckless actions, leaving him in place as the de facto chief of his party.

The country avoided the worst possible outcomes. Police, at great cost, protected members of Congress from harm. The election results were given fair hearing in the courts and ultimately confirmed, and there was a peaceful transfer of power. But the crisis did not arise suddenly from an otherwise healthy political environment. US democracy is in urgent need of repair.

The problems that came to a head in January had been accumulating for years. Freedom House has been tracking a gradual decline in respect for political rights and civil liberties in the United States over the past decade. The deterioration was initially marked by harmful new restrictions on voting, legislative gridlock that has made it nearly impossible for the country to address serious public policy challenges, and the growing political influence of well-funded special interest groups. The downward trend accelerated considerably over the last four years, as the Trump administration trampled institutional and normative checks on its authority, cast aside safeguards against corruption, and imposed harsh and discriminatory policies governing immigration and asylum.

The United States remains a Free country, and Americans enjoy a more robust system than the vast majority of people globally. Yet when considered from a global perspective, the erosion of US democracy is remarkable, especially for a country that has long aspired to serve as a beacon of freedom for the world. A decade ago, the United States received a score of 94 out of 100 in *Freedom in the World*, Freedom House's annual report on political rights and civil liberties.¹ That put it in the company of other established democracies, such as France and Germany. Today, whereas those former peers remain at 90 or above, the United States has fallen to a score of 83, leaving it in a cohort with newer democracies like Romania, Croatia, and Panama.² The prominence and global influence of the United States mean that its woes have a uniquely damaging effect on democracy in the rest of the world.

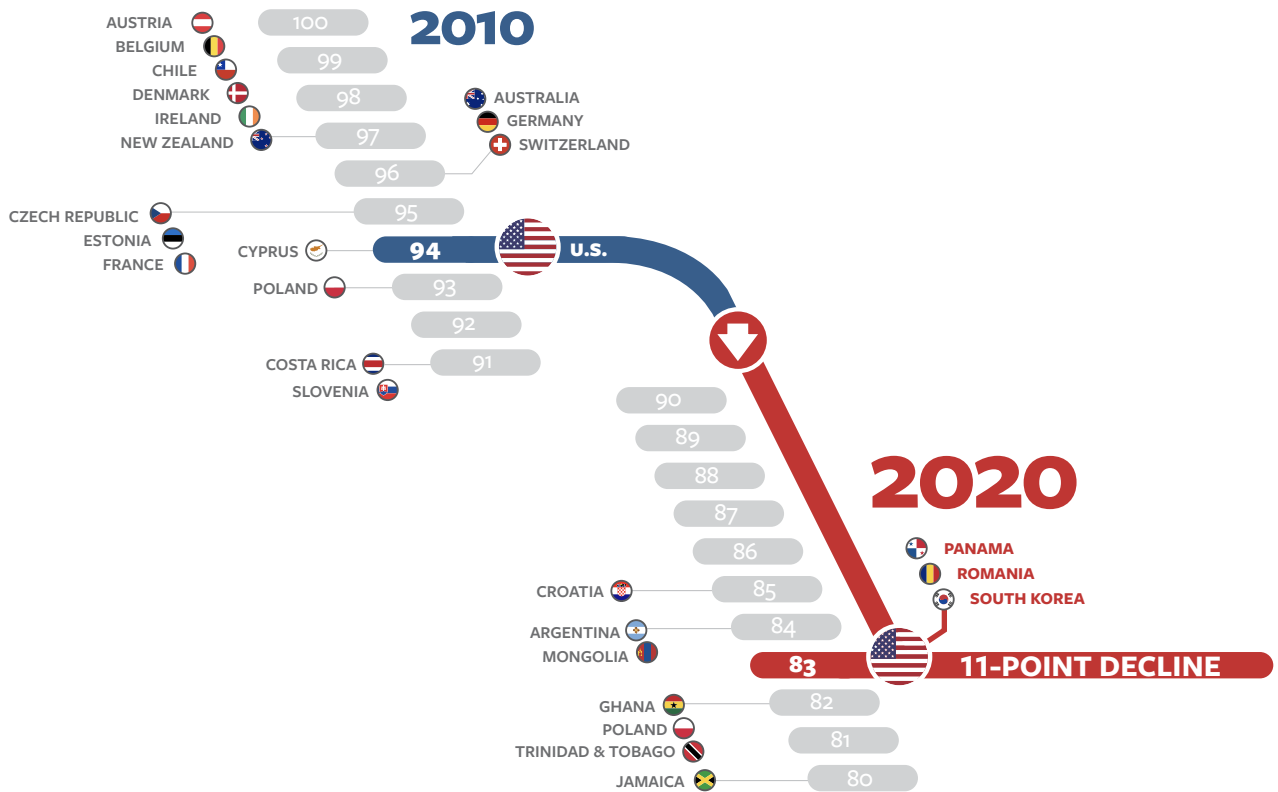
The presidency of Donald Trump brought heightened attention to the institutions of democracy that he most often attacked, including the press, the judiciary, safeguards against corruption, and the constitutional authority of Congress. The vulnerabilities revealed by this political pressure must be addressed, but they are arguably symptoms and outgrowths of deeper ills that plagued US democracy long before Trump arrived on the scene. Through an examination of its time-series data, Freedom House identified three enduring problems that play an outsized role in undermining the health of the American political system: unequal treatment for people of color, the improper influence of money in politics, and partisan polarization and extremism.

Racial injustice has been a blight on US democracy since its foundation, and while much progress has been made, the country still features deep and corrosive inequities. For decades now, the flow of large campaign donations and other financial inducements into the political system has surged with each new election, buying access and influence that are unavailable to ordinary voters. And partisan polarization has escalated for more than a generation,³ driving many Americans into mutually hostile camps, fueling conspiracy theories and even violence, and eroding trust in independent, fact-based journalism, an indispensable bulwark of democracy. These weaknesses, moreover, are worse than the sum of their parts, compounding one another in a vicious circle of democratic dysfunction.

The ailments afflicting politics and governance in the United States have undercut its resilience in face of rising undemocratic forces around the world. While public frustration with the system can encourage political participation and activism, it can also lead to apathy or extremism, both of which further harm democratic performance. Addressing racial injustice, money in politics, and partisan polarization is crucial to restoring public faith in US democracy, fortifying it against emerging threats, and enabling it to serve as an attractive model and a source of effective leadership for the world. There is a unique opportunity today, when Americans are publicly engaged after a contentious election and as a new presidential administration attempts to chart a better course. We need to seize this moment and move beyond a focus on short-term problems to strengthen the foundation of US democracy.

THE UNITED STATES' NEW PEERS

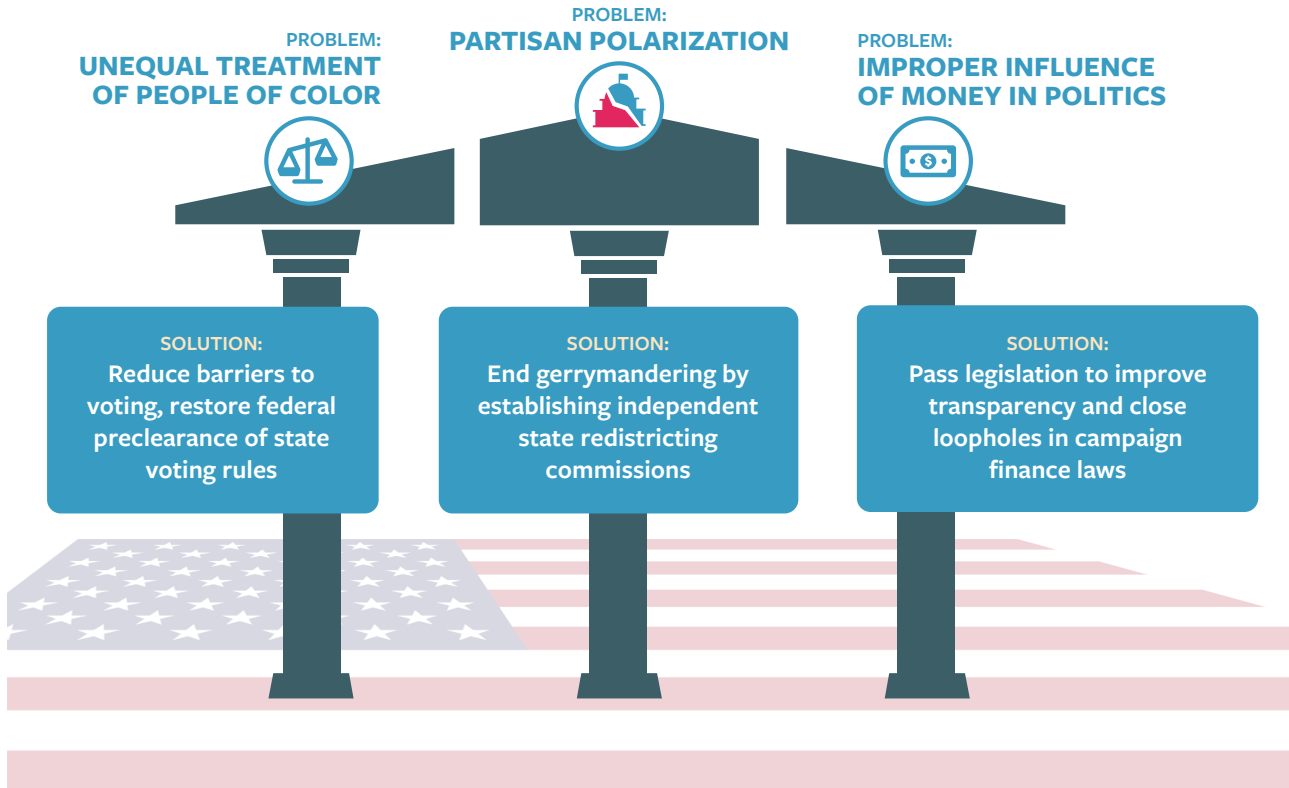
After declining by 11 points over the last decade, the US aggregate score for political rights and civil liberties now falls close to the middle of the Free spectrum, according to *Freedom in the World*.



Note: The US score of 94 is from the 2011 edition of *Freedom in the World*. The latest score for the US is drawn from the 2021 edition. All scores are on a scale of 0 to 100, with 62 as the lowest possible score for a Free country.

STRENGTHENING THE WEAK POINTS OF AMERICAN DEMOCRACY

These long-standing flaws in US democracy have grown worse over the past five years. It is time to start repairing them.



1. Unequal treatment

Democracy rests on the premise that all citizens are equal in their vote, before the law, and in their treatment by the authorities. The United States has struggled to uphold this ideal since its founding. Great strides have been made over time, but there have also been episodes of backsliding, as well as moments of recognition and clarity as to the scale of the challenge that remains. The mass protests that followed the murder of George Floyd last year provided one such moment, though they built on years of growing scrutiny of the ways in which the structures of American society still discriminate against people of color, producing and perpetuating vast inequalities. Biases in access to housing and lending, education and employment, fair wages, and health care leave millions of people with fewer opportunities for social and economic advancement and subject to undue hardships. These distortions also limit options for participation in political life.

The unequal treatment of people of color, especially Black and Native Americans, is one of the most enduring demerits in Freedom House's evaluation of freedom in the United States, and the scores for political equality and equal treatment under the law have deteriorated further in recent years. It is a problem that has transcended different presidential administrations and public policy approaches. Although there are parallels with other long-standing democracies like France and the United Kingdom, the United States faces a unique challenge to uphold the promise of equality due to its history of large-scale internal slavery and institutionalized segregation.

Discrimination in the criminal justice system has had particularly damaging consequences in the United States, exposing millions of people to mistreatment by police and lengthy incarceration without effective avenues for

redress. The persistence of arbitrary police killings of Black civilians, and the impunity often enjoyed by the perpetrators, regularly remind Americans that constitutional guarantees of due process remain inaccessible to a large swath of the population. Decades-old criminal codes and other policies, notably those pertaining to narcotics, are structured and enforced in a manner that disproportionately affects Black, Latino, and Native American people, who account for a majority of sentenced prisoners despite representing about a third of the general US population.⁴ A range of factors contribute to these outcomes, including inadequate funding for public defenders, who represent low-income people accused in criminal cases; a rigid and unforgiving probation and parole system in which people are reincarcerated for minor violations; racially biased surveillance technology, such as facial-recognition systems, and predictive policing tactics that disproportionately monitor people of color;⁵ and the imposition of excessive bail, court fees, and fines for minor offenses as a means of raising local budget revenues.

The fairness and inclusivity of US elections are significantly impaired by restrictions on voting, many of them introduced over the past decade, that disproportionately affect people of color. Since a 2013 Supreme Court ruling eliminated a provision of the 1965 Voting Rights Act that had required jurisdictions with a history of discrimination to obtain federal approval before changing their voting rules, a rash of new state laws and regulations have made it more difficult for many people to cast ballots. These measures—typically promoted on the grounds that they save money or reduce fraud, when in fact there has been little evidence of fraud that might justify such barriers—tend to limit participation by specific demographic groups, including Black Americans.⁶ States have slashed the number of polling locations, rolled back early voting and other initiatives that facilitated voting by people with less flexible schedules, and purged voter rolls using exacting criteria that effectively increase the procedural burden on voters to maintain their registration, among other changes. Such voting restrictions have been implemented in states that were never subject to federal preclearance before 2013, revealing an expansion of the practices beyond their historical and geographic roots. One especially egregious constraint on suffrage, the legal disenfranchisement of people with a felony conviction in many states, is exacerbated by bias in the criminal justice system: despite some halting progress on reforms in recent years, Black people are still disenfranchised in this way at more than four times the rate of other Americans.⁷

In addition to failing to ensure equal treatment for its citizens, the United States has adopted immigration and asylum policies that directly contradict its self-image as a land of liberty and opportunity for those fleeing oppression abroad, and that gravely violate both international human rights standards and the protections encoded in the US constitution and federal law. Immigration rules have been hardening since the September 11, 2001, terrorist attacks, which elevated security concerns above other priorities and led to the creation of a sprawling and aggressive enforcement apparatus that lacked sufficient guarantees of due process. The Obama administration used this flawed system to deport hundreds of thousands of people without criminal records, though it also moved to protect certain categories of undocumented immigrants and continued to welcome refugees. The Trump administration took dramatic steps to curb virtually all forms of entry, slashing the number of refugees accepted for resettlement, barring travel from several Muslim-majority countries, forcing asylum seekers at the southern border to remain in Mexico or deporting them to unsafe third countries in Central America, and stepping up arrests of undocumented immigrants residing in the United States, which added to already enormous case backlogs. These policies were accompanied by cruel and sometimes illegal measures like family separation and the detention of children. All national governments have the authority to protect national security by placing restrictions on immigration and travel across their borders. However, immigration policies must be enforced in a lawful and nondiscriminatory manner that respects fundamental human rights.

The US government's failure to do so has resulted in a score of just 2 out of 4 for the *Freedom in the World* indicator that addresses whether laws, policies, and practices guarantee equal treatment of various segments of the population, a level matched by only two other countries among the world's 25 largest established democracies.⁸

Demonization and scapegoating of foreigners is a tactic commonly employed by authoritarians to rally support and consolidate power. By conjuring an external force that purportedly threatens the nation, such leaders can justify transgressive actions and smear domestic opponents as a traitorous fifth column. And where the rights of noncitizens are violated with impunity, citizens may soon be at risk as well. The survival and success of democracy—in the United States as elsewhere—depends on the constant pursuit of equality, inclusion, and justice for all.

2. Improper influence

There is a widespread perception among Americans that our democracy is failing to address society's most pressing problems, and that elected representatives are inaccessible to those without deep pockets or elite connections. People sense a disconnect between themselves and the politicians who make decisions affecting their lives, and the news dominating Washington often seems to hold little relevance for individuals' day-to-day concerns. Recent polling indicates that only 13 percent of Americans have strong confidence in Congress.⁹

A major force behind this lack of public trust in government is the influence of money in politics and policymaking, which has only grown since a 2010 Supreme Court decision removed key constraints on campaign spending by equating it to free speech. Americans are keenly aware of the extent to which elites' personal wealth

can shape politics, citing it as a top area of concern for US democracy in opinion polling.¹⁰ Because election campaigns have become so costly, politicians are dependent on major donors, whose priorities in turn receive privileged treatment. The problem is bipartisan: in the 2020 election, Democratic presidential candidate Joe Biden reportedly received some \$645 million from just 227 billionaire donors; Republican candidate Donald Trump received more than \$336 million from 132 billionaire donors.¹¹ Elected officials typically vote for policies they believe will benefit their constituents, but that includes favoring local corporations and special interest groups. Through a variety of legal mechanisms, donors can make essentially unlimited political donations to benefit candidates. The need to cultivate and compete for this donor support forces elected officials into a permanent campaign mode, requiring many to dedicate multiple hours each day to fundraising.¹²



Protesters in New York call for vote counting to continue in the wake of the 2020 presidential election, after then president Trump cast doubt on the validity of mail-in ballots. Image credit: Erik McGregor/LightRocket via Getty Images

The realities of wealth distribution in the United States determine who can make such sizable donations, and thus gain special access, to government representatives.

The realities of wealth distribution in the United States determine who can make such sizable donations, and thus gain special access, to government representatives. Income inequality has deepened without interruption since 1980;¹³ by one count, in 2019 the wealthiest 10 percent of Americans controlled roughly 84 percent of the assets traded on Wall Street.¹⁴ Black families' median and average wealth was less than 15 percent that of White families in 2019, while Hispanic families' wealth was less than 20 percent that of White families.¹⁵ There is also a wealth gap between ordinary citizens and those who represent them: a majority of members of Congress are millionaires,¹⁶ whereas the median net worth of an American household is about \$100,000.¹⁷

In *Freedom in the World*, the United States ranks lower on the indicator for improper influence on the political process—whether by private interest groups, oligarchs, patronage networks, criminal organizations, armed militants, or foreign powers—than any other large, established democracy, with the exception of Italy. Although many democracies, like the United States, have no campaign spending caps, they usually have other provisions that constrain donor influence, such as substantial public funding for campaigns, bans on televised

political advertising, comparatively short campaign periods, and voting systems that afford less autonomy—and thus less value for donors—to individual legislators.¹⁸ The United States lacks these mitigating factors, making it an outlier among similar countries.

The scandals surrounding the Trump administration further exposed the fragility of America's safeguards against improper influence, corruption, and conflicts of interest. The president disregarded weak or symbolic ethics standards, appointing individuals with personal financial interests in the outcomes of their official decisions, and facilitating deeper involvement in policymaking for well-resourced special interest groups. On a personal level, President Trump declined to divest ownership of his expansive real-estate operations and consistently visited and held events at his commercial properties, generating publicity and income. His hotel in Washington became a hub of activity for foreign and domestic actors who sought or peddled influence with the president. Most importantly, Trump avoided accountability for himself and his allies by dismissing inspectors general, rebuffing congressional oversight, exerting pressure on the Justice Department, and sidestepping the traditional vetting process to issue pardons for close associates and a range of others—including politicians convicted on corruption charges.

The extent of executive malfeasance under the Trump administration set a dangerous precedent for future leaders who may not intend to serve in the public interest. It feeds cynicism and frustration among the population and pushes voters further toward undemocratic, extremist, and populist candidates who decry existing elites or institutions even as they reject constraints on their own behavior.

3. Partisan polarization

American society is increasingly defined by a widening gap between people who identify as either liberal or conservative, or as supporters of the Democratic or Republican Party. These Americans are sorting themselves into more homogeneous groups with similar political leanings and limited opportunity for interaction with those on the other side, which can blind them to the many issues on which large majorities still agree.¹⁹ Political identity is coded into choices as mundane as where someone buys groceries or

what television shows they watch. That Americans across the political spectrum use the shorthand of “red” and “blue” to define geographic areas is a testament to the partisan divide.

The specific character of US political polarization is particularly damaging to democracy when compared with other countries. While many democracies feature sharp debate and ideological competition between left and right, partisan affiliation in the United States has also become more closely tied to racial,

ethnic, and religious identity. This makes it far more difficult for parties to gain supporters through attraction and persuasion, and far easier for unscrupulous politicians to present their opponents as an inherent and existential threat. Critiquing one's own camp or supporting a position associated with the rival party can seem like a betrayal, engendering a blind loyalty that ignores abuse of power and corruption by unaccountable leaders. At its ultimate extremes, politics based on immutable identities can lead to the sort of chronic dysfunction and insecurity seen in places like Bosnia and Herzegovina or Lebanon. It undermines the idea of a common national identity, of a community of citizens with shared interests, and hampers progress on even the most practical governance problems.

Another distinction is that US polarization is not tied to a single personality, notwithstanding the recent dominance of Donald Trump among Republicans. The divide began long before Trump ran for president, and it seems likely to persist after he has left the scene. The current political rifts in countries as diverse as Poland and Venezuela can largely be traced to the 1990s, but the United States arguably set out on its modern partisan trajectory in the 1960s and 1970s. The durability of US polarization has meant that it is often passed from parents to children, making it harder to dislodge.²⁰

America's first-past-the-post electoral system, in which voters may choose only one candidate and even a candidate with a small plurality can win, has set the stage for polarization by making it difficult for any third party to emerge as a viable alternative to the Democrats and Republicans. The two-party structure is more entrenched than in other established democracies with similar electoral systems, like the United Kingdom or Canada, where third parties hold sizable shares of the legislature.

But it is the practice of partisan gerrymandering that has the most corrosive and radicalizing effect on US politics, generating a multitude of districts in which one party can be virtually certain of victory. Most of the 50 states still allow their elected legislatures to oversee the process of redrawing district boundaries to account for population changes,²¹ meaning lawmakers from the governing party can essentially choose their own voters—an inversion of democracy. The only real competition an incumbent faces in a well-gerrymandered district comes from challengers in the intraparty primary elections, for which voter turnout is often limited to firm party loyalists. This encourages the candidates to take extreme positions and drives political discourse away from the center over time.²² Gerrymandering



Members of Congress reconvene in a joint session to ratify President Biden's Electoral College win after being evacuated when rioters stormed the Capitol. Image credit: Shutterstock

has deep roots in the American system, but it has become more sophisticated thanks to strategic and technological advancements in recent decades, and the two parties' growing affiliation with particular demographic groups has made it possible to predict a given community's voting patterns with greater precision. Analogous but more distorted forms of gerrymandering and district malapportionment can be found in less democratic countries around the world—including Hungary, Jordan, and Malaysia—where incumbent forces seek to tip the scales against the opposition and maintain a share of legislative seats that exceeds their share of the per capita vote.

The American system puts elected officials in charge not just of district maps, but also of electoral administration, including counting and tabulation. Most countries assign electoral management to independent or politically balanced commissions, but in the United States, the task falls to state-level partisan officeholders who may be on the ballot themselves. This conflict of interest was on prominent display in 2018, when the top election official in Georgia, Republican secretary of state Brian Kemp, won the governor's seat after using his existing post to amplify unfounded fears of fraud and purge hundreds of thousands of voters from the rolls. In 2020, President Trump called on Republican officials in key states—including Kemp and secretary of state Brad Raffensperger in Georgia—to alter the final vote tallies in his favor, but to their credit, they resisted enormous pressure and refused to do so.

Partisanship and polarization affects even the judiciary in the United States.²³ Unlike magistrates in nearly all of America's international peer countries, many state-level judges are

directly elected by the public, in some cases on partisan tickets. Federal judges are appointed for life and enjoy considerable independence in practice, but nominations by the president and the confirmation process in the Senate have become highly politicized over the years, eroding public confidence in judges' impartiality.

The combination of increased polarization and the advent of new media platforms has helped to push an avalanche of conspiracy theories, inflammatory views, and disinformation into the political mainstream. Social media have also become conduits for hate speech and intimidation, driving some people out of the digital public square.²⁴ Despite recent efforts to enhance the transparency and consistency of their content-moderation policies, social media companies' opaque algorithms continue to support the rapid dissemination of false and harmful narratives online, yet calls for tighter restrictions have triggered alarm about the danger of censorship and favoritism. The decision by major platforms to remove accounts belonging to President Trump and other right-wing figures after the Capitol riot pleased those users' critics while angering their supporters. Meanwhile, segments of the population have grown more distrustful of traditional news outlets that aspire to objectivity and fact-based journalism, with the majority of Americans now viewing news media as biased.²⁵ This has led consumers toward more partisan options that reinforce their own views; the far-right alternatives have disproportionately spread false or misleading narratives in the United States. The resulting information ecosystem is fraught with unreliable content and divided into exclusive echo chambers, feeding further polarization and undermining the shared civic discussions that are necessary for the functioning of any democracy.

Conclusion and recommendations

The decline of the United States' standing in *Freedom in the World* over the past decade, both in its own right and relative to other countries, shows the extent to which American democracy is under threat and in need of immediate attention. If we do not make a concerted and sustained effort to address the weaknesses in our system, the erosion could not only continue but accelerate, leaving ordinary citizens with ever fewer rights and liberties in practice. Democracy is the best system of governance for securing citizens' interests and upholding fundamental rights. Many Americans realize this and are already taking action, developing and campaigning for dozens of specific reforms. Elected leaders must respond, moving past partisan disagreements to advance our common interest in a strong and fair democracy that can weather the challenges to come.

While repairs to American democracy are necessary in many areas, Freedom House is prioritizing those reforms that are most likely to ameliorate the three deep-seated problems described above, which predated the Trump presidency and helped set the stage for the most recent democratic declines. As a starting point, we recommend the following three endeavors:

Lower barriers to voting as part of a comprehensive effort to address racial injustice. One of the most important manifestations of racial discrimination in the United States is the long history of barriers to voting for people of color, first through explicit denial of suffrage rights, then through Jim Crow-era poll taxes and registration obstacles, and today through manipulation of polling logistics or rules on the restoration of voting rights for those with criminal records. Such barriers undermine democracy, and policymakers should take steps to expand enfranchisement and encourage electoral participation. States can facilitate the act of voting for all citizens by easing registration processes, allowing early voting, extending voting hours and days, and placing special vote centers and traditional polling places in locations that meet the needs of the population. Electoral officials should be barred from changing polling hours and sites without adequate notice to voters. States that have not already done so should restore voting rights for citizens with past felony convictions, without imposing financial or bureaucratic hurdles. Federal legislation should establish new criteria for determining which states and political subdivisions with a history of voter discrimination must obtain federal clearance before implementing changes to voting rules.

Curb the influence of money in politics by tightening campaign finance laws. The outsized impact of money in politics has intensified since the 2010 Supreme Court *Citizens United v. Federal Election Commission* ruling to allow unlimited spending on political advertisements by independent corporations. To address this problem, federal and state legislators should focus on campaign finance reforms that include improving transparency requirements for political ads, strengthening the rules intended to prevent coordination between candidates and political action committees (PACs), and better protecting against misuse of campaign funds by prohibiting candidates from diverting funding from PACs—including so-called leadership PACs—for personal use. States should consider imposing or lowering campaign contribution limits for corporations to protect against corporate interests crowding out the needs of individual voters.

Reduce political polarization and extremism by establishing independent redistricting commissions. To maintain equal representation, states are legally and constitutionally required to redraw their congressional and state legislative districts every 10 years, accounting for population changes documented by the decennial census. In most states, the boundaries are set by state legislatures, leaving the process vulnerable to manipulation by the party that holds a legislative majority—a practice commonly known as partisan gerrymandering. The artificial creation of “safe” seats for a given party, where candidates can—and are sometimes incentivized to—take extreme positions to win intraparty primary contests without fear of meaningful competition in the general elections, is a key driver of polarization and dysfunction in US politics. It can also create large gaps between a party's share of the overall popular vote and its share of seats after elections, which leave voters feeling disenfranchised. Partisan gerrymandering is essentially an inversion of democracy, with politicians choosing their voters rather than voters choosing their representatives. Polling has shown that an overwhelming majority of Americans (more than 70 percent) support removing partisanship from the drawing of legislative boundaries. To address this problem, all 50 states should establish independent redistricting commissions, designing them carefully to ensure impartiality, inclusivity, and transparency.

Endnotes

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Freedom House is a nonprofit, nonpartisan organization that supports democratic change, monitors freedom, and advocates for democracy and human rights.

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