TEXT 1 Leaders | The disunited states

American states are now Petri dishes of polarisation

Only electoral reform can make them work properly

The Economist, Sep 1st 2022

Two states, two very different states of mind. On August 25th California banned the sale of petrol-powered cars from 2035, a move that will reshape the car industry, reduce carbon emissions and strain the state's electricity grid. On the same day in Texas a "trigger" law banned abortion from the moment of conception, without exceptions for rape or incest. Those who perform abortions face up to 99 years in prison.

These two events may seem unrelated, but they are symptoms of an important trend. Washington, DC, may be largely gridlocked, but the states are making policies at a furious pace. In theory, that is no bad thing. With 50 states, America has 50 laboratories to test which policies work and which do not. People can choose to live and companies can opt to operate in places where their preferences are reflected in local rules, as many did during the pandemic, typically moving to states with fewer restrictions. Each state can make its own trade-off between the weight of taxes and the generosity of public services. Any state can learn from neighbours with better schools or business regulations.

Alas, this constructive form of federalism is not what state politicians are pursuing today. Instead, they are fighting a national culture war: prescribing what can be discussed in classrooms, how easy it is to buy and carry a gun, which medical interventions may be offered to teenagers who identify as transgender, and what sort of benefits unlawful immigrants may claim. Such issues enrage both parties' partisans in a way that, say, fixing the roads or refining tax policy does not. Moderates might prefer less rage and more road-mending, but many state politicians can safely ignore them.

This is because 37 of the 50 states, where three-quarters of Americans live, are ruled by a single party. The number where one side controls both legislative chambers and the governor's mansion has nearly doubled in the past 30 years. These one-party states are self-perpetuating, as the winners redraw electoral maps to their own advantage. And politicians with ultra-safe seats have perverse incentives. They do not worry about losing a general election, only a primary, in which avid partisans call the shots because they are more motivated to vote. The way to woo such partisans is to eschew compromise.

Hence the proliferation of extremism. Most Texans think their new abortion laws are too draconian, for example, even though most also think the old national rules were too lenient. If Texas were not a one-party state, its legislators might have found a compromise.

Hence, too, a new politics of confrontation. Some states aim to punish those who seek an abortion or transgender surgery in another state; others offer sanctuary to the same people. Blue states encourage lawsuits against gunmakers; red states sue to stop California from setting its own emissions standards. Some partisan pugilism is largely performative. To publicise his view that blue states are too soft on illegal immigration, Texas's Governor Greg

Abbott has sent busloads of migrants to New York. But the relentless focus on national controversies is at best a distraction from the local problems that state politicians are elected to solve. Governor Ron DeSantis in Florida, a probable presidential contender, unveiled a "Stop woke Act" to restrict how race is discussed in classrooms; of the ten examples of excessive wokery in his press release, not one was from Florida. And all these battles are divisive; all entrench the notion that red and blue America cannot rub along despite their differences.

This makes for a nastier, shriller national conversation. It also makes it harder to do business in America. Whereas once the country was, roughly speaking, a giant single market, now California and New York push companies to become greener while Texas and West Virginia penalise them for favouring renewable energy over oil and gas. Recently Texas went so far as to blacklist ten financial firms for going too green.

The biggest worry is that partisanship could undermine American democracy itself. Many Republicans cannot win a primary unless they endorse Donald Trump's Big Lie that he beat Joe Biden in 2020. That year a coalition of Republican state attorneys-general sued other states to try to have their votes invalidated. Whatever happens in the November midterm elections, such sparring could proliferate. America is not going to have another civil war, as some feverish pundits speculate, but it has already endured political violence, and that could get worse.

American dysfunction poses a risk to the world, which depends on America to uphold the rules-based order (or what's left of it), to deter military aggressors and to offer an example of democratic governance. It is doing especially badly on the last of these. What can be done?

The federal government should stop neglecting its responsibilities. Policies on immigration and climate change, for example, are clearly better set nationally than locally. Reforms to break the gridlock in Washington, such as ditching the Senate filibuster, might help. But more than this America needs electoral reform.

States of play

It should end gerrymandering, which lets politicians choose their voters rather than vice versa. States should do redistricting through independent commissions, as Michigan does, to de-politicise the process. This would make it harder for one party to entrench itself. It would also, by creating more competitive districts, force more politicians to appeal to the centre. (…)

Voters, too, have a responsibility. It may be hard, in the era of social media, to ignore the blizzard of confected fury and vote for leaders who want to get things done. But the alternative is ever greater disunion, and that does not lead anywhere good.

TEXT 2 - NEWS ANALYSIS

To the World, McCarthy's Exit Is Just Another Example of U.S. Disarray

Amid upheaval on Capitol Hill and the undermining of democratic norms, the country's institutions are under profound stress.

By Peter Baker The Washington Post, Oct. 5, 2023

Peter Baker has covered the past five presidents and reported from Washington.

There was a time, not that long ago, when the United States presumed to teach the world how it was done. When it held itself up as a model of a stable, predictable democracy. When it sent idealistic young avatars to distant parts of the globe to impart the American way.

These days, to many watching at home and abroad, the American way no longer seems to offer a case study in effective representative democracy. Instead, it has become an example of disarray and discord, one that rewards extremism, challenges norms and threatens to divide a polarized country even further.

The Republican uprising that led to the ouster of a House speaker for the first time in American history would be enough of a disruption. But the upheaval on Capitol Hill comes as a former president sits in a New York courtroom, already judged to be a fraud, while using increasingly violent language and pushing the limits of a gag order. At the same time, military aid to stop Russian invaders in Ukraine has been held up by a vocal G.O.P. minority in Congress, and another government shutdown looms next month.

The institutions that were already strained during Donald J. Trump's presidency now face a series of profound stress tests. Can the courts maintain public faith and deal credibly with a former president running for his old job who has

been accused of so many crimes it is hard to keep track? Can Congress get its act together enough to simply pick a leader, much less address vexing issues like immigration, spending, climate change and gun violence? Can the presidency in the hands of an aging traditional politician like President Biden be a tool to heal the wounds of society?

Mr. Biden, for his part, emphasized on Wednesday his commitment to trying as he vowed to work with whoever emerges as the replacement for the deposed Republican speaker, Kevin McCarthy. "More than anything, we need to change the poisonous atmosphere in Washington," Mr. Biden said. "I know we have strong disagreements, but we need to stop seeing each other as enemies. We need to talk to one another, listen to one another, work with one another. And we can do that."

Not many others in Washington shared his optimism. And that certainly was not the message of his putative rival, Mr. Trump. Outside the courtroom in New York on Wednesday, the former president proved undaunted by the gag order as he attacked the judge who imposed it. "He's run by the Democrats," Mr. Trump claimed. "Our whole system is corrupt. This is corrupt. Atlanta is corrupt. And what's coming out of D.C. is corrupt." (…)

Political parties, of course, sometimes devolve into internal struggles. The Democrats have their differences as well, although not nearly as drastic as those of the Republicans, and they have their scandals, including a senator indicted on corruption charges. Moreover, America has gone through other periods of deep divisions, as during the eras of McCarthyism, civil rights, Vietnam and Watergate, to say nothing of the Civil War.

What is different now, according to some scholars, is that Republicans under Mr. Trump have directly attacked the foundation of the democratic system by refusing to accept an election that they lost and by tolerating if not encouraging political violence, most notably the Jan. 6, 2021, assault on the Capitol.

"A democracy on the verge of veering out of control is the consequence when one of the major political players in the democratic process won't accept the basic rules of the game," said Daniel Ziblatt, a Harvard professor who recently published "Tyranny of the Minority" with his colleague Steven Levitsky, a sequel to their seminal book, "How Democracies Die."

The American public has been sour on the country for a remarkably long stretch. The last time a majority of Americans reported being satisfied "with the way things are going in the United States" in Gallup surveys was January 2004, nearly two decades ago.

That has taken a toll on American institutions. Fewer than half of Americans express confidence in the police, the medical system, organized religion, the Supreme Court, banks, public schools, the presidency, large technology companies, organized labor, the media, the criminal justice system, big business or Congress, according to Gallup, which last year recorded significant declines in 11 of the 16 institutions it tracks. Only small business and the military drew more than 50 percent support. (…)

Among those presumably watching the tumult of recent days with some satisfaction is President Vladimir V. Putin of Russia. The state-run Channel 1 on Wednesday night reported with no shortage of schadenfreude that "Washington is on the verge of chaos" and the situation is "as scandalous as it is unpredictable."

One of the goals of Mr. Putin's election interference operation in 2016 was to sow dissension in the American system, according to intelligence agencies, and Washington has now managed to do that all by itself. "If Putin is following the chaos," said Maria Lipman, a longtime Russian political analyst now at George Washington University, "he has every reason to gloat and to feel superior."

Given the congressional spending fight of recent days that has jeopardized security aid for Ukraine, she added, "what he should truly care about is whether or not the U.S. support for Ukraine might wane in the conceivable future and weaken Ukraine's military capacity." There is no guarantee that Congress will approve billions more for Ukraine, and Mr. Putin is clearly waiting to see if Mr. Trump, who criticizes aid to defend the country, will beat Mr. Biden in next year's election.

Robert M. Gates, the longtime Republican national security official who served as defense secretary for both President George W. Bush and President Barack Obama, warned in an essay in Foreign Affairs magazine last week titled "The Dysfunctional Superpower"* that both Mr. Putin and President Xi Jinping of China were interpreting America's troubles in perilous ways.

Both leaders, he wrote, are convinced that democracies like the United States "are past their prime and have entered an irreversible decline," evident in their growing isolationism, political polarization and domestic conflict. "Dysfunction has made American power erratic and unreliable," Mr. Gates wrote, "practically inviting risk-prone autocrats to place dangerous bets — with potentially catastrophic effects."

And that was before the meltdown in the House of the past few days. In an email on Wednesday, Mr. Gates wrote, "The events of the last couple of days have only underscored how real is the dysfunction."
Milana Mazaeva contributed reporting.

- **NOTE: Robert Gates's essay "The Dysfunctional Superpower" is on Cahier de Prépa as well as Fareed Zakaria's title essay "The Self-Doubting Superpower: America Shouldn't Give Up on the World It Made" published in this month's *Foreign Affairs* issue**

TEXT 3 DEMOCRACY CHALLENGED

'A Crisis Coming': The Twin Threats to American Democracy

By David Leonhardt

David Leonhardt is a senior writer at The Times who won the Pulitzer Prize for his coverage of the Great Recession.
The New York Times, Sept. 17, 2022
See full article HERE

The United States has experienced deep political turmoil several times before over the past century. The **Great Depression** caused Americans to doubt the country's economic system. **World War II and the Cold War** presented threats from global totalitarian movements. **The 1960s and '70s** were marred by assassinations, riots, a losing war and a disgraced president.

These earlier periods were each more alarming in some ways than anything that has happened in the United States recently**. Yet during each of those previous times of tumult, the basic dynamics of American democracy held firm.** Candidates who won the most votes were able to take power and attempt to address the country's problems.

The current period is different. As a result, the United States today finds itself in a situation with little historical precedent. American democracy is facing two distinct threats, which together represent the most serious challenge to the country's governing ideals in decades.

The first threat is acute: a growing movement inside one of the country's two major parties — the Republican Party — to refuse to accept defeat in an election.

The violent Jan. 6, 2021, attack on Congress, meant to prevent the certification of President Biden's election, was the clearest manifestation of this movement, but it has continued since then. Hundreds of elected Republican officials around the country falsely claim that the 2020 election was rigged. Some of them are running for statewide offices that would oversee future elections, potentially putting them in position to overturn an election in 2024 or beyond.

"There is the possibility, for the first time in American history, that a legitimately elected president will not be able to take office," said Yascha Mounk, a political scientist at Johns Hopkins University who studies democracy.

The second threat to democracy is chronic but also growing: The power to set government policy is becoming increasingly disconnected from public opinion.

The run of recent Supreme Court decisions — both sweeping and, according to polls, unpopular — highlight this disconnect. Although the Democratic Party has won the popular vote in seven of the past eight presidential elections, a Supreme Court dominated by Republican appointees seems poised to shape American politics for years, if not decades. And the court is only one of the means through which policy outcomes are becoming less closely tied to the popular will.

Two of the past four presidents have taken office despite losing the popular vote. Senators representing a majority of Americans are often unable to pass bills, partly because of the increasing use of the filibuster. Even the House, intended as the branch of the government that most reflects the popular will, does not always do so, because of the way districts are drawn.

"We are far and away the most countermajoritarian democracy in the world," said Steven Levitsky, a professor of government at Harvard University and a co-author of the book "How Democracies Die," with Daniel Ziblatt.

The causes of the twin threats to democracy are complex and debated among scholars.

The chronic threats to democracy generally spring from enduring features of American government, some written into the Constitution. But they did not conflict with majority opinion to the same degree in past decades. One reason is that more populous states, whose residents receive less power because of the Senate and the Electoral College, have grown so much larger than small states.

The acute threats to democracy — and the rise of authoritarian sentiment, or at least the acceptance of it, among many voters — have different causes. They partly reflect frustration over nearly a half-century of slow-growing living standards for the American working class and middle class. They also reflect cultural fears, especially among white people, that the United States is being transformed into a new country, more racially diverse and less religious, with rapidly changing attitudes toward gender, language and more.

The economic frustrations and cultural fears have combined to create a chasm in American political life, between prosperous, diverse major metropolitan areas and more traditional, religious and economically struggling smaller cities and rural areas. The first category is increasingly liberal and Democratic, the second increasingly conservative and Republican.

The political contest between the two can feel existential to people in both camps, with disagreements over nearly every prominent issue. "When we're voting, we're not just voting for a set of policies but for what we think makes us Americans and who we are as a people," Lilliana Mason, a political scientist and the author of "Uncivil Agreement: How Politics Became Our Identity," said. "If our party loses the election, then all of these parts of us feel like losers."

These sharp disagreements have led many Americans to doubt the country's system of government. In a recent poll by Quinnipiac University, 69 percent of Democrats and 69 percent of Republicans said that democracy was "in danger of collapse." Of course, the two sides have very different opinions about the nature of the threat.

Many Democrats share the concerns of historians and scholars who study democracy, pointing to the possibility of overturned election results and the deterioration of majority rule. "Equality and democracy are under assault," President Biden said in a speech this month in front of Independence Hall in Philadelphia. "We do ourselves no favor to pretend otherwise."

Many Republicans have defended their increasingly aggressive tactics by saying they are trying to protect American values. In some cases, these claims rely on falsehoods — about election fraud, Mr. Biden's supposed "socialism," Barack Obama's birthplace, and more.

In others, they are rooted in anxiety over real developments, including illegal immigration and "cancel culture." Some on the left now consider widely held opinions among conservative and moderate Americans — on abortion, policing, affirmative action, Covid-19 and other subjects — to be so objectionable that they cannot be debated. In the view of many conservatives and some experts, this intolerance is stifling open debate at the heart of the American political system.

The divergent sense of crisis on left and right can itself weaken democracy, and it has been exacerbated by technology.

Conspiracy theories and outright lies have a long American history, dating to the personal attacks that were a staple of the partisan press during the 18th century. In the mid-20th century, tens of thousands of Americans joined the John Birch Society, a far-right group that claimed Dwight Eisenhower was a secret Communist.

Today, however, falsehoods can spread much more easily, through social media and a fractured news environment. In the 1950s, no major television network spread the lies about Eisenhower. In recent years, the country's most watched cable channel, Fox News, regularly promoted falsehoods about election results, Mr. Obama's birthplace and other subjects.

■ **These same forces — digital media, cultural change and economic stagnation in affluent countries — help explain why democracy is also struggling in other parts of the world.** Only two decades ago, at the turn of the 21st century, democracy was the triumphant form of government around the world, with autocracy in retreat in the former Soviet empire, Argentina, Brazil, Chile, South Africa, South Korea and elsewhere. Today, the global trend is moving in the other direction.

In the late 1990s, 72 countries were democratizing, and only three were growing more authoritarian, according to data from V-Dem, a Swedish institute that monitors democracy. Last year, only 15 countries grew more democratic, while 33 slid toward authoritarianism.

■ Some experts remain hopeful that the growing attention in the United States to democracy's problems can help avert a constitutional crisis here. Already, Donald Trump's efforts to overturn the 2020 election failed, partly because of the refusal of many Republican officials to participate, and both federal and state prosecutors are investigating his actions. And while the chronic decline of majority rule will not change anytime soon, it is also part of a larger historical struggle to create a more inclusive American democracy.

Still, many experts point out that it is still not clear how the country will escape a larger crisis, such as an overturned election, at some point in the coming decade. "This is not politics as usual," said Carol Anderson, a professor at Emory University and the author of the book, "One Person, No Vote," about voter suppression. "Be afraid."

TEXT 4 Type ESC / St Cyr

Washington Gridlock Will Put States At The Forefront Of Tech Policy In 2023

Edward Longe, *International Tech Policy*, ***Forbes,*** Dec 20, 2022

The midterm election spawned a new political reality and configuration in Washington D.C., letting states will take the lead in technology policy as gridlock dominates Congress. The shift in power from Washington means peril or promise, depending on how lawmakers approach questions around technology. With trifecta control now the norm in state capitols across the country, fewer barriers to passing legislation, and less oversight, good and bad policy will inevitably slip under the radar, despite the national consequences.

By design, Congress is a sclerotic institution. Of the 17,148 bills introduced between January 3rd, 2021, and the 2022 midterm elections, only 632 (4 percent) became law. Such an abysmal track record occurred despite the Democrats holding a trifecta - controlling both chambers of Congress and the White House. After Republicans recaptured the House from 2022 midterm elections and expressed greater interest in oversight, it's almost certain that fewer bills - except must-pass spending and defense bills - will make it to the President's desk.

In 2023, 39 states will likely have trifectas, meaning fewer legislative barriers exist to a bill's passage. Instead of needing bipartisan support, a piece of legislation being considered in a state with a trifecta only needs the backing of the majority party and the governor. These reduced legislative barriers make it likely, given the gridlock in Congress, that many states will take the lead in creating the regulatory environment governing technology and innovation. Technology's ability to transcend state borders means the decisions taken in state capitols will have national ramifications.

The Republican recapture of the House of Representatives and Democrat control of the Senate means that a federal data standard that has enjoyed bipartisan support will struggle to gain traction. California Democrats demand that any federal statute should follow California's Consumer Privacy Act or the European Union's General Data Protection Regulation. (…)

With Congressional Republicans and Democrats so far apart on the issue, state legislatures will inevitably step in and fill the void. So far California, Virginia, Connecticut, Colorado, and Utah have passed data laws, all of which were under a Republican or Democratic trifecta. With a record number of states under trifecta control after the November midterms, it seems likely that, given constituent demands, more states will consider their own data privacy requirements.

While necessary in the absence of congressional action, this new trend will further entrench the 50-state patchwork that raises costs for businesses and leaves millions without appropriate data protections. In an age when lives are increasingly taking place online, this presents a treacherous digital situation for Americans who will find their zip code determining the level of protection, and businesses will face increased compliance costs and an uneven regulatory environment.

On the other hand, it could be that state policy signals viable solutions to Congress. Moreover, we have seen that people vote with their feet, moving to the state whose policies they prefer, for example Florida.

Despite the perils of states driving technology policy, they are petri dishes of good policy. Multiple state governments have shown substantial interest in creating sandboxes that provide greater regulatory freedom to provide citizens with innovative goods and services. Additionally, as the Federal Bureau of Investigation noting that cybersecurity attacks on the risk, state governments have the opportunity to pass bipartisan legislation, following Florida's lead, that prohibits the use of state funds for purchase of equipment from adversaries, mandates reporting, invests in training programs, curbs the use of technology from hostile nations, and prohibits state agencies and municipalities from paying ransom to cybercriminals.

If state governments ultimately pass these measures, it would create an environment that embraces innovation and enhances security which will ultimately benefit every American.

Edward Longe, is the Director of the Center for Tech and Innovation at the James Madison Institute and Doctoral Candidate in US History

See also:

- https://www.nytimes.com/2022/04/22/technology/tech-regulation-europe-us.html?unlocked_article_code=1.O00.qrfL.O13hSWCY-XEb&smid=url-share
- https://www.politico.com/news/2023/08/16/tech-lobbyists-state-privacy-laws-00111363

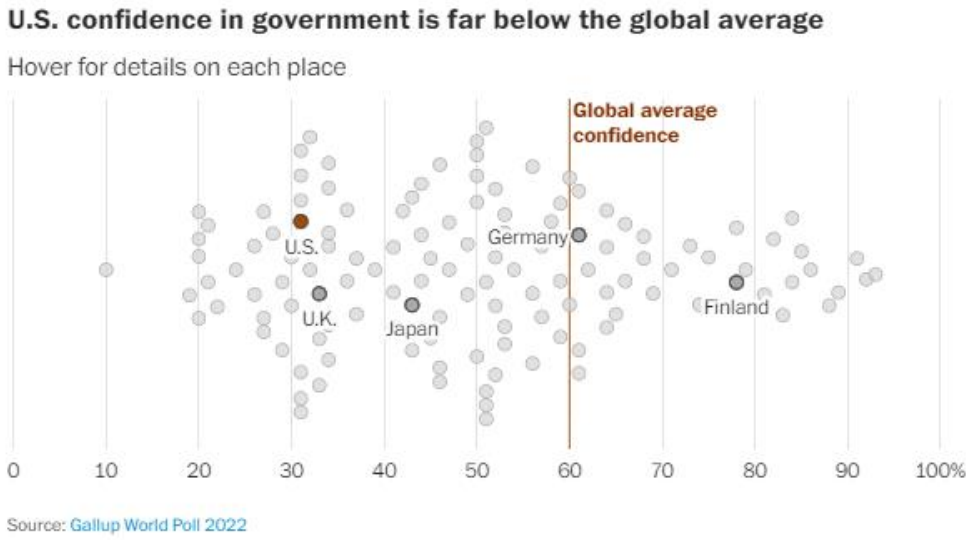
TEXT 5 – A *Washington Post's* long report "Imperfect Union"

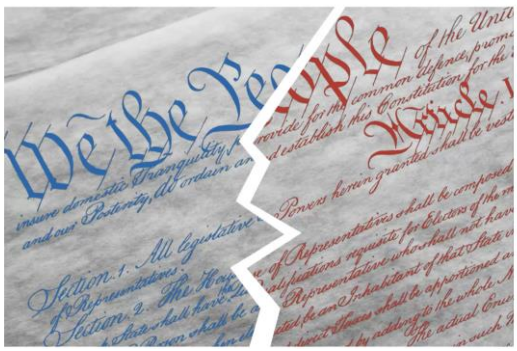
American democracy is cracking. These forces help explain why.

Behind the sense that the political system is broken lies a collision between forces both old and new

By Dan Balz and Clara Ence Morse, ***The Washington Post***, Updated August 18, 2023

See the full article HERE





In a country where the search for common ground is increasingly elusive, many Americans can agree on this: They believe the political system is broken and that it fails to represent them.

They aren't wrong.

Faced with big and challenging problems — climate, immigration, inequality, guns, debt and deficits — government and politicians seem incapable of achieving consensus. On each of those issues, the public is split, often bitterly. But on each, there are also areas of

agreement. What's broken is the will of those in power to see past the divisions enough to reach compromise.

The Jan. 6, 2021, attack on the Capitol is both an extreme emblem of what happens when democracy stops functioning as it should and the result of relentless attacks by former president Donald Trump on the legitimacy of the election process based on lies and distortions, a continuing threat to U.S. democracy.

In more routine ways, the political system feeds frustration and discontent with its incapacity to respond to the public's needs. There is little on the horizon to suggest solutions.

The failure has multiple origins, including a collapse of trust in institutions. But one of the most significant is a collision between forces both old and new.

The old dates to the writing of the Constitution — debates and compromises that resulted in representation in the House based on population and in the Senate based on equal standing for the states; the odd system by which we elect presidents; and lifetime appointments for Supreme Court justices. In general, the founders often distrusted the masses and sought to create structural protections against them.

The newer element, which has gathered strength in recent decades, is the deepening polarization of the political system. Various factors have caused this: shifts within the two parties that have enlarged the ideological gap between them; geographic sorting that has widened the differences between red and blue states; a growing urban-rural divide; and greater hostility among individuals toward political opponents.

The result is that today, a minority of the population can exercise outsize influence on policies and leadership, leading many Americans increasingly to feel that the government is a captive of minority rule.

Twice in the past two decades, the president was elected while losing the popular vote — George W. Bush in 2000 and Trump in 2016. That had happened only three times in the previous 200-plus years. The dynamic extends beyond the presidency to the other two branches of government.

A new Washington Post analysis found that four of the nine current justices on the Supreme Court were confirmed by senators who represent a minority of the U.S. population. Since 1998, Republicans have had a majority in the Senate a total of 12 years but did not during that time represent more than half the nation's population, The Post's analysis of population data and Senate composition shows.

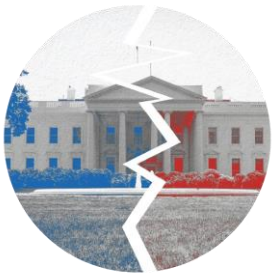
The Post also found that during Trump's presidency, 43 percent of all judicial and governmental nominees were confirmed by senators representing a minority of the population. Under President Biden, not quite 5 percent of nominees were confirmed by senators representing a minority of the population.

The state of democracy is not uniformly negative. In moments of crisis especially, elected officials have found common ground. At times, government action does reflect the public will. Under Trump, bipartisan congressional majorities passed and the president signed multiple rounds of relief during the covid-19 pandemic. Biden and Congress came together to pass a major infrastructure package in 2021. Last year, there was bipartisan agreement on legislation to spur production of semiconductor chips in the United States.

At times, protection of minorities and their rights from the will of the majority is needed and necessary. Checks and balances afford further protections that nonetheless can seem to hamstring government's ability to function effectively. But on balance, the situation now is dire. Americans are more dissatisfied with their government than are citizens in almost every other democracy, according to polling.

Henry Brady, professor of political science and public policy at the University of California at Berkeley, has been studying these issues for many years. As he surveys the current state of the United States' democracy, he comes away deeply pessimistic. "I'm terrified," he said. "I think we are in bad shape, and I don't know a way out."

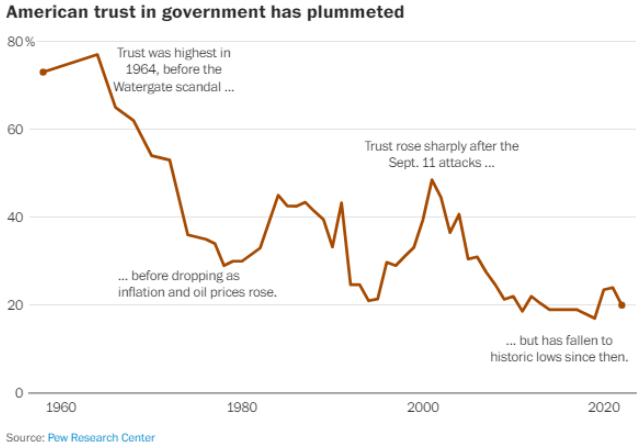
This is the first in a series of reports examining what is fueling the visceral feeling many Americans have that their government does not represent them. Alongside debates over specific policies, the overall state of democracy roils the national discussion. Heading into the 2024 presidential election, this issue is likely to be a critical factor for many voters.



Distrust in government

Trust in the federal government began to decline during the Vietnam War in the 1960s and then took a big hit amid the Watergate scandal in the early 1970s. There have been occasional rebounds — after the terrorist

attacks on Sept. 11, 2001, or during the late 1990s when the economy was doing well. But for the past two decades — through good economic times and bad — mistrust has been persistent.



Individual institutions have suffered as well. Of late it is the Supreme Court's reputation that has been damaged due to rulings that have gone against popular opinion and a heightened sense that the court has become politicized. For Congress, the decline has been ongoing for decades. Only Wall Street and television news have seen more precipitous declines in trust over the past four decades, according to calculations published by the American Academy of Arts and Sciences.

Americans have long been skeptical of the power of the central government. Scandals and corruption over the years have added to the problem. Lately, officials have openly attacked the very institutions of which they are a part, making it even harder for the bureaucracy to function effectively. No one has done this more than Trump. Attacks on institutions have been a hallmark of his time in politics.

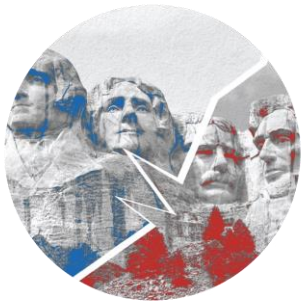
While there is some universality to these conditions, citizens in only a handful of democratic countries take a dimmer view of their government than Americans do of theirs.

Polarization

For much of the United States' history, the constitutional system created by the founders worked reasonably well. The Civil War is an obvious exception, and other periods have tested the collective will. But overall, government generally functioned, even if not perfectly.

More recently, however, the system's weaknesses became more apparent as tribalism shapes much of political behavior and the Republican Party has departed from its historical moorings. Trump's impact has distorted traditional Republican conservatism and has led many Republicans to accept as reality demonstrably untrue beliefs. The best example of that is that a majority in the GOP say Biden was not legitimately elected. The hard-right wing of the Republican Party and Trump voters in particular have been resistant to compromise.

"In comparison to European countries, our constitutional system is not well suited for polarized political parties," said Nathaniel Persily, a law professor at Stanford Law School.



Election of presidents

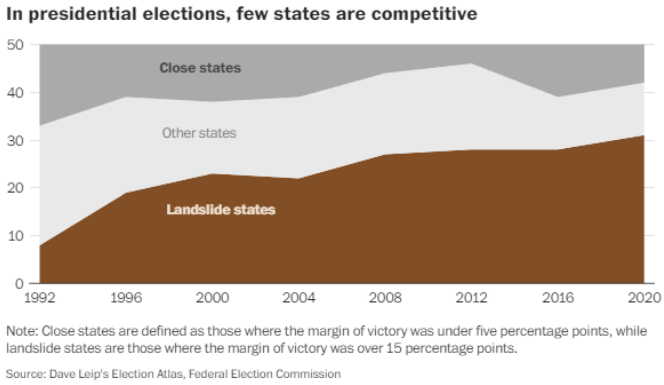
The Constitution created an unusual mechanism for electing the president — an electoral college. It was built on assumptions that over the years have proved to be faulty.

The founders distrusted a system based on the popular vote, fearing many citizens would not be well-informed. They put power in the hands of electors. They thought the House would often end up picking the president, not anticipating the effects of what quickly became a two-party system in the United States. The rationale for the current system has been overrun by the realities of today's politics.

"It was created because the founders couldn't figure out what to do," said George C. Edwards III, a political science professor at Texas A&M University and author of "Why the Electoral College Is Bad for America." "It doesn't work at all as the founders intended."

During the first two centuries of the country's history, there were only three cases in which the person elected president lost the popular vote, in 1824, 1876 and 1888. Now it has happened twice in a quarter century and could happen again in 2024. In both 2000, when Bush became president, and 2016, when Trump was elected, the popular vote supported the Democratic nominee, Al Gore and Hillary Clinton, respectively, yet the electoral college vote went in favor of the Republican.

During the past two decades, the number of competitive states in presidential elections, where the victory margin has been five percentage points or fewer, has declined. Meanwhile, the number of states decided by margins of 15 percentage points or more has increased, based on an analysis of state-by-state results by The Post.



Because the outcome in the most competitive states can be decided by a relatively small number of votes, Republicans now have a significantly better chance of winning in the electoral college than in the popular vote. Democrats, meanwhile, roll up huge margins in deep blue states like California that give them no significant boost in the electoral college math.

Congress

In the Great Compromise among delegates to the Constitutional Convention, the House was to be divided based on population, and the Senate would give each state equal representation regardless of population.

In times past, many state delegations to the Senate were split between the two major parties. In 1982, for example, about two-dozen states had split representation. Today there are only six true splits, and those states account for about 9 percent of the U.S. population.

Republicans tend to have full control in less populated states, creating an imbalance in the number of senators they send to Washington and the percentage of the national population they represent. Even when they have recently held a majority in the Senate, they represent a minority of the population. In 2024, two of the nation's least populous states — West Virginia and Montana — could flip control of the Senate from Democrats to Republicans, if GOP challengers prevail over Democratic incumbents.

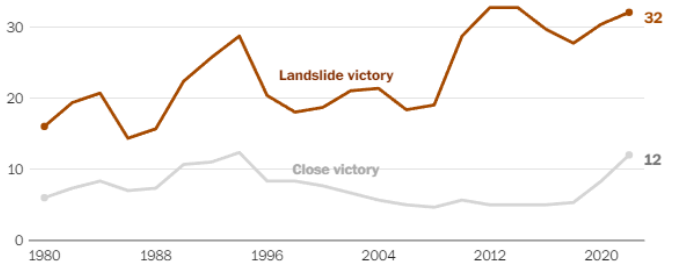
This has had an impact especially on confirmations of judicial nominees and senior executive branch appointees. During the four years Trump was in office, nearly half of the individuals nominated for key positions were confirmed by senators representing a minority of the population. No other recent president had more than 5 percent confirmed by senators representing a minority of the population.

Through gerrymandering, population dispersion and the sorting of where people prefer to live, competition for House seats has declined.

The overwhelming majority of districts now lean strongly either to Republicans or to Democrats. In those districts, that makes the primary election more important than the general election. Because turnout is generally concentrated among the most fervent voters in primary contests, more extreme candidates have an advantage. This has widened the ideological gap in the House, which makes compromise even more difficult.

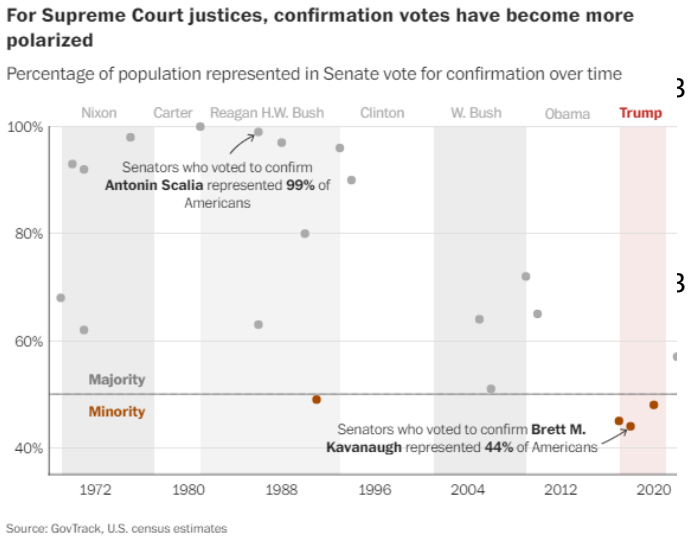
It has also led to the kinds of dysfunction seen this year, such as the multi-ballot marathon to elect Rep. Kevin McCarthy (R-Calif.) as speaker, or the threats to let the government default on its debts that ultimately were avoided by an old-fashioned bit of compromise.

As the number of swing districts has declined, another phenomenon has become evident: Even in open-seat races, which historically have been more contested than those involving incumbents, the number of landslide victories by members of both major parties has increased dramatically.



The Supreme Court

Democrats have won the popular vote in seven of the past nine presidential elections. But during that time, Republican presidents have nominated six of the nine current members of the Supreme Court. Four of the nine justices, including the three nominated by Trump, were confirmed by senators representing a minority of the population.



The percentage of Americans represented by senators voting to confirm justices has been decreasing over the past half century. Now that justices can be confirmed with a simple majority vote, rather than a supermajority, the phenomenon of confirmation by a majority of senators representing a minority of citizens has become commonplace when Republicans hold the Senate majority.

State legislatures

In Washington, political divisions have led to gridlock and inaction on many issues. In the states, the opposite has occurred because states have increasingly become either mostly red or mostly blue.

In just two states is the legislature split between Republicans and Democrats. In more than half of the states, the dominant party enjoys a supermajority, which means they can override vetoes by a governor of a different party or generally have their will on legislation.

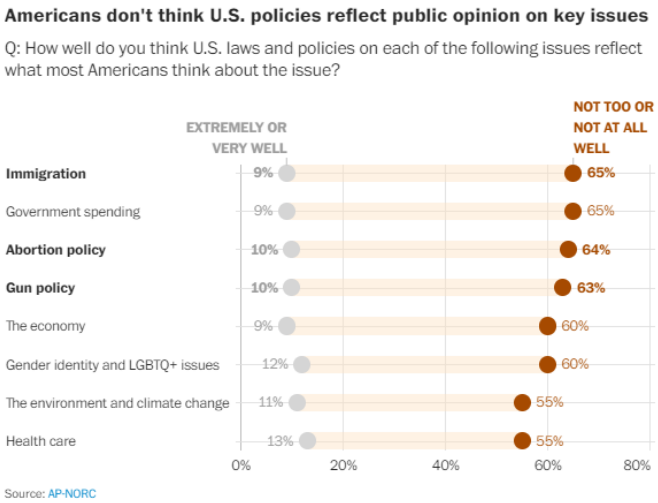
Similarly, full control of state government — the legislature and the governor's office — is the rule rather than the exception. Today 39 states fit this definition. The result is a sharper and sharper divergence in the public policy agendas of the states.

The dominant party has been able to move aggressively to enact its governing priorities. That has meant tight restrictions on abortion in Republican states and few or no restrictions in blue states; it's meant challenges to LGBTQ+ rights in red states and affirmation of those rights in blue states.

These divisions have made it possible for the dominant party to govern with little regard to the interests of those with allegiance to the minority party and often little accountability as well. The result is two Americas with competing agendas and values.

Public opinion vs. public policy

The gap between public policy and public opinion is one major consequence of today's frozen federal government. Three of the most talked-about issues reflect that: abortion, guns and immigration.



On abortion, most Americans oppose last year's Supreme Court decision in *Dobbs v. Jackson Women's Health Organization*, which ended the constitutional right to abortion. On guns, big majorities favor individual proposals to tighten laws, but the gun lobby remains powerful enough to block action.

On immigration, there has been a majority for some years favoring tougher border controls along with a path to citizenship, with some penalties, for the millions of undocumented immigrants living here. Every effort to deal with this in Congress over the past two decades has failed, including attempts to resolve the plight of people brought here illegally as children, known as "dreamers."

The Constitution

One way to deal with some of the structural issues — the electoral college, a Senate where a minority of the population can elect a majority of members or the lifetime appointments for Supreme Court justices — would be by amending the Constitution. But the U.S. Constitution, though written to be amended, has proved

to be virtually impossible to change. Nor is there cross-party agreement on what ails the system. Many conservatives are satisfied with the status quo and say liberals want to change the rules for purely partisan reasons.

It was the drafters of state constitutions who saw the need for amending such documents. Over the history of the country, state constitutions have been amended thousands of times — more than half of all those proposed. But while there have been about 12,000 proposed amendments to the U.S. Constitution, Congress has submitted just 33 to the states, of which 27 have been ratified.

The last amendment was approved in 1992, and that was a provision that had been proposed along with others that became the Bill of Rights. In reality, it has been half a century since a contemporary amendment has been ratified. Given the political conditions in the country, the prospect of two-thirds of both the House and Senate voting to propose an amendment and then three-fourths of the states ratifying it seems extremely unlikely.

To remain a living document, the Constitution needs to be adaptable to changing times, perspectives and conditions. The alternative to amending the Constitution is through judicial interpretation by the Supreme Court. Today, the court is dominated by "originalists" who interpret the document through a strict reading of the words and times in which it was written — long a goal of conservatives. But the America of 2023 is not the America of the framers of the Constitution in the late 18th century, a time when enslaved people were counted as three-fifths of a person and women did not have the right to vote.

Not all countries have written constitutions — Britain, for example. But the amendment process when functioning effectively is "a mechanism to peaceful revolution," said historian Jill Lepore, who directs the Amendments Project at Harvard University. So there is value to a written constitution, but only if it can be changed.

"The danger," Lepore said, "is that it becomes brittle and fixed — and then the only way to change your system of government or to reform a part of it is through an insurrection."

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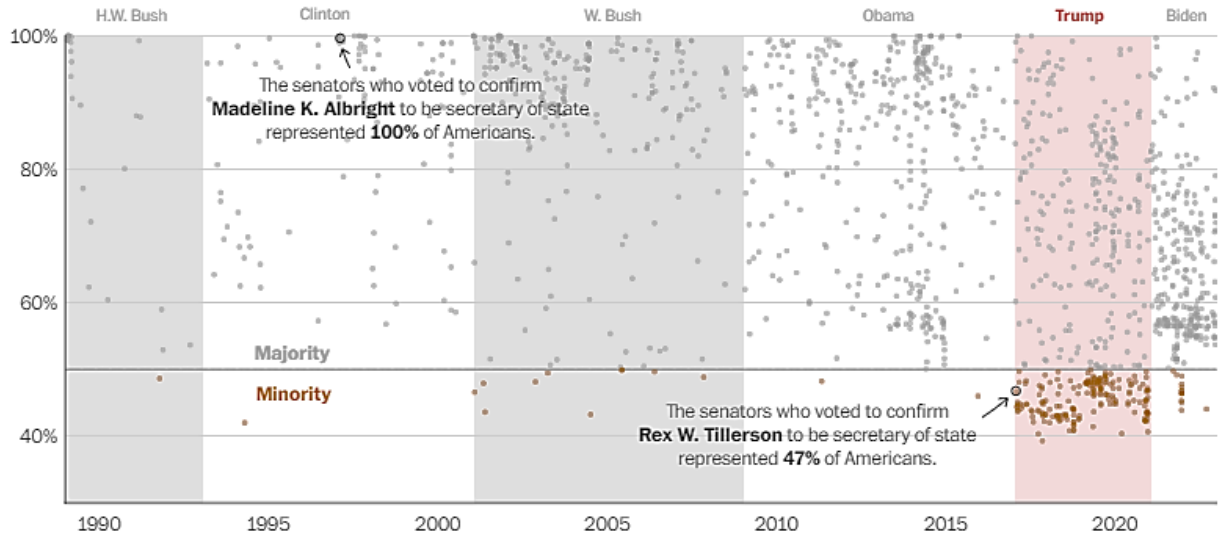

Note: Many nominees in earlier years were confirmed through voice votes or unanimous consent agreements, and are not represented.

Source: Senate roll call vote records, U.S. census estimates