

The Guardian



America's flawed democracy: the five key areas where it is failing

The US system has survived four years of a norm-busting president by the skin of its teeth - which areas need most urgent attention?

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On 7 November the United States pulled back from the brink of re-electing a president who has repeatedly shown disdain for democratic norms and institutions. Donald Trump has fused his own business interests with the White House, dubbed the media “enemies of the people”, embraced foreign strongmen, sidelined science and politicized the justice department, falsely cast doubt on the electoral process and is currently distinguishing himself as the first sitting president since 1800 to frustrate a peaceful transition of power.

But as great escapes go, this one came bone-rattlingly close to collapsing. More people voted for Trump in the 2020 election - some 71 million Americans - than for any other presidential candidate in US history, other than Joe Biden himself. It took gargantuan determination to unseat

him, with historically high turnout and black voters leading the way. And it happened in spite of, not because of, the unique features of US democracy.

The election exposed deep flaws in how Americans choose their leaders. Some of those flaws are as old as the nation itself, while others are more modern creations that have been weaponized by Trump and the Republicans. Combined, they present an existential threat to America's reputation - and survival - as the oldest constitutional democracy on the planet.

As Ian Bassin, executive director of Protect Democracy, put it: "The United States just allowed an autocratic person to ascend to the presidency, to serve in it for four years and to very nearly extend that term. The big question is: how did that happen, what went wrong there?"

Sherrilyn Ifill, president of the NAACP Legal Defense Fund, expressed a similar thought in Slate: "Our voting system is fundamentally broken," she wrote. "The future of our country unequivocally depends on our ability to reform it."

Here the Guardian looks at five of the most glaring flaws exposed during this election cycle, and asks: what hope now for setting them right?

1. The electoral college

The US is recovering from a severe bout of stress, caused by nerve-shattering waiting for the swing states to be called. The 2020 presidential election will go down in people's memories as unbearably close.

It wasn't close at all.

Biden walloped Trump with a massive lead of more than 5 million Americans in the popular vote - the simple national tally of votes cast for either candidate. As CNN's Harry Enten points out, the Democratic candidate will probably end up with 52% of the popular vote, the highest percentage of any challenger since Franklin Roosevelt in 1932.



Electors fill out their ballots during a meeting of Washington state's electoral college on 19 December 2016, in Olympia, Washington.
Photograph: Elaine Thompson/AP

The popular vote is how most democracies hold elections. Not the US. The outcome is decided here by the electoral college - that arcane, twisty system by which the president is chosen not by "we the people", but indirectly by 538 electors apportioned by state.

The electoral college is one of the democratic flaws that stretch back to the birth of the nation, when it was devised with less than pure motivations. As Sabeel Rahman, president of Demos Action, explained: “It was intended to insulate the presidency from democratic popular control, and in particular to expand the power of the slaveholding states - so it was inequitable from the beginning.”

By Rahman’s reckoning, the electoral college today gives Republican presidential candidates a 4% to 5% advantage over their Democratic rivals.

There is little chance of the electoral college being scrapped any time soon, as it would require a constitutional amendment which is all but impossible in these partisan times.

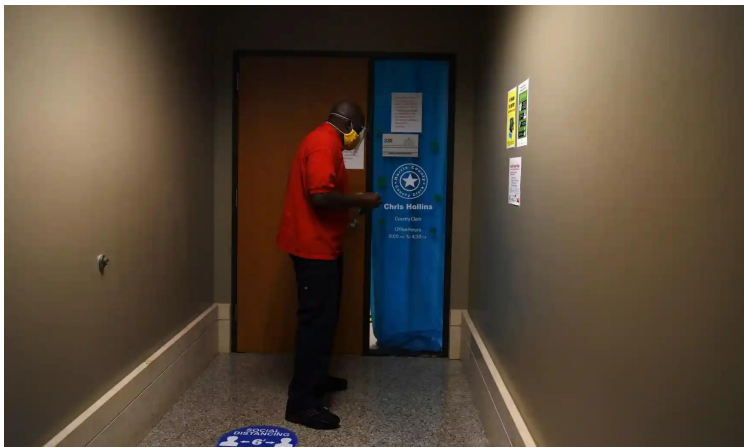
The main hope for change is the National Popular Vote compact whereby states collectively agree to pledge all their electoral votes to whichever candidate wins most votes nationwide. The movement gained a boost on election day when Colorado backed the idea, but it remains a distant prospect.

2. Voter suppression

Huge turnout in the 2020 election was all the more impressive given barriers to voting. “We have seen this cycle an effort by the Republican party to make it harder, wherever possible, to vote - especially for black and minority populations,” Bassin said.

He added: “I don’t know of another advanced democracy in the world where one of the two major political parties has invested in voter suppression as a core strategy.”

Among the tactics on display were inaccurate purges of citizens from voter rolls, Trump’s active undermining of the US Postal Service, and malicious robocalls in areas with large black populations such as Flint, Michigan.



The downtown Harris county clerk’s office in Houston, Texas, which was banned from serving as a mail ballot drop-off site after Governor Greg Abbott issued an order limiting each county to one site. Photograph: Callaghan O’Hare/Reuters

One of the most egregious examples of voter suppression this cycle was in Florida. In 2018 Floridians handed back the right to vote to those with felony convictions, technically welcoming 1.4 million people back into democratic participation.

Florida’s Republicans immediately set about undermining the will of the electorate, putting in place a bureaucratic maze that former felons had to negotiate before they could vote. It was so

convoluted that almost 900,000 people were still disenfranchised on election day - including about one in every six black Floridians of voting age.

Combatting voter suppression is central to HR1, the democracy reform bill championed by the Democrats in Congress. But for the past 245 days it has been stymied in the Senate by Mitch McConnell, the Republican majority leader, and pending two runoff elections in Georgia he is likely to continue to be a roadblock.

In that case focus is likely to shift over the next two years to the US justice department which has become virtually inactive in this area under Trump. Under Biden, the DoJ can be expected to re-engage, enforcing access to voting and prosecuting election-law violations.

3. The Senate

That McConnell is likely to remain in control of the Senate is in itself a product of America's flawed democracy. The composition of the chamber, with two senators assigned to each state no matter what its population, also has its roots in the country's dark past.

"The structure of the Senate is an outdated, racist, Jim Crow relic meant to enshrine white landowner power in our government, by prioritizing land over people," said Deirdre Schifeling, campaign director of the progressive coalition Democracy For All 2021. "That disparity has only grown more magnified as our population has grown and it's really unsustainable."

Assuming the Republicans hang on to the chamber by winning both runoffs for Georgia's Senate seats in January, the Democratic group will represent 20 million more Americans in the incoming Senate than their peers across the aisle - and yet still be in the minority. Vox has calculated that if both runoffs are won by Democrats that gulf in representation would shoot up to 40 million Americans, while the Senate would remain in a 50-50 split.

This distortion favors senators from low-population rural states with largely white electorates, such as Montana and the Dakotas, and helps explain the Republicans' stranglehold on Congress. It's a catch-22: Democrats are unable to push through democracy reforms such as HR1 because they are blocked by unrepresentative Republican senators, yet without those reforms there is no hope of loosening the rightwing grip on power.

Plans had been laid to address this conundrum by granting statehood to Washington DC and to Puerto Rico, thus creating four new Senate seats. That scheme will be dead in the water with McConnell, the "Grim Reaper", in charge - and so the vicious cycle continues.

4. Judges

Brianna Brown knows what it's like to be at the receiving end of America's flawed democracy. As deputy director of the Texas Organizing Project, which seeks to build a political voice for black and Latino communities, she has been battling against a Republican state legislature that has made Texas ground zero for voter suppression for years.

"We've had polling place reductions, massive voter purges, a voter-ID law - all attempts by the right wing to consolidate their power and shrink the electorate. If they can do that, they win," she said.

On top of all that, there is now the changing composition of federal courts to contend with. Over the past four years, Trump has placed more than 200 judges, conservatives to a fault, on district

and circuit courts, in addition to the three rightwingers he nominated to the US supreme court.



Amy Coney Barrett is sworn in as supreme court justice, the most recent of more than 200 conservative judicial appointments by Donald Trump. Photograph: Brendan Smialowski/AFP/Getty Images

Such judicial activism is likely to shift the balance of the federal judiciary for years to come, with consequences on the ground in places like Texas. The pattern was vividly illustrated during the election, when the Republican governor, Greg Abbott, limited the number of ballot drop-off locations to one per county.

The move meant that Harris county, home to the city of Houston, had to close 11 drop-off sites leaving only one to serve almost 5 million people.

The restriction was challenged, bouncing around the courts until it came before a three-judge panel of the fifth circuit court of appeals, which ruled in Abbott's favor. All three of the judges had been appointed by Trump.

"This is going to be Trump's long-term legacy," Brown said. "We are certainly going to feel it down the line as these rightwing judges, appointed to lifetime positions, obstruct us as we pull out all the stops to provide relief to our folks."

5. Redistricting

One of the most disappointing aspects of election night for the Democrats was the failure of the "blue wave" to materialize at state level. Republicans clung on to power in state legislatures in Florida, Iowa, Minnesota and North Carolina, and took control of New Hampshire.

Nowhere was that blow felt more keenly than Texas, where Democratic hopes of seizing the state house by storm rested on flipping nine seats. They didn't gain a single extra one.

The flop will, like Trump's judges, have long-term consequences. Failure to take control in Texas and elsewhere hands Republicans the gift of controlling the 10-year redistricting process in which electoral boundaries are drawn. As was seen in the last round in 2010, after the Tea Party upheaval swept Republicans to power in several states, they proved themselves to be devastatingly effective at drawing those lines in their own favor - gerrymandering.

As Brown pointed out, this is another vicious cycle. Gerrymandering allows Republicans to consolidate their power, which in turn puts them in charge of the next redistricting round in which they will intensify gerrymandering.

“Our goal is to transform democracy in Texas, and if we can do that we can transform the country,” Brown said. “But before we can even start that fight, the lines have already been drawn, limiting our ability to build a democracy that looks like us and shares our values.”

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