

# The Crisis of American Democracy



BY STEVEN LEVITSKY AND DANIEL ZIBLATT

**N**early all living Americans grew up taking our democracy for granted. Until recently, most of us believed—and acted as if—our constitutional system was unbreakable, no matter how recklessly our politicians behaved.

No longer. Americans watch with growing unease as our political system threatens to go off the rails: costly government shutdowns, stolen Supreme Court seats, impeachments, mounting concerns about the fairness of elections, and, of course, the election of a presidential candidate who had condoned violence at rallies and threatened to lock up his rival, and who, as president, has begun to subvert the rule of law by defying congressional oversight and corrupting law enforcement agencies to protect his political allies and investigate his opponents.

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In a 2019 survey by Public Agenda, 39 percent of Americans said they believed our democracy is “in crisis,” while another 42 percent said it faces “serious challenges.” Only 15 percent said American democracy is “doing well.”<sup>1</sup>

Democratic backsliding in the United States is no longer a matter of speculative concern. It has begun. Well-regarded global democracy indexes—such as Freedom House,<sup>2</sup> Varieties of Democracy,<sup>3</sup> and the Economist Intelligence Unit<sup>4</sup>—all show an erosion of American democracy since 2016. According to Freedom House’s ranking, the United States is now less democratic than Chile, the Czech Republic, Slovenia, Taiwan, and Uruguay—and in the same category as newer democracies like Croatia, Greece, Mongolia, and Panama.<sup>5</sup>

## How Did We Get Here?

The problems started long before 2016 and go deeper than Donald Trump’s presidency. Electing a demagogue is always dangerous, but it does not condemn a country to democratic breakdown. Strong institutions can constrain corrupt or autocratic-minded leaders. That is precisely what the US Constitution was designed to do, and for most of our history, it has succeeded. America’s constitutional system has effectively checked many powerful and ambitious presidents, including demagogues (Andrew Jackson<sup>6</sup>) and criminals (Richard Nixon). For this reason, Americans have historically had a lot of faith in our Constitution. A 1999 survey

found that 85 percent of Americans believed it was the main reason why our democracy has been so successful.<sup>7</sup>

But constitutions *by themselves* aren't enough to protect democracy. Even the most brilliantly designed constitutions don't function automatically. Rather, they must be reinforced by strong, unwritten democratic norms.

Two basic norms are essential to democracy.\* One is mutual toleration, or the norm of accepting the legitimacy of one's partisan rivals. This means that no matter how much we may disagree with—and even dislike—our opponents, we recognize that they are loyal citizens who love the country just as we do and who have an equal and legitimate right to govern. In other words, we do not treat our rivals as enemies.

The second norm is institutional forbearance. Forbearance means refraining from exercising one's legal right. It is an act of deliberate self-restraint—an underutilization of power that is legally available to us. Forbearance is essential to democracy. Consider what the US president is *constitutionally* able to do: The president can legally pardon whomever she wants, whenever she wants. Any president with a congressional majority can pack the US Supreme Court simply by pushing through a law that expands the Court's size and then filling the new vacancies with allies.

Or consider what Congress has the constitutional authority to do. Congress can shut down the government by refusing to fund it. The Senate can use its right to “advise and consent” to prevent the president from filling her cabinet or Supreme Court vacancies. And because there is little agreement on what constitutes “high crimes and misdemeanors,” the House can impeach the president on virtually any grounds it chooses.<sup>8</sup>

The point is that politicians may exploit the letter of the Constitution in ways that eviscerate its spirit: Court packing, partisan impeachment, government shutdowns, pardoning allies who commit crimes on the president's behalf, declaring national emergencies to circumvent Congress. All these actions follow the written letter of the law to subvert its spirit. Legal scholar Mark Tushnet calls such behavior “constitutional hardball.”<sup>9</sup> If you examine any failing or failed democracy, you will find an abundance of constitutional hardball: examples include Spain and Germany in the 1930s, Chile in the 1970s, and contemporary Hungary, Venezuela, and Turkey.

Forbearance—politicians' shared commitment to exercise their institutional prerogatives with restraint—is what prevents democracies from descending into a destructive spiral of constitutional hardball.

Unwritten norms of mutual toleration and forbearance serve as the soft guardrails of democracy. They are what prevent healthy political competition from spiraling into the kind of partisan fight to the death that wrecked democracies in Europe in the 1930s and South America in the 1960s and 1970s.

America has not always had strong democratic guardrails. It didn't have them in the 1790s when institutional warfare between the Federalists and the Republicans nearly destroyed the Republic

before it could take root. It lost them in the run-up to the Civil War, and they remained weak through the late 19th century.

For most of the 20th century, however, America's guardrails were solid. Although the country experienced occasional assaults on democratic norms (e.g., McCarthyism in the 1950s), both parties broadly engaged in mutual tolerance and forbearance, which in turn allowed our system of checks and balances to work. During the first three quarters of the 20th century, there were no impeachments or successful instances of Court packing. Senators were judicious in their use of filibusters and their right to “advise and consent” on presidential appointments—most Supreme Court nominees were approved easily, even when the president's party didn't control the Senate. And outside of wartime, presidents largely refrained from acting unilaterally to circumvent Congress or the courts.

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For more than a century, then, America's system of checks and balances worked. Again, however, the system worked because it was reinforced by strong norms of mutual toleration and forbearance.

There is, however, an important tragedy at the heart of this story. The soft guardrails that undergirded America's 20th century democracy were built upon racial exclusion and operated in a political community that was overwhelmingly white and Christian. Efforts to create a multiracial democracy after the Civil War generated violent resistance, especially in the South. Southern Democrats viewed Reconstruction as an existential threat, and they used both constitutional hardball and outright violence to resist it. It was only after the Republicans abandoned Reconstruction—enabling the Democrats to establish Jim Crow in the South—that Democrats ceased to view their rivals as an existential threat and two parties began to peacefully coexist, allowing norms of mutual toleration and forbearance to emerge. In other words, it was only after racial equality was removed from the agenda, restricting America's political community to white people, that these norms took hold. The fact that our guardrails emerged in an era of *incomplete democracy* has important consequences for contemporary polarization—a point to which we will return.

In our 2018 book, *How Democracies Die*, we show how America's democratic norms have been unraveling over the last three decades. There were early signs in the 1990s, when Newt Gingrich encouraged his fellow Republicans to use words like *betray*, *anti-flag*, and *traitor* to describe Democrats. In doing so, Gingrich encouraged Republicans to overtly abandon mutual toleration. The Gingrich revolution also brought a rise in consti-

\*For a more detailed discussion of these norms and other essential components of our argument, see our book *How Democracies Die*. To download a free teacher's guide, visit [www.penguinrandomhouse.com/books/562246/how-democracies-die-by-steven-levitsky-and-daniel-ziblatt/](http://www.penguinrandomhouse.com/books/562246/how-democracies-die-by-steven-levitsky-and-daniel-ziblatt/).

tutional hardball, including the first major government shut-down in 1995 and a presidential impeachment—the first in 130 years—in 1998.

The erosion of democratic norms accelerated during the Obama presidency. Republican leaders like Gingrich, Sarah Palin, Rudy Giuliani, Mike Huckabee, and Donald Trump told their followers that President Obama did not love America and that Obama and the Democrats weren't real Americans. Trump and others even questioned whether President Obama was an American citizen. Hillary Clinton received similar treatment: Trump and other Republican figures cast her as a criminal, making "lock her up" a chant at rallies. This was not happening on the political fringes: these were ideas put forth by the Republican nominee for president, and cheered—live, on national television—by the crowd at the Republican National Convention.

This was a worrisome development because when mutual toleration disappears, politicians begin to abandon forbearance. When we view our partisan rivals as enemies, or as an existential threat, we grow tempted to use *any means necessary* to stop them.

That is exactly what has happened over the last decade. Republicans in Congress treated the Obama administration as an existential threat that had to be defeated at almost any cost.

Constitutional hardball became the norm. There were more filibusters during President Obama's second term than in all the years between World War I and Ronald Reagan's second term *combined*. Congress twice shut down the government, and at one point, it pushed the country to the brink of default. President Obama responded with constitutional hardball of his own. When Congress refused to pass immigration reform or climate change legislation, he circumvented Congress and made policy via executive orders. These acts were technically legal, but they clearly violated the spirit of the Constitution.

Perhaps the most consequential act of constitutional hardball during the Obama years was the Senate's refusal to take up President Obama's nomination of Merrick Garland to the Supreme Court. Since 1866, every time a president had an opportunity to fill a Court vacancy before the election of his successor, he had been allowed to do so (though not always on the first try). The Senate's refusal to even consider an Obama nominee thus violated a 150-year-old norm.

The problem, then, is not only that Americans elected a demagogue in 2016. It is that we elected a demagogue at a time when the soft guardrails protecting our democracy were coming unmoored.

### Why Is This Happening?

The driving force behind democratic norm erosion is polarization. Over the last 25 years, Republicans and Democrats have come to fear and loathe one another. In a 1960 survey, 4 percent of Democrats and 5 percent of Republicans said they would be displeased if their child married someone from the other party. Fifty years later, a survey found those numbers to be 33 percent and 49 percent, respectively.<sup>10</sup> According to a 2016 Pew Survey, 49 percent of Republicans and 55 percent of Democrats said the other party makes them "afraid."<sup>11</sup> And a recent study by political scientists Danny Hayes and Liliana Mason shows that about 60 percent of both Democrats and Republicans said they believed the other party was a "serious threat to the United States."<sup>12</sup> We have not seen this kind of partisan hatred since the late 19th century.

Some polarization is normal—even healthy—for democracy. But extreme polarization can kill it. As recent research by political scientist Milan W. Svobik shows, when societies are highly polarized, we become more willing to tolerate undemocratic behavior by our own side.<sup>13</sup> When politics is so polarized that we view a victory by our partisan rivals as something that is catastrophic or beyond the pale, we begin to justify using extraordinary means—such as violence, election fraud, and coups—to prevent it. Nearly all the most prominent democratic breakdowns across history (from Spain and Germany in the 1930s to Chile in the 1970s to Thailand, Turkey, and Venezuela in the early 2000s) have occurred amid extreme polarization. Partisan rivals came to view one another as such an existential threat that they chose to subvert democracy rather than accept victory by the other side.

### The Sources of American Polarization

What we are experiencing today is not traditional liberal-conservative polarization. People do not fear and loathe one another over taxes or healthcare policy. Contemporary partisan divisions run deeper than that: they are about racial and cultural identity.<sup>14</sup>

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Recall that the stability of modern American democracy rested, to a significant extent, on racial exclusion. Our democratic norms were erected by and for a political community that was overwhelmingly white and Christian—and which forcibly excluded millions of African Americans in the South.

American society has transformed dramatically over the last half-century. Due to large-scale immigration and steps toward racial equality, our country has grown both more diverse *and* more democratic. These changes have eroded both the size and the social status of America's erstwhile white Christian majority.

In the 1950s, white Christians constituted well over 90 percent of the American electorate. As recently as 1992, when Bill Clinton was elected president, 73 percent of American voters were white Christians. By the time Barack Obama was reelected in 2012, that percentage had fallen to 57 percent and research suggests that it will be below 50 percent by 2024.<sup>15</sup> In effect, white Christians are losing their electoral majority.

They are also losing their dominant social status. Not long ago, white Christian men sat atop all our country's social, economic, political, and cultural hierarchies. They filled the presidency, Congress, the Supreme Court, and the governors' mansions. They were the CEOs, the newscasters, and most of the leading celebrities and scientific authorities. And they were the face of both major political parties.

Those days are over. But losing one's dominant social status can be deeply threatening. Many white Christian men feel like the country they grew up in is being taken away from them. For many people, that feels like an existential threat.

This demographic transition has become politically explosive because America's racial and cultural differences now map almost perfectly onto the two major parties. This was not the case in the past. As recently as the late 1970s, white Christians were evenly divided as Democrats and Republicans.

Three major changes have occurred over the last half-century. First, the civil rights movement led to a massive migration of Southern white people from the Democrats to the Republicans, while African Americans—newly enfranchised in the South—became overwhelmingly Democratic. Second, the United States experienced a massive wave of immigration, and most of these immigrants ended up in the Democratic Party. And third, beginning with Ronald Reagan's presidency in the early 1980s, white evangelical Christians flocked to the Republicans.

As a result of these changes, America's two major parties now represent very different parts of American society. The Democrats represent a rainbow coalition that includes urban and educated white voters and people of color. Nearly half of Democratic voters are nonwhite. The Republicans, by contrast, remain overwhelmingly white and Christian.<sup>16</sup>

Americans have thus sorted themselves into parties that represent radically different communities, social identities, and visions of what America is and should be. The Republicans increasingly represent white Christian America, whereas the Democrats have come to represent everybody else. This is the divide that underlies our country's deep polarization.

What makes our polarization so dangerous, however, is its *asymmetry*. Whereas the Democratic base is diverse and expanding, the Republican Party represents a once-dominant majority

in *numerical and status decline*. Sensing this decline, many Republicans have grown fearful about the future. Slogans like “take our country back” and “make America great again” reflect this sense of peril. These fears, moreover, have fueled a troubling development that threatens our democracy: a growing Republican aversion to losing elections.

### **Lose the Election, Not the Democracy**

Democracy requires that parties know how to lose. Politicians who lose elections must be willing to accept defeat, go home, and get ready to play again the next day. Without this norm of gracious losing, democracy is not sustainable.

**Contemporary partisan divisions are about racial and cultural identity.**

For parties to accept losing, however, two conditions must hold: first, they must feel secure that losing today will not bring ruinous consequences; second, they must believe they have a reasonable chance of winning again in the future. When party leaders fear they cannot win future elections, or that defeat poses an existential threat (to themselves or their constituents), the stakes rise. Their time horizons shorten. They throw tomorrow to the wind and seek to win at any cost today. In other words, desperation leads politicians to play dirty.

History offers numerous examples of how fear of losing leads parties to subvert democracy. In Europe before World War I, many traditional conservatives were haunted by the prospect of extending equal voting rights to the working class. In Germany, for example, conservatives viewed equal (male) suffrage as a menace not only to their own electoral prospects but also to the survival of the aristocratic order. (One German Conservative leader called full and equal suffrage among men an “attack on the laws of civilization.”) So German conservatives played dirty, engaging in rampant election manipulation and outright repression through World War I.

Closer to home, Southern Democrats reacted in a similar manner to the Reconstruction-era enfranchisement of African Americans, which was mandated by the Fifteenth Amendment. Since African Americans represented a majority or near-majority in most post-Confederate states, their enfranchisement imperiled Southern Democrats' political dominance—and potentially threatened the entire racial order. Viewing Black people's enfranchisement as an existential threat, Southern Democrats played dirty. Between 1885 and 1908, all 11 post-Confederate states passed laws establishing poll taxes, literacy tests, property and residency requirements, and other measures aimed at stripping African Americans of their voting rights—and locking in Democratic Party dominance.<sup>17</sup> These measures, together with a monstrous campaign of anti-Black violence, did what they were intended to do: Black voter turnout in the South fell from

61 percent in 1880 to just 2 percent in 1912. Unwilling to lose, Southern Democrats stripped the right to vote from almost half the population, ushering in nearly a century of authoritarianism in the South.

The GOP is showing signs of a similar panic today. Republicans' electoral prospects are diminishing. They remain an overwhelmingly white Christian party in an increasingly diverse society. Moreover, younger voters are deserting them. In 2018, people aged 18 to 29 voted Democrat by a more than 2 to 1 margin, and those in their 30s voted nearly 60 percent Democrat.

**The Republican Party has repeatedly abdicated in the face of Trump's violations of our constitutional order.**



Demography is not destiny, but as California Republicans learned after adopting a hardline anti-immigrant stance in the 1990s,<sup>18</sup> it can punish parties that resist societal change. The growing diversity of the American electorate has made it harder for the Republican Party to win national majorities. Indeed, the GOP has won the popular vote in *just one* presidential election in the last 30 years.

No party likes to lose, but for Republicans the problem is magnified by a growing perception among the base that defeat will have catastrophic consequences. As we noted above, many white Christian Republicans fear they are on the brink of losing

not just elections, but their country.

So like the old Southern Democrats, Republicans have begun to play dirty. Dimming electoral horizons and growing perceptions of an existential threat have encouraged a “win now at any cost” mentality. This mentality has been most manifest in recent efforts to tilt the electoral playing field. Since 2010, a dozen Republican-led states have adopted new laws making it more difficult to register or to vote.<sup>19</sup> Republican state and local governments have closed polling places in predominantly African American neighborhoods, purged voter rolls, and created new obstacles to registration and voting. In Georgia, for example, a 2017 “exact match law” allowed authorities to throw out voter registration forms whose information did not “exactly match” existing records. During Georgia’s 2018 gubernatorial race, Brian Kemp, then Georgia’s secretary of state and now its governor, tried to use the law to invalidate tens of thousands of registration forms, most of which were from African Americans.<sup>20</sup> He also purged hundreds of thousands of voters from the rolls.<sup>21</sup> Although these initiatives are less egregious than Jim Crow, the underlying logic is similar: parties representing fearful, declining majorities resort, in desperation, to dirty politics.

### **Where Is American Democracy Headed?**

The Trump administration endangers American democracy like no other administration in modern American history. We see three potential threats: continued democratic backsliding, descent into dysfunction, and minority rule.

#### **Continued Democratic Backsliding**

Trump has attacked the media, trampled on congressional oversight, and sought foreign intervention into our elections. And like autocrats in Hungary, Russia, and Turkey, he has sought to deploy the machinery of government for personal, partisan, and even undemocratic ends. In the age of the COVID-19 pandemic, the fear that the Trump administration is shockingly using the US Postal Service to make it harder to vote and to shape the results of the 2020 presidential election is only the latest instance of this phenomenon. Across the government, officials responsible for law enforcement, national intelligence, defense, election security, the census, public health, and even weather forecasting are under pressure to work for the president’s personal and political benefit—and, crucially, *against his critics and opponents*. Those who refuse—including inspectors general responsible for independently monitoring government agencies—are being pushed out and replaced with Trump loyalists.

This is how autocracies are built: leaders transform law enforcement, intelligence, and other institutions into partisan weapons, which they use to shield themselves from investigation and, in turn, to investigate and punish critics. When the referees work for the incumbent, the political playing field is inevitably tilted, subverting democratic competition. Indeed, Trump’s efforts to purge and corrupt government agencies closely mirrors those used by Hungarian Prime Minister Viktor Orban to undermine his country’s democracy.

Democratic backsliding has been facilitated by the Republican Party, which has repeatedly abdicated in the face of President Trump’s violations of our constitutional order. When we

were writing *How Democracies Die* in 2017, we expected a faction of the GOP—especially in the US Senate—to break with President Trump, helping to block or deter his most egregious abuses. We were too optimistic. In a context of extreme polarization, Republicans who confronted the party’s radicalized base, such as Jeff Flake, saw their political careers derailed. Unwilling to risk their careers to defend democracy, House and Senate Republicans abdicated, undermining Congress’ constitutional role as a check on executive power and imperiling our system of separation of powers.

Nowhere was the erosion of our checks and balances made clearer than in the failure of the 2019–2020 impeachment process. Senate Republicans stated from the outset that they would acquit the president no matter what the evidence of wrongdoing. Polarization was so extreme that it was more important for the Republicans to beat the Democrats than to rein in a president who threatened democratic institutions. Impeachment, our most powerful constitutional check on executive abuse, was rendered toothless.

Although the threat of an autocratic turn is real, especially if Trump is reelected, important sources of democratic resilience remain. The United States differs from Hungary, Russia, Turkey, Venezuela, and other recent backsliding cases in important ways. For one, our institutions are stronger. The courts remain independent and powerful. Federalism remains robust. And within every agency that the White House has attempted to purge, gut, and politicize, committed professional civil servants have resisted vigorously. They may ultimately lose particular political battles, but their resistance slows democratic erosion.

Another difference is that whereas autocrats in Russia, Hungary, Turkey, and Venezuela steamrolled a weak opposition, America has a well-organized, well-financed, electorally viable opposition. That opposition includes not only the Democratic Party but also unions and a wide array of activist groups, new and old, that have organized opposition to the current administration’s policies since the day Trump took office.

The strength of America’s opposition was made manifest in the 2018 midterm elections, when Democrats won control of the House of Representatives, and it makes Trump’s defeat in November 2020 a real possibility. If Trump loses, the immediate threat of a slide into autocracy will diminish.

### **Descent into Dysfunction**

Nevertheless, our democracy also faces a descent into dysfunction. America’s system of checks and balances, which often brings divided government, only works with a degree of mutual toleration and forbearance. When polarization erodes these norms and encourages constitutional hardball, divided government can easily descend into a kind of permanent institutional warfare—leaving the federal government unable to do the basic work of governance.

Indeed, although a return to divided government after 2018 brought welcome constraints on the Trump administration, it did not deliver anything resembling a well-functioning system of checks and balances. In the first year of divided government under President Trump, Americans witnessed the longest government shutdown in US history, a fabricated national emergency aimed at openly defying Congress, and an impeachment

process in which the White House flouted subpoenas and other mechanisms of congressional oversight.

America’s descent into democratic dysfunction prevents our governments from dealing with the most important problems facing our society—from immigration to climate change to healthcare. America’s botched, slow-moving response to the COVID-19 pandemic is only the latest and most lethal symptom of a political system that has been run aground by polarization.

Dysfunction doesn’t merely hinder government performance; it can also undermine public confidence in democracy. When governments consistently fail to respond to citizens’ most pressing problems, citizens lose faith in the system. There is good evidence that such an erosion of confidence is occurring in America today. According to a report by the Center for the Future of Democracy, the percentage of Americans who say they are dissatisfied with their democracy has more than doubled over the last two decades, from less than 25 percent in 2000 to 55 percent today.<sup>22</sup>

**America’s botched response to COVID-19 is the most lethal symptom of a political system run aground by polarization.**

When societies lose confidence that their governments can resolve their problems, they grow vulnerable to demagogues or political outsiders who promise to “get things done” by other—usually autocratic—means.

### **Minority Rule**

This final threat to our democracy is less visible, but it may be the most pernicious of all. Consider the following facts:

- The last two Republican presidents came to office despite having lost the popular vote—and it could easily happen again in 2020.
- The Democrats easily won the overall vote in the 2016 and 2018 Senate elections—and yet Republicans still control the Senate.
- In 2017, Neil Gorsuch became the first Supreme Court justice in history to be appointed by a president who lost the popular vote and then be confirmed by senators who represented less than half the country. A year later, Brett Kavanaugh ascended to the Court in exactly the same way, creating a conservative Court majority with decidedly minoritarian origins.
- In February 2020, the 52 senators who voted to acquit President Trump came from states that represented 18 million fewer Americans than the 48 senators who voted to convict.

America has a well-organized opposition that includes not only the Democratic Party but also unions.



These instances offer a glimpse into life under partisan minority rule. Our constitution and electoral geography have, unintentionally, conspired to favor the Republican Party. This may permit what Princeton sociologist Paul Starr calls the entrenchment in power of an electoral minority<sup>23</sup>—primarily voters in rural, conservative, and largely white areas.

To be sure, minority rule has a deep history in America. Our Founders created a constitutional system that was biased toward small (or low population) states. But over time, that early small state bias evolved into a massive overrepresentation of rural states, affecting three important counter-majoritarian institutions: the Electoral College is slightly biased toward sparsely populated states; the US Senate is heavily biased toward sparsely populated states; and because the Senate must approve Supreme Court nominations, the Supreme Court is also somewhat biased toward sparsely populated states. Population trends—the gradual depopulation of rural areas—are exacerbating the problem. In 20 years, 70 percent of the US population will be living in 16 states, which means that 30 percent of the country will control 68 percent of the Senate.<sup>24</sup>

For most of American history, the rural bias inherent in the political system had little *partisan* effect, because the major parties had urban and rural wings. In other words, the system

always favored Vermont over New York, but it did not favor any particular *party*. In recent years, however, US parties have divided along urban-rural lines. Today, Democratic voters are concentrated in the big metropolitan centers, whereas Republicans are increasingly based in sparsely populated territories. That gives the GOP a systematic and growing advantage in the Electoral College, the Senate, and the Supreme Court.

Partisan minority rule is bad enough, but it has an even more dangerous corollary. Republicans, pushed by a fearful white Christian base into a “win now at any cost” mentality, may use their advantage in counter-majoritarian institutions to entrench themselves in power without winning electoral majorities—indeed, in the face of *enduring opposition majorities*. The Electoral College permitted Donald Trump’s election (and may permit his reelection), while the Senate enabled his egregious abuse of power. Likewise, Republican efforts to tilt the electoral playing field via gerrymandering, purging of voter rolls, and new obstacles to registration and voting have been largely upheld by the Supreme Court.

In sum, no matter what the outcome of the presidential election, Americans could be headed for a period of partisan minority rule, in which governments elected by a minority of Americans seek to tilt the playing field under the protection of the Senate and the Supreme Court.

### How Can We Preserve American Democracy?

The November 2020 election is critical. Trump’s reelection would accelerate the destructive trends we have seen over the past four years: the erosion of democratic norms, the abandonment of established democratic practice, a sustained assault on the rule of law, and further entrenchment of partisan minority rule. If the Trump presidency were to extend until 2024, we fear American democracy would become unrecognizable.

Thus far, two built-in checks in our political system have failed to protect us against the rise of a demagogue. First, as we argued in *How Democracies Die*, Republican leaders abdicated their democratic gatekeeping responsibilities by allowing a would-be authoritarian to win their presidential nomination and then working to get him elected. Second, as noted above, our system of checks and balances has failed to prevent presidential abuse; in a context of extreme polarization, even the institution of impeachment was ineffective.

The failure of party gatekeeping and congressional oversight leaves us with one final institutional check: the November 2020 elections.

That is why the fairness of the 2020 election is of central concern. Prominent techniques in the autocrat’s playbook are out of President Trump’s reach: he cannot cancel the election, bar his rival from running, or steal it via outright fraud. However, he may be able to manipulate the election in a more subtle way.

The current public health crisis may allow the administration to deploy an unusual strategy of electoral manipulation that we term *malign neglect*. Consider this: the COVID-19 pandemic will in all likelihood persist into the election season. Wherever the virus exists, the risks of in-person voting will lead many Americans to forgo voting altogether. Many polling station volunteers, who are typically older Americans, also will understandably choose to stay home, which could force a dramatic reduction in

the number of polling stations. As we saw in Wisconsin in April 2020, the result will be long lines, which will deter voters who lack the time, have difficulty standing for hours, or fear contagion. If conditions are severe enough, we could experience a steep fall in turnout, which could dramatically skew the results. And if the obstacles to voting are greatest in the cities, as was the case in Wisconsin, it could skew the results—without any actual fraud—in Trump’s favor.

To protect voters’ health and the fairness of the election, a vote-by-mail option should be available to all Americans who need it. Unfortunately, the White House has publicly opposed efforts to expand vote-by-mail options, and in many states, the Republican Party challenged such initiatives in court.<sup>25</sup>

We often assume that one must break or change the rules to subvert democracy. But this isn’t always true. When changing conditions make it impossible to practice democracy as we did in the past, like when a pandemic makes in-person voting dangerous, *failing* to act—failing to update our rules and procedures—can itself subvert democracy. Malign neglect is an insidious form of constitutional hardball. It is hardly illegal to *not* act or to *not* pass legislation. Maintaining our traditional voting system—one that has worked in the past—doesn’t seem very authoritarian. Indeed, it may even at first glance seem prudent. Moreover, a chaotic, low-turnout election would violate no laws. Strictly speaking, it would be constitutional. But to do nothing at a time when a pandemic threatens citizens’ ability to vote, potentially affecting the outcome of a presidential election, would be an act of malign neglect—and potentially the biggest subversion of American democracy since Jim Crow.

### Combating the Root Cause of Asymmetric Polarization

Democracy requires the existence of at least *two* democratically minded political parties. Thus, American democracy will only be secure when both major parties are committed to the democratic rules of the game. For that to happen, the Republican Party must change. It must transform itself into a more diverse party, capable of attracting younger, urban, and nonwhite voters. A Republican Party that can thrive in a multiracial America will be less fearful of the future. Without the “win now at any cost” mentality of a party facing inexorable decline, Republicans will be more likely to embrace democratic norms.

Such changes are less far-fetched than they may appear; indeed, the Republican National Committee recommended them as recently as 2013. But the Republican transformation will not happen automatically. Parties only change course when their strategies fail. In democratic politics, success and failure are measured at the ballot box. And nothing compels change like electoral defeat.

But there is a hitch: countermajoritarian institutions like the Electoral College, the Senate, and the federal judiciary allow the GOP to hold onto considerable power without winning national popular majorities. These institutions may therefore weaken Republicans’ incentive to adapt.

**T**he only way out of this impasse is to double down on democracy, defending the right of all citizens to vote. Since the 1960s, Americans have taken important steps toward the creation of something few societies have

achieved: a truly multiracial democracy. Barack Obama’s presidency—barely a generation after the end of Jim Crow—was an unmistakable sign of our democratic progress. Those democratic achievements are worth defending. But they are now imperiled. It is a tragic paradox that our country’s belated steps toward full democracy triggered the radical reaction that now threatens it.

Americans who are concerned about the threats facing our democracy must not only participate in the 2020 election but also commit themselves to protect our most basic democratic institutions, including voting and civil rights. The stakes are high. We have much to lose. □

The only way out of this impasse is to double down on democracy, defending the right of all citizens to vote.

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