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# United States Democracy Meter

## 2024 Scoring

2024 Total Score:

**79/100**



### 1. State Institutions **22/30**

#### a. Executive **9/10**

- i. Does the executive operate within the constraints imposed on it by Congress, the judiciary, and the constitutional order? **3/4**

The United States has a strong presidential system. The president is elected in a national vote every four years, which is held simultaneously with elections to the House of Representatives and Senate. The president forms the government by nominating the cabinet and other high-ranking “political” positions, which are subject to confirmation by the Senate. The president also nominates members of the federal judiciary, who serve for life once confirmed and therefore have become a matter of fierce partisan contestation. A large number of other officials are appointed without confirmation.

Malfeasance by the president and other executive officials can be checked through impeachment by the House of Representatives, akin to a trial in the Senate. Historically, [impeachments have been rare and mostly unsuccessful](#).<sup>1</sup> Multiple administrations have pushed the envelope of what is legally permissible under the “major questions doctrine”

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<sup>1</sup> “About Impeachment | Impeachment Cases,” U.S. Senate, <https://www.senate.gov/about/powers-procedures/impeachment/impeachment-list.htm>.

(which holds that the executive may not act absent clear Congressional authorization on areas of major significance). Although the Supreme Court has checked executive power in certain areas (see below), in many others they have permitted executive aggrandizement.

In July 2024, the Supreme Court ruled 6–3 in [Trump v. United States](#) that the president has absolute immunity from criminal prosecution for all of the president’s “official acts.”<sup>2</sup> The majority defined official acts broadly, indicating neither Congress nor the courts can regulate the president’s actions in office. The case concerned the potential prosecution of Donald Trump for his interference in the transfer of power at the end of his first term on January 6, 2021; while the ruling did not directly consider the specific acts of the president at that time, it effectively ended legal efforts to hold Trump accountable for attempting to unlawfully seize power on January 6.

ii. Does the executive obey the law, even when it limits executive actions? **4/4**

Despite the aggrandizement of power to the executive branch, executive branch activities are still subject to legal scrutiny, and the judiciary often rules against the executive. The executive until 2024 consistently complied with judicial rulings, even where they struck down or altered significant policy priorities. For instance, in 2024, the Supreme Court [struck down a student debt relief plan enacted by President Biden](#) on the grounds that it violated the major questions doctrine (see A.a.i. above), constraining a significant presidential policy.<sup>3</sup> While the administration sought ways to enact other forms of student debt relief, it did not ignore the ruling.

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<sup>2</sup> *Trump v. United States*, Supreme Court of the United States, 603 U.S. 1 (2024), [https://www.supremecourt.gov/opinions/23pdf/603us1r57\\_6k47.pdf](https://www.supremecourt.gov/opinions/23pdf/603us1r57_6k47.pdf).

<sup>3</sup> “Supreme Court Strikes Down Student Loan Forgiveness Program,” National Conference of State Legislatures, <https://www.ncsl.org/events/details/supreme-court-strikes-down-student-loan-forgiveness-program>.

- iii. Are civil servants and nonpolitical governmental personnel free of partisan political tests from the executive? **2/2**

Discrimination against civil servants on the basis of political affiliation (as well as other factors) is [prohibited by law](#).<sup>4</sup> Through 2024, the law was obeyed and federal employees were professionally nonpartisan, despite claims that the liberal political preferences of most federal employees made them de facto partisan.

b. Congressional **7/10**

- i. Does Congress operate independently of other branches of the government, particularly through oversight? **4/5**

Congress's authority to conduct oversight is implicit within the constitutional structure, but well established. Oversight, in practice, has been warped by extreme partisanship. When a branch of Congress is held by the party opposing the president, the branch tends to be aggressive in conducting oversight through hearings and investigations. This is especially true for the House, where shorter terms in office and a much larger body of representatives have led to aggressive entrepreneurship by members of Congress, who often build their public profiles through investigations. However, when Congress is aligned with the president, oversight is lacking and there is a distinct lack of accountability for executive branch actions, even when they usurp Congressional powers or conflict with Congressional priorities.

- ii. Does Congress legislate on matters of national importance, particularly within its mandated areas of responsibility, such as appropriations? **3/5**

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<sup>4</sup> *Senate Bill 2640*, U.S. Congress, 95th Cong., <https://www.congress.gov/bill/95th-congress/senate-bill/2640>.

In the constitutional structure, Congress is granted numerous powers, including over taxation, regulation of trade, declaration of war, and appropriations. Congress in recent years has increasingly failed to adequately perform these activities. Some of the executive aggrandizement (see above) has come through failures of Congress that have effectively ceded its constitutional prerogatives to the president. For instance, although the War Powers Resolution of 1973 [strengthened Congress's role in approving military actions abroad](#), Congress has largely failed in recent decades to use its authorities to declare war or provide oversight of war-making.<sup>5</sup>

Over time, [the number of bills passed in Congress has dropped](#), and the proportion of bills that are introduced that do not move beyond introduction has increased.<sup>6</sup> This has generated pressure to pass key large bills that cover huge swathes of federal activities, especially those concerning funding like the National Defense Authorization Act (NDAA). These omnibus-style legislative packages then come to incorporate many different and disparate elements within them, which leads to scrambles to fit tangentially related matters into bills several thousand pages long. Congress has also increasingly failed to pass federal budgets in a timely fashion, which has led to repeated closures of the federal government, which is largely [not permitted to operate without appropriated funding](#).<sup>7</sup>

### c. Judicial **3/5**

#### i. Does the judiciary fulfill its role in a nonpartisan manner? **3/5**

The United States has a convoluted system of justice spread across multiple layers in a highly federalized system. At nonfederal levels (in other words, municipal, county, and state), [judges are often elected](#) rather than appointed by an independent judicial council,

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<sup>5</sup> Michael Greene, "War Powers Resolution: Expedited Procedures in the House and Senate," Congressional Research Service Report R47603, <https://www.congress.gov/crs-product/R47603>.

<sup>6</sup> "Statistics and Historical Trends in Congressional Comparison," GovTrack, <https://www.govtrack.us/congress/bills/statistics>.

<sup>7</sup> James V. Saturno, "Federal Funding Gaps: A Brief Overview," Congressional Research Service Report RS20348, <https://www.congress.gov/crs-product/RS20348>.

as they are in many other developed countries. Though some elections are formally nonpartisan, many of those take on a partisan character during the race; many others are explicitly partisan.<sup>8</sup> Election of judges [biases the outcome toward partisanship](#) and leaves judges subject to external pressures of fundraising and remaining in the good graces of local party officials that can affect their nominations and campaigns.<sup>9</sup>

At the federal level, judges are nominated by the president and confirmed by the Senate for lifetime positions. This system has resulted in federal judicial appointments becoming a high partisan priority, because once judges are installed it is nearly impossible to remove them. The very small number of Supreme Court nominations, in particular, have become fiercely contested in Congress, and subject to various forms of parliamentary manipulation to determine which party gets to nominate them. The rulings of many federal judges, especially at the Supreme Court, have in turn become highly partisan in their results. At the top levels of legal scholarship in the United States, Supreme Court decisions [are acknowledged as guided not by constitutional reasoning, but by partisan significance](#).<sup>10</sup>

Nevertheless, judicial independence is highly valued in the highly professionalized U.S. legal system, and courts often rule against elected officials, government representatives, and powerful people in general.

#### d. Corruption **3/5**

##### i. Is grand corruption prohibited in law and punished in practice? **3/5**

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<sup>8</sup> “Judicial Selection in the States,” Ballotpedia, [https://ballotpedia.org/Judicial\\_selection\\_in\\_the\\_states](https://ballotpedia.org/Judicial_selection_in_the_states).

<sup>9</sup> Douglas Keith, “The Politics of Judicial Elections, 2021–2022,” Brennan Center for Justice, <https://www.brennancenter.org/our-work/research-reports/politics-judicial-elections-2021-2022>.

<sup>10</sup> Erwin Chemerinsky, “Judicial Deference?,” *SCOTUSblog*, <https://www.scotusblog.com/2025/07/judicial-deference/>; Emily Bazelon and David French, “We’re Trying to Find a Line the Supreme Court Won’t Cross,” *New York Times*, December 11, 2025, <https://www.nytimes.com/2025/12/11/opinion/supreme-court-slaughter-presidential-power.html>.

American politics is awash in money, though prior to the first Trump presidency it was typically distributed through the semi-official channels of campaign financing (see Elections below) and lobbying. This changed during President Trump's first term, when he openly courted foreign investors that provided money for his businesses and his family, and engaged in extensive self-dealing. Neither the president nor his inner circle were ever prosecuted for these actions. Hunter Biden, the son of President Biden, also solicited foreign investors and received large amounts of money for consultant services by touting his access to the president, though there was never any evidence President Biden received funds or helped his son's interests. Hunter Biden was later convicted on federal tax offenses, and pardoned by his father in December 2024.

The Supreme Court has significantly narrowed the scope of what constitutes legally punishable bribery in a series of rulings over the last ten years. In 2015, the court narrowed what constituted an "official act" in exchange for an inducement in [\*McDonnell v. United States\*](#), overturning the conviction of the Virginia governor for bribery and resulting in the reversal of a number of high-profile corruption convictions against public officials in other jurisdictions.<sup>11</sup> In June 2024, the Supreme Court narrowed the scope further in the case [\*Snyder v. United States\*](#), holding that "gratuities" received after an official act did not constitute bribery.<sup>12</sup>

There continued to be high-profile cases of corruption prosecuted through 2024, including of Senator Robert Menendez (D-NJ), the onetime Chair of the Senate Foreign Relations Committee. He was [convicted in July 2024](#) for accepting cash, gold, and a luxury car from an agent of the Egyptian government in exchange for favors on the government's behalf.<sup>13</sup>

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<sup>11</sup> "McDonnell v. United States," *SCOTUSblog*, <https://www.scotusblog.com/cases/case-files/mcdonnell-v-united-states/>.

<sup>12</sup> *Snyder v. United States*, Supreme Court of the United States, 2023, [https://www.supremecourt.gov/opinions/23pdf/23-108\\_8n5a.pdf](https://www.supremecourt.gov/opinions/23pdf/23-108_8n5a.pdf).

<sup>13</sup> "Former U.S. Senator Robert Menendez Sentenced to 11 Years in Prison for Bribery, Foreign Agent, and Obstruction Offenses," U.S. Department of Justice,

## 2. Nonstate Sectors **26/30**

### a. Media and Social Media **10/12**

- i. Do news media and social media institutions operate independent of gross and disproportionate political pressure? **4/4**

The First Amendment to the Constitution provides some of the strongest protections for speech in the world. This has traditionally shielded U.S. media from most overt legal pressure, though there have been increasing efforts to roll back the “actual malice” standard that sets a high bar for defamation, and some Supreme Court justices [have indicated they would support lowering the standards](#).<sup>14</sup> The First Amendment also protects users who engage in online speech.

Social media platforms have been [mostly protected from liability](#) for material posted on their platforms by Section 230 of the Communications Decency Act. This protection has allowed social media platforms to host a variety of content without fear of civil penalties, though it has also made it difficult for regulators to address negative externalities.<sup>15</sup> As social media platforms have become more important, there have been intermittent efforts to shape their content moderation decisions. These took the form of “[jawboning](#)” by government officials to take action on certain issues emerging on platforms like election denial, anti-vaccine misinformation, or hate speech.<sup>16</sup> These tactics constitute government pressure, but not interference, per se. The one legal case to try to curb

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<https://www.justice.gov/usao-sdny/pr/former-us-senator-robert-menendez-sentenced-11-years-prison-bribery-foreign-agent-and>.

<sup>14</sup> “Actual Malice,” *First Amendment Encyclopedia*, Middle Tennessee State University, <https://firstamendment.mtsu.edu/article/actual-malice/>.

<sup>15</sup> Valerie C. Brannon and Eric N. Holmes, “Section 230: An Overview,” Congressional Research Service Report R46751, <https://www.congress.gov/crs-product/R46751>.

<sup>16</sup> “Jawboning,” Knight First Amendment Institute, Columbia University, <https://knightcolumbia.org/blog/channel/jawboning>.

federal government jawboning in 2024 (*Murthy v. Missouri*) was dismissed by the Supreme Court for lack of standing.

In April 2024, Congress passed and President Biden signed a law to force Chinese company ByteDance to divest from TikTok's U.S. division. The company challenged the law in court, and it remained under appeal through the end of 2024.

- ii. Are the news media and social media sectors vibrant in terms of ownership, viewpoints, and sustainability? **3/4**

The transition from print to digital publishing, and the emergence of large online platforms that captured attention, led to a collapse in the advertising revenue that sustained news media. This has resulted in the elimination of large numbers of journalism jobs and publications. The loss of local news outlets has led to what are termed [“news deserts,”](#) where communities have no news publications covering local issues.<sup>17</sup> At the national level, there has also been significant consolidation and downsizing, with outlets that previously had national reach reduced to fractions of their staff. Most previously important print brands with regional and national reach like the *Washington Post*, *Los Angeles Times*, or *Chicago Tribune* have been bought by wealthy individuals or private equity firms. National print brands the *New York Times* and the *Wall Street Journal* remain economically successful.

In [broadcast news media](#), the networks (ABC, CBS, NBC, and Fox) and the [cable news providers](#) (Fox, CNN, MSNBC) divide news audiences with mostly stable shares.<sup>18</sup> Ownership of the news media is within very large corporate media structures (for

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<sup>17</sup> “The Expanding News Desert,” U.S. News Deserts Project, <https://www.usnewsdeserts.com/>.

<sup>18</sup> “Cable News Fact Sheet,” Pew Research Center, <https://www.pewresearch.org/journalism/fact-sheet/cable-news/>; “Network News Fact Sheet,” Pew Research Center, <https://www.pewresearch.org/journalism/fact-sheet/network-news/>.



example, Comcast for NBC and MSNBC, Disney for ABC, and Warner Bros for CNN) that can entangle news broadcasters in larger corporate dynamics.

[Online platforms](#) are dominated by large incumbents: Facebook and Instagram (owned by Meta), TikTok, YouTube (owned by Alphabet/Google), Snapchat, X, and Reddit.<sup>19</sup> Due to strong First Amendment protections for users and Section 230 protections for platforms, online discussions are vibrant and diverse. The purchase of X (formerly Twitter) in 2022 by multibillionaire Elon Musk led to dramatic changes in the platform tilted toward the far right.

- iii. Do news media and social media platforms operate with responsibility and accountability for their role in public discourse?

**3/4**

Overall news consumption in the United States [has been dropping consistently for years](#).<sup>20</sup> The print media has been transformed by the digital revolution, with far less of it and far less coverage of local issues. New, sometimes nonprofit or volunteer-driven, newsrooms are emerging as alternatives. These tend to be mission-driven, but also much smaller in terms of staff than the private newspapers or outlets they are replacing.

Fox News has dominated broadcast cable viewership for years as an overtly and staunchly right-wing outlet. Its success has led to some polarization in response, as other cable broadcasters, in particular, try to find niches to compete. MSNBC, for example, has tried to occupy a liberal/center-left position in response. Other broadcasters still mostly seek a median position to reach the widest audience possible. Broadly speaking, the U.S. news media still serve a variety of perspectives and employ thousands of journalists.

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<sup>19</sup> “Social Media Fact Sheet,” Pew Research Center, <https://www.pewresearch.org/internet/fact-sheet/social-media/>.

<sup>20</sup> Naomi Forman-Katz, “Americans Are Following the News Less Closely Than They Used To,” Pew Research Center, December 3, 2025, <https://www.pewresearch.org/short-reads/2025/12/03/americans-are-following-the-news-less-closely-than-they-used-to/>.

Social media platforms have increasingly sought to distance themselves from social responsibility for controlling misinformation, social harms, and other negative externalities. This is due to a less-favorable economic environment for the social media platforms, shifting priorities with the rise of artificial intelligence, the example of Elon Musk’s elimination of trust and safety teams after his purchase of X, and political pressure from the right.

b. Civil society and the private sector **12/12**

- i. Do civil society organizations operate independent of undue political pressure? **4/4**

The First Amendment also protects U.S. civil society organizations that engage in association, assembly, and belief activities. Official political pressure on civil society (for instance through audits or funding decisions) has been concentrated on particular issues, like voter registration, abortion rights, or support for the rights of Palestinians. Right-wing initiatives like Project Veritas have sought to “expose” or humiliate liberal civil society groups, sometimes in coordination with politicians. In 2023–24, some politicians called for investigations into pro-Palestinian protests. There was indirect evidence of [increased federal scrutiny of pro-Palestinian organizations](#), but not of prosecutions.<sup>21</sup> While the first Trump administration attacked some civil society actors by name—particularly the Open Society Foundations and its founder George Soros—it did not seek to impose legal consequences on them, and they continued to operate.

- ii. Are civil society organizations vibrant in terms of representation, viewpoints, and sustainability? **4/4**

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<sup>21</sup> “New Report Analyzes Crackdown on Palestine Solidarity in the U.S.,” Palestine Legal, May 23, 2024, <https://palestinelegal.org/news/2024/5/23/new-report-analyzes-crackdown-on-palestine-solidarity-in-the-us> [nbs](#); “Pro-Palestinian Activists Are the Government’s Next Surveillance Target,” Muslim Legal Fund of America, <https://mlfa.org/pro-palestinian-activists-are-the-governments-next-surveillance-target/>.

U.S. civil society is large, diverse, and wealthy. Buttressed by favorable tax treatment for donors, the largest national organizations raise well in excess of \$100 million per year, pay their top executives over \$1 million in salary, and employ thousands of people. These organizations span the political and ideological spectrum. Many of the largest organizations that operate as a nonpartisan nonprofit (501(c)(3)) also have an “action” arm (501(c)(4)) that allows them to engage in lobbying. At the local level, the United States has a dense web of local associations, clubs, charities, and other initiatives.

iii. Does the private sector operate independent of undue political pressure? **4/4**

The U.S. private sector was not subject to undue political pressure in 2024. As in any complex and developed economy, there were various specific conflicts with state authorities, and the government sought to induce the private sector to operate within certain standards through incentives and regulations (like antidiscrimination or environmental laws), but political pressure was not used to shape the private sector’s role in public life. If anything, concerns were more often that the government was exercising inadequate supervision of the private sector, particularly in relation to antitrust, competition, and consolidation.

c. Higher Education **4/6**

i. Does higher education operate independent of undue political influence? **2/3**

U.S. higher education is a large and diverse sector, spanning community colleges, state schools, and private institutions—the latter of which tend to get the most attention from national media. In 2023, Congress called the heads of several universities in for politicized hearings on the topic of antisemitism in universities, which led to the resignation of the presidents of Harvard University and the University of Pennsylvania.

State universities have been under heavy political pressure in many states over a number of years, largely due to right-wing state governments taking exception to what they perceive as liberal bias on campuses. This has resulted in laws like Texas’s SB17 in 2023, which [banned diversity, equity, and inclusion \(DEI\) initiatives](#), and resulted in significant changes in university policies and rampant self-censorship for staff on campus.<sup>22</sup>

- ii. Do higher education institutions protect the rights of professors, researchers, and students to engage in research, speech, and debate on controversial topics? **2/3**

U.S. higher education has struggled with academic freedom and freedom of speech issues for years. Right-wing critics have argued that campuses are censorious and do not accept other perspectives, pointing to scattered protests against and disruptions of right-wing speakers on campus, as well as the tendency toward more representation of liberal perspectives among students and faculty. These issues came to a head with the nationwide campus protests in 2023–24 for Palestinian rights and against the Israeli occupation, especially when students formed “encampments” as semipermanent protest sites. Under pressure from politicians, donors, and alumni, universities across the country eventually cracked down in spring 2024, resulting in thousands of arrests. In some cases, most famously at Columbia University in New York City, this also led to changes in university policies to restrict speech by students, faculty, and staff and to tightly control access to university grounds.

### 3. Rights **19/25**

#### a. Civil Rights **11/15**

- i. Is there freedom of expression without undue fear of persecution or retribution, especially for critics of the government? **4/5**

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<sup>22</sup> “Texas Senate Bill 17—Prohibition of Diversity, Equity, and Inclusion Activities,” University of Texas at Austin, <https://compliance.utexas.edu/sb17>.

The United States has strong legal protections for freedom of expression that have been consistently upheld in court. Informal forms of retribution, like doxxing and mobbing of online users, have been encouraged by political authorities and linked political actors. U.S. social media users, particularly those working for the U.S. government or in areas affected by U.S. government policy, have grown more cautious about posting their opinions online, [reflecting a chilling effect](#).<sup>23</sup>

ii. Is there freedom of assembly, especially for critics of the government? **4/5**

The United States has strong legal protections for freedom of assembly that have been consistently upheld in court. Protests and demonstrations, both registered and unregistered, large as well as small, are fairly common. There is a history of harsh policing of assemblies, and American police are known for restrictive and aggressive forms of intervention against protests. Nevertheless, opposition rallies and assemblies on sensitive issues are held across the country with some frequency. For example, in 2023–24, there were tens of thousands of protests related to Israel and Palestine, [the vast majority without police or protester violence or damage to property](#).<sup>24</sup> Over the course of 2024, policing of assemblies particularly related to Israel’s actions in Gaza grew more aggressive and restrictive.

iii. Is there protection from arbitrary detention or arrest? **3/5**

The United States legally has strong protections against arbitrary arrest and detention. Political persecution on an individualized basis through the criminal justice system is

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<sup>23</sup> “Where America Stands: Freedom of Speech Report 2025,” Freedom Forum, <https://www.freedomforum.org/wp-content/uploads/2025/09/Freedom-Forum-Where-America-Stands-Report-2025-68dc11cb5af24.pdf>.

<sup>24</sup> Donatella della Porta et al., “Protests in the United States on Palestine and Israel, 2023–2024,” *Social Movement Studies* 23, no. 4 (2024): 1–14, <https://www.tandfonline.com/doi/full/10.1080/14742837.2024.2415674>.

exceedingly rare. At the structural level, [law enforcement falls far more heavily on racially marginalized communities](#), especially Black Americans.<sup>25</sup> Arrest rates have fallen consistently across all groups since the early 1990s, and sharply in recent years. But Black Americans [continue to be arrested at a rate more than 2.5 times that of white Americans](#).<sup>26</sup>

Regarding detention, the widespread use of pretrial detention and long waiting times before trial—especially for indigent defendants—mean that who is actually subject to arrest and detention is skewed along racial and class lines. The United States has one of the world’s highest incarceration rates and one of the largest prison populations in absolute terms, with around 1.8 million people in prison (excluding immigration detention, see below). Black and American Indian populations are [strongly overrepresented in prison](#), with Latino populations slightly overrepresented, while White and Asian populations are significantly underrepresented.<sup>27</sup> Most incarceration is in state and local prisons and jails rather than federal facilities. Pretrial detention (in other words, detention before a person is convicted) accounts for most of the local jail population. The immigrant detention system operates separately from prisons and jails. Around [39,000 people](#) were detained in that system as of the end of 2024.<sup>28</sup>

## b. Equality Before the Law **8/10**

### i. Is there due process for all people? **4/5**

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<sup>25</sup> “Racial and Ethnic Disparities in the Criminal Justice System,” National Conference of State Legislatures, <https://www.ncsl.org/civil-and-criminal-justice/racial-and-ethnic-disparities-in-the-criminal-justice-system>

<sup>26</sup> “Who Gets Arrested in America: Trends Across Four Decades, 1980–2024,” Council on Criminal Justice, <https://counciloncj.org/who-gets-arrested-in-america-trends-across-four-decades-1980-2024/>.

<sup>27</sup> “United States Profile,” Prison Policy Initiative, <https://www.prisonpolicy.org/profiles/US.html>; “Updated Charts Show the Magnitude of Prison and Jail Racial Disparities, Pretrial Populations, Correctional Control, and More,” Prison Policy Initiative, <https://www.prisonpolicy.org/blog/2024/04/01/updated-charts/#slideshows/updatedcharts2/2>.

<sup>28</sup> “ICE Annual Report Fiscal Year 2024,” U.S. Immigration and Customs Enforcement, 22, <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf>; “ICE Detention Trends,” <https://www.vera.org/ice-detention-trends>.

Due process is protected in the United States under the Fifth Amendment of the Constitution. In practice, there are [significant obstacles](#) for many people in America when they attempt to access justice, which skew along racial and income lines.<sup>29</sup> For example, though people are guaranteed legal representation in criminal cases, public defense as a sector is [chronically underfunded](#), which leaves those who can pay with better legal representation.<sup>30</sup>

Immigration courts operate in a different legal regime, as administrative courts under the Department of Justice rather than under the judicial branch.<sup>31</sup> Constitutional due process protections still apply, but within this system, immigrants have fewer rights than defendants in criminal cases. Crucially, they do not have the right to a court-appointed lawyer and often must represent themselves. They do have the right to removal hearings, in which they can contest the facts related to their petition, though this is not the case for those meeting criteria for “expedited removal.”

- ii. Are there guarantees in law and practice of equal treatment for all people? **4/5**

Equal treatment is guaranteed under law, and the U.S. government has adopted a number of policies that seek to remedy racial discrimination, in particular. These policies have been the target of an organized backlash since their adoption in the 1960s and 1970s, which has helped reduce their effectiveness.

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<sup>29</sup> “Justice Index,” National Center for Access to Justice, <https://ncaj.org/state-rankings/justice-index>; “New Study Reveals the Full Extent of the Access to Justice Crisis in America,” State Justice Institute, <https://www.sji.gov/new-study-reveals-the-full-extent-of-the-access-to-justice-crisis-in-america/>; “Racial and Ethnic Disparities in the Criminal Justice System,” National Conference of State Legislatures, May 24, 2022, <https://www.ncsl.org/civil-and-criminal-justice/racial-and-ethnic-disparities-in-the-criminal-justice-system>.

<sup>30</sup> Richard A. Oppel Jr. And Jugal K. Patel, “One Lawyer, 194 Felony Cases, and No Time,” *New York Times*, January 31, 2019, <https://www.nytimes.com/interactive/2019/01/31/us/public-defender-case-loads.html>.

<sup>31</sup> “Updated Charts Show the Magnitude of Prison and Jail Racial Disparities, Pretrial Populations, Correctional Control, and More,” Prison Policy Initiative, <https://www.prisonpolicy.org/blog/2024/04/01/updated-charts/#slideshows/updatedcharts2/2>.

#### 4. Elections **12/15**

##### a. Vote Counting **5/5**

##### i. Are votes counted accurately? **5/5**

Elections in the United States are the responsibility of the states, which can lead to highly variable procedures and outcomes in terms of various elements of the electoral system. However, although administrative or procedural issues occur, there have been no systematic problems with vote-counting in American elections.

##### b. Ability to Cast a Vote **4/5**

##### i. Are there undue constraints on the ability to cast a vote? **4/5**

Voting is a major feature of the American system. Generally speaking, Americans over the age of 18 will have the chance to vote at least once a year, and sometimes more often, for various offices from the most local such as school boards to the president.

The difficulty of casting a ballot is a longstanding problem in the United States, and is [partially an outcome of archaic traditions like holding elections on Tuesdays](#), instead of on Sunday, as most countries do.<sup>32</sup> Recurring obstacles, though, are grounded in practices that states in the South imposed after Reconstruction to make it harder for Black Americans to vote. To break the hold of racist rule in the South, the Voting Rights Act of 1965 (the VRA) prohibited racial discrimination in voting, and imposed various methods for the federal government to enforce nondiscrimination upon the states. However, in 2013, the Supreme Court [effectively eliminated Section 5 of the VRA](#), which had required “preclearance” for many states before they could change voting rules.<sup>33</sup>

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<sup>32</sup> Benjamin Reilly et al., “Which Day of the Week Gets the Most People to Vote? We Analysed Thousands of International Elections to Find Out” *The Conversation*, <https://theconversation.com/which-day-of-the-week-gets-the-most-people-to-vote-we-analysed-thousands-of-international-elections-to-find-out-222143>.

<sup>33</sup> “About Section 5 of the Voting Rights Act,” U.S. Department of Justice, <https://www.justice.gov/crt/about-section-5-voting-rights-act>.



Following this ruling, numerous states [imposed new measures](#) that had racial impacts on voting and would have likely been prevented by the federal government.<sup>34</sup> Separately, [many states restrict the right of felons to vote](#), including after they have completed their sentences, a practice which also has disproportionate racial impacts.<sup>35</sup> Some 4 million Americans [could not vote in 2024 due to these restrictions](#), 1.3 million of them Black.<sup>36</sup>

At the same time, recent reforms in many states, including through changing felon voting restrictions but also vote-by-mail, dropbox voting, early voting, and easier voter registration, have helped improve voter access. These measures were [widely implemented during the COVID-19 pandemic](#) and have been retained or expanded in many states since then.<sup>37</sup>

c. Structural **3/5**

- i. Do the structural conditions of elections permit the rise of new political entrants, fair competition among candidates/parties, and adequate representation of voters? **3/5**

Almost all elections in the United States are run as first-past-the-post in single-member districts, a system that structurally tends toward two-party duopoly, in what is known as Duverger's Law. The United States is the paradigmatic case for this rule: the Democratic and Republican parties split power across nearly every race and every level of government, and it is exceedingly difficult for new parties to enter, win, and compete.

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<sup>34</sup> Jasleen Singh and Sara Carter, "States Have Added Nearly 100 Restrictive Laws Since SCOTUS Gutted the Voting Rights Act 10 Years Ago," Brennan Center for Justice, <https://www.brennancenter.org/our-work/analysis-opinion/states-have-added-nearly-100-restrictive-laws-scotus-gutted-voting-rights>.

<sup>35</sup> "Restoration of Voting Rights for Felons," National Conference of State Legislatures, <https://www.ncsl.org/elections-and-campaigns/felon-voting-rights>.

<sup>36</sup> Nicole D. Porter and Jean Chung, "Voting Rights in the Era of Mass Incarceration: A Primer," Sentencing Project, <https://www.sentencingproject.org/policy-brief/voting-rights-in-the-era-of-mass-incarceration-a-primer/>.

<sup>37</sup> "State Democracy Index 2.0 Report," Berkeley Democracy Policy Lab, <https://democracypolicylab.berkeley.edu/wp-content/uploads/2024/12/SDI-2.0-Report.pdf>.

The vast and ever increasing amount of private spending on campaigns in [most elections](#) in the United States also makes it harder for new entrants, who [must raise funds](#) in order to contact voters, run ads, and pay staff.<sup>38</sup> Voter districts in the United States are increasingly gerrymandered on a partisan basis, meaning that state legislatures have drawn them to maximize the number of seats for their own party and reduce the number of seats for the opposition. These tactics, which—thanks to better voter data and computer-aided models—can now be used to create maps separated from logical geographic units, undermine the representation of voters. In 2019, the Supreme Court held that partisan gerrymanders cannot be reviewed by the federal courts, allowing them to be more widely and aggressively enacted.<sup>39</sup>

The constitutional design of the United States undermines voter representation. Two senators are apportioned to every state regardless of population; Puerto Rico and Washington, D.C. do not receive senate representation; and the president is elected not through direct elections but on the basis of the Electoral College, in which most states' votes are "winner-take-all." These counter-majoritarian design choices drastically increase the representation of voters in less densely populated states and the political importance of swing states.

Despite these factors, new candidates do appear and contest for power, almost always from within the two major political parties. The party primary system for choosing candidates used in many races can be used by new entrants, especially those who appeal more to a party's base than they would in a general election, to become the party's nominee.

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<sup>38</sup> "Cost of Election," OpenSecrets, <https://www.opensecrets.org/elections-overview/cost-of-election>; Amelia Minkin, "The 118th Congress Fundraising Treadmill," *Issue One*, <https://issueone.org/articles/the-118th-congress-fundraising-treadmill/>.

<sup>39</sup> "Rucho v. Common Cause," *SCOTUSblog*, <https://www.scotusblog.com/cases/case-files/rucho-v-common-cause-2/>.