

## AMERICAN DEMOCRACY, AT AN INFLECTION POINT

“At what point then is the approach of danger to be expected? I answer, if it ever reach us, it must spring up amongst us; it cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time or die by suicide.”

Abraham Lincoln  
[Lyceum Address](#) – January 27, 1838

State-sponsored political violence, a coup d'état, diminished belief in the rule of law, autocracy – these happen elsewhere in the world. No? January 6<sup>th</sup> was a reminder that no country, and certainly not that beacon of hope for so much of the rest of the world, is immune to autocracy.

As President Biden stated in his [remarks](#) marking the anniversary of the January 6<sup>th</sup> attack, “For the first time in our history, a president had not just lost an election, he tried to prevent the peaceful transfer of power as a violent mob breached the Capitol.” He continued, “The former president and his supporters are trying to rewrite history. They want you to see Election Day as the day of insurrection and the riot that took place on January 6<sup>th</sup> as the true expression of the will of the people.”

For many, January 6, 2021 joined other days of national trauma, seared in memory for those old enough to know something tragic had occurred. But in contrast to those other traumatic events, January 6<sup>th</sup> was not an isolated incident, but rather should be seen as part of an anti-democratic tide that has made unimagined progress over some years. Regrettably, it continues: after the insurrectionists were cleared from the Capitol, 139 members of the House and eight Senators declined to certify the election of Joe Biden (as to either the Arizona or Pennsylvania results). Thereafter, the Republican leadership in the House (led by Kevin McCarthy, who is still fighting to undermine the process) and in the Senate (led by Mitch McConnell calling in favors) blocked the formation of a 9/11-style independent commission to investigate the insurrection. The Senate acquitted Trump in his impeachment trial for incitement.

The efforts to undermine democracy continue ... in the form of the perpetuation of the “big lie,” state election “audits” (incidentally an unfortunate term as it gives far more weight to sham processes than they deserve), voter suppression efforts, potential voter subversion efforts that could enable state legislatures to overturn or nullify election results, and attacks on election officials who in 2020 stood in the way of anti-democratic forces. The fact that the election held – that Joe Biden took the oath of office on January 20<sup>th</sup> – should not diminish the threat or make less necessary the steps the country needs to take to shore up democracy. As President Biden bluntly [put it](#) today in Atlanta, “[the insurrectionists] failed. But democracy’s victory was not certain, nor is democracy’s future. ... The battle for the soul of America is not over. We must stand strong and stand together to make sure January 6<sup>th</sup> marks not the end of democracy but the beginning of a renaissance of our democracy.”

### Elements of the Threat

Why are we surprised – from the launch of Donald Trump’s campaign for President (in fact from his embrace of the birther theory back in 2011 – which a staff writer at The Atlantic [characterized](#), with the benefit of four years of Trump, not as a conspiracy theory, but an ideology) through the 2020 election and the “big lie,” it was there in plain sight for all to see. Over four years, Trump and his acolytes disparaged the rule of law, condoned and ultimately pardoned official malfeasance,

encouraged right-wing extremists, regularly and systematically attacked the mainstream media - elevating lies over truth and fact, openly sought to overturn his loss at the polls, convinced millions of Americans that the presidential election (and incidentally none of the other races reflected on the same ballot in November) was rife with fraud to his (and his alone) detriment and, ultimately, incited an insurrection to disrupt the certification by Congress of the results of the presidential election. This was tantamount to a coup – the one time in American history when an incumbent president sought to upend the peaceful transfer of power. Much of this went, and continues to go, unchallenged by leaders and others in the Republican Party.

If there is a consistency to Trump, it is that what you see is what you get ... he has no qualms about telegraphing where he is headed. It is no mystery. It only required some imagination to recognize that Trump would grasp at whatever levers of power and propaganda that he could to remain in office. Somehow, the coup failed, but perhaps only because Trump is not a skilled tactician – a more competent Trump might have pulled it off.

### Exceptionalism

How did we get here? Add up all the ingredients that were plainly manifest over the past five years, and then add one more ... that sense of American exceptionalism, that belief that we as a country are unique - a beacon of liberalism, a force for good in the world, Ronald Reagan's "shining city on a hill." Ironically, Trump is reported to have disdained the term because it offended ... yes, that paragon of liberalism, Vladimir Putin.

Our sense of exceptionalism somehow has survived notwithstanding that our uniqueness can be measured just as easily in negative domestic terms. We alone in the world among developed countries are unable to curb the scourge of gun violence; health care (in contrast to countries with socialized medicine) is a mess – measured not only in terms of the number of Americans without access to affordable, efficient health care, but the high costs faced by all; low turnout in elections; the countless barriers to the free exercise of the voting franchise; and corruption in politics – yes, corruption when measured by the influence of money in politics. That corruption reflects a broader issue of what think tanks and journalists focused on malign finance have labelled the US "kleptocracy." (See reporting by [Casey Michel](#), [Anne Applebaum](#) and [Tom Burgis](#), for example, and statements by [Senator Sheldon Whitehouse](#).)

The electoral system is flawed: while Biden received over 81 million votes, winning the popular vote by 4.5 points, had 43,000 Biden voters not voted in Georgia, Arizona and Wisconsin, he would have lost the election. In the House, Democrats received 50.8% of the votes, and defeated their GOP counterparts by 3.1 points, but lost 12 seats.

In the Senate, where Wyoming gets the same number of Senators as California, even though California has 68 times the number of residents, Republicans have a natural advantage. Small states tend to be dominated by white voters. One study [posits](#) that the 50 Democratic Senate seats represent 41.5 million more people than the Republican 50. According to the 2018 census, more than half the American population resides in nine states, and less than half the population controls over 80% of the Senate. Demographic trends suggest this will get worse: by 2040, an estimated 70% will live in 16 states, meaning that 30% of the population will control 68% of the Senate. And, so, Neil Gorsuch, Brett Kavanaugh and Amy Coney Barrett were nominated to the Supreme Court by a president who lost the popular vote and were confirmed by a bloc in the Senate that represents less than half the country. Add to the list, the Electoral College – allowing Trump, George W. Bush, Harrison, Hayes and John Quincy Adams to become president while losing the popular vote, and

partisan gerrymandering. All perfectly legal, embedded in the Constitution, but certainly not the hallmarks of a democracy founded on the principle of one person, one vote.

American has had its share of political violence – the KKK; lynchings of African Americans between Reconstruction and World War II and other acts to enforce Jim Crow laws and segregation; the Tulsa massacre; the assassinations of President Kennedy, Bobby Kennedy and Martin Luther King; the Alfred P. Murrah Federal Building bombing. According to Barbara F. Walter, author of [“How Civil Wars Start,”](#) in 2008 (the year Barack Obama was elected president) there were an estimated 43 militia groups operating in the United States; in 2011, there were more than 300.

When protesters wearing camouflage fatigues and armed with military-style semi-automatic assault weapons invaded the Michigan State Capitol in April 2020 to challenge Governor Whitmer’s lockdown orders – not long after Trump tweeted “Liberate Michigan” – Americans moved on; the rest of the world could not begin to grasp what they saw on the news (many were horrified). A Michigan State Senator, Sylvia Santana, had worn a bulletproof vest that day. She was not alone. She and her colleagues viewed the Michigan invasion as a precursor for January 6<sup>th</sup>. Experts were not surprised this was a form of dress rehearsal as there had been no consequence – the behavior was normalized and legitimate. A critical difference between Michigan, an open carry state, and January 6<sup>th</sup> was DC’s strict gun carry laws. In Texas, firearms are often visible at protests and other public gatherings; while permits are needed to carry handguns (openly or concealed), no licenses are required to openly carry rifles or shotguns. That may be part of the acceptable landscape, but to many outside the United States it is simply inconceivable.

To the factors that place American exceptionalism in a different light, there is another factor – how committed are voters to the principles that sustain democracy. One [study](#) concluded that only a small fraction of voters prioritize democratic principles in their voting selections, and the tendency to do so is decreasing in the face of polarization. Said another way, voters are becoming less likely to punish politicians who transgress democratic norms, particularly if to do so means they act against partisan and ideological views.

As David Remnick [wrote](#) in a New Yorker piece (January 2022) in which he ponders whether a civil war lies ahead, “The edifice of American exceptionalism has wobbled on a shoddy foundation of self-delusion, and yet most Americans have readily accepted the commonplace that the United States is the world’s oldest continuous democracy. That serene assertion has now collapsed.” While Canada, Japan and Germany recently held fair elections, and France and South Korea are expected to in the coming months, America is now “suspended between democracy and autocracy.”

And finally for all to see, since the 1990s, politics have become increasingly polarized and the federal government has become subject to legislative gridlock. Unfortunately, demagogues thrive where the population views the government as being ineffective.

### **The Fragility of Democracy**

According to the authors of “Four Threats: The Recurring Crises of American Democracy,” Suzanne Mettler and Robert C. Lieberman, the American democracy is less stable than generally believed. It is a continuum. According to the authors, in a 2020 [interview](#) with the Washington Post, “At any given time, a country can be more or less democratic, depending on how close it comes to meeting a basic set of standards — holding free and fair elections, upholding the rule of law, recognizing the idea of legitimate opposition and protecting the integrity of rights. Over time, regimes can move along the continuum in either direction, either toward more complete democracy or in the other direction, the process known as ‘democratic backsliding.’” These authors catalogue four threats to

the sustainability and survival of democracy: political polarization; conflict over who belongs as a member of the political community (particularly along lines of race, ethnicity and national origin); high and growing economic inequality; and excessive executive power. “The confluence of all four threats today means that they are combining and interacting in particularly dangerous ways.”

Research conducted by Lilliana Mason, Julie Wronski and John V. Kane, as reported in the [Washington Post](#), found that the divergence in views between Democrats and Republicans about the nature of American democracy and core American values is growing and is driven “in no small part from a particular group of Americans whose politics are predominantly driven by hatred toward marginalized minority groups. These individuals – whom [the researchers] call the ‘MAGA faction’ – may be relatively few in number, but hold ideals that are antithetical to multi-ethnic democracy.” Their research found that Trump’s politics activated and attracted the MAGA faction, a group that historically was not aligned with any particular political party. Trump, and perhaps only Trump, has been able to harness the animosity towards marginalized groups and benefit from it politically. Regardless of party affiliation, greater animus towards African Americans, Hispanics, Muslims and/or the LGBTQ community predicted substantially greater support for Trump. The researchers, writing in early January 2022, conclude that, “as long as this MAGA faction exists, politicians may be tempted to appeal to it, hoping to repeat Trump’s success. In fact, using inflammatory and divisive appeals would be a rational campaign strategy, since they can animate independent voters who dislike these groups. Other rank-and-file members of the party can wilfully ignore such rhetoric in the name of partisan loyalty, however destructive and venomous it may be.”

According to [polling](#) conducted by Pew Research (July 2021), there is a partisan divide on whether voting is a fundamental privilege. While 57% agree voting is a fundamental right that should not be restricted rather than a privilege with responsibilities that can be limited, among Democrats/lean Democrats 78% hold the view it is a fundamental right, while among Republicans/lean Republicans only 32% hold that view. In terms of demographics, 77% of African Americans view voting as a fundamental right; among whites the percentage is 51%. Younger Americans skew in favor of the fundamental right, with the percentage declining to 51% for those over 65.

In a separate [poll](#) (April 2021), Pew Research found on the question of whether everything possible should be done to make voting easier, overall 59% of adults agreed; among Democrats and Democratic-leaning independents, 85% agreed, while among Republicans and GOP-leaning independents, 28% agreed. When asked if making it easier to vote would make elections less secure, 61% of adults said it would not make elections less secure; while 82% of Democrats hold that view, only 37% of Republicans hold that view. In terms of demographics, 58% of whites, 73% of African Americans and 60% of Hispanics agree that making it easier to vote would not make elections less secure.

The partisan divide over January 6<sup>th</sup> is equally stark, with that divide growing as time passes. According to [polling](#) conducted by Pew Research (released January 2022),

- Democrats and Democratic-leaning independents were much more likely than Republicans and GOP leaners to volunteer an emotion such as disappointment, disbelief or fear (48% vs. 27%). Republicans were more likely than Democrats to express doubts about who was behind the insurrection: Nearly one in five Republicans who volunteered a reaction (17%) said the destruction had not been instigated by Trump supporters, instead saying it had been done by “groups” such as Antifa or Black Lives Matter.
- 52% of adults overall felt Trump bore a lot of responsibility for January 6<sup>th</sup>; 23% felt he bore some responsibility. Among Republicans and GOP-leaning independents, 18% felt Trump

bore a lot of responsibility, 34% felt he bore some responsibility and 46% felt he bore no responsibility.

- In March, 87% of adults said it was very or somewhat important for federal law enforcement to arrest and prosecute insurrectionists. By September, the figure had decreased to 78%. Among Republicans the figure decreased from 79% to 57%; among Democrats the figure was 95% in March and September. As for those who said it was very important: overall the figures were 69% and 56%; among Democrats the figures were 86% and 80%, while among Republicans in March 50% said it was very important, while in September only 27% felt that way.

Freedom House, in its report [Freedom in the World 2021: Democracy under Siege](#), concluded that over the past ten years, the aggregate Freedom in the World score for the United States has declined 11 points, placing it among the 25 countries that have suffered the largest declines in this score over the ten years. The Stockholm-based International Institute for Democracy and Electoral Assistance, in its [Global State of Democracy Report 2021](#), added the United States, the “bastion of global democracy” which has now itself fallen victim to authoritarian tendencies, to its list of “backsliding democracies.” It cited as an inflection point Trump’s questioning the legitimacy of the presidential election result. The baseless allegations of electoral fraud and related disinformation undermined the fundamental trust in the electoral process and culminated in the January 6<sup>th</sup> attack.

According to studies undertaken by the Washington Post’s [LAPOP Lab](#) at Vanderbilt University, support among Americans for coups has increased significantly. For a number of years, a sizable minority (just over one in four) – cutting across party lines (with Democrats and Republicans expressing slightly more support than independents) said a military coup would be justifiable. In 2021, the percentage increased from 28% in 2017 to 40% overall (54% among Republican and 31% among Democrats), a 43% increase (slightly higher incidentally than Mexico and Brazil). Both the absolute percentages and the party differences are unprecedented. In 2017, the split between Democrats and Republicans was 2 points. On the question of trusting elections, in 2021, 79% of Democrats but only 27% of Republicans reported they trust elections (a 54-point gap). In 2019, 40% of Democrats and 54% of Republicans reported they trusted elections (a 14-point gap). See the Analysis [here](#).

[Barbara F. Walter](#), who has studied civil strife across the globe, posits that, if one assesses the conditions that make civil war likely, we must conclude that America “has entered very dangerous territory.” Author Steven Levitsky, who in 2018 together with Daniel Ziblatt wrote “How Democracies Die,” in an interview with [David Remnick](#), noted that, in 2018, he could not have imagined January 6<sup>th</sup>, and until he read Barbara Walter and other scholars, thought the warnings of civil war in the United States were alarmist. He does not see a decent to fascism or Putinism, but rather “recurring constitutional crises, periods of competitive authoritarian and minority rule, and episodes of pretty significant violence that could include bombings, assassinations, and rallies where people are killed.”

Similarly, Barbara Walter does not predict a civil war along the lines of the 1861-65 conflict, but rather an insurgency along the lines of what Northern Ireland and Britain experienced during the “Troubles.” She [notes](#) insurgents “would turn to unconventional tactics, in particular terrorism, maybe even a little bit of guerrilla warfare, where they would target federal buildings, synagogues, places with large crowds. The strategy would be one of intimidation.” And as for the predicate, Walter explains that insurgents that tend to start civil strife are groups “that were once dominant politically but are in decline. They’ve either lost political power or they’re losing political power and

they truly believe that the country is theirs by right and they are justified in using force to regain control because the system no longer works for them.”

### **The Insurrection**

The Chicago Project on Security and Threats (CPOST) at the University of Chicago, led by Robert (Bob) Pape, has been studying the insurrectionists who have been arrested. Bob Pape has been studying violent political extremists for decades in the United States, Europe and the Middle East. In essence, the studies have been responses to a question posed by Chairman of the Joint Chiefs Mark Milley in testimony to the House Armed Services Committee: “What is it that caused thousands of people to assault this building and try to overturn the Constitution of the United States of America? What caused that?”

CPOST published ongoing reports from February to [July](#) as more were arrested, as well as a [first set](#) of findings in August 2021, a [second set](#) (based on 654 arrests as of October 25) in early January 2022 and a fuller report (based on 716 arrests) also published in early January 2022 entitled [American Face of Insurrection](#). CPOST found that the insurrectionists represent a mass movement with violence at its core. It is a political movement, with the right-wing “great replacement” theory as the key driver. The insurrectionists are from the mainstream of American society – not just members of militia groups or other fringe elements of society. The insurrectionists are largely white, male and over 35 years old. Based on the report as of October 25:

- 86% are employed.
- 24% are business owners.
- 26% are white collar professionals.
- 87% had no obvious connection with militia/extremist groups.
- Insurrectionists hailed from 44 states and DC (including 72 from Florida, 58 from Pennsylvania, 55 from Texas, 49 from New York and 40 from California).
- More came from counties won by Biden in 2020; the largest group came from counties Biden carried by more than 40 points.
- Regression analysis indicates that the trend with the highest effect on the number of insurrectionists was the decrease in the county’s white population.

Pape, based on these findings, then commissioned in September a survey of American political violence. The study asked whether the 2020 election was stolen from Trump and Biden is an illegitimate president, and whether the use of force is justified to restore Trump to the presidency. The study concluded that overall:

- 10% of Americans (25 million) believe that the use of force to restore Trump to the presidency is justified (4%/10 million somewhat agree and 6%/15 million strongly agree);
- 24% of Americans (62 million) believe that the election was stolen and that Biden is an illegitimate president (10%/26 million somewhat agree and 14%/36 million strongly agree);
- Of those 62 million who believe Biden is illegitimate, 21 million (32% of the 62 million - 8% of Americans overall) believe that the use of force to restore Trump is justified.

Of the 21 million who answered both questions in the affirmative (what Pape calls the “committed insurrectionists”):

- 18 million have access to internet organizational tools.

- 8 million own guns.
- 6 million support Oath Keepers/Proud Boys.
- 4 million have prior military experience.
- 70% are urban.
- 75% believe that the “Democratic Party is trying to replace the current electorate ... with new people, more obedient voters from the Third World” (the “Great Replacement” theory – the phrase used in the survey is a quote from Tucker Carlson, called out by among others [the ADL](#)).
- 49% have QAnon sympathies.
- 42% get information from Fox, Newsmax, OAN; 32% from CNN, NPR, newspapers or ABC/NBC/CBS/PBS; 20% from FaceBook/YouTube/Twitter; 20% from Gab/Parler/Telegram/4chan/8kun.

There is virtually no change in attitudes between June and September, notwithstanding the expectation that interest would wane with the passage of time, the arrest (by September) of over 650 insurrectionists and deplatforming of Trump.

CPOST notes that, based on studies of political violence since the 1960s (including of the Troubles in Northern Ireland), the key to escalation is community support for violence. For example, in what the study calls the “kindling (violence justified),” at the dawn of the Troubles, only 13% of Catholics supported violence that blighted Northern Ireland for years thereafter.

I note that a Washington Post-University of Maryland [poll](#) taken in mid-December 2021 found that 34% of Americans believe the use of violent action by citizens against the government could be justifiable. In an [article](#) written by Bruce Stokes, formerly of Pew Research, Stokes cites the figure of 15% of Americans who believe that “patriots” may need to resort to violence to save the country – this includes 28% of Republicans, 13% of independents and 7% of Democrats. According to the US Capitol Police, the number of threats against members of Congress or the Capitol increased from fewer than 4,000 in 2017 to approximately 9,600 in 2021.

The takeaways from the CPOST analyses are that political extremism and authoritarianism, supported by white supremacy, are now mainstream. One disturbing element of this is that the government take on the insurrection, reflected for example in the June 2021 [National Strategy for Countering Domestic Terrorism](#), published by the National Security Council, is that the threat facing our democracy flows from domestic violent extremists (DVEs). Not to downplay the threat of DVEs (see for example the [CSIS report](#)), but the CPOST analysis suggests this is a much deeper problem, and one that needs far greater attention.

As Elise Thomas, an analyst for the Institute of Strategic Dialogue, on whose board I sit, [noted](#), just because plans for action on January 6<sup>th</sup> were made in plain sight (much was planned in Facebook groups and other accessible platforms), that does not mean they should be taken less seriously. Perhaps if the plans had been taken more seriously, the insurrection may have been avoided. Also, there was an element of privilege – white, middle aged and middle class – which likely had an impact on how the insurrectionists thought about their plans that day and how they would interact with law enforcement. It is difficult to imagine African Americans or Muslims, or even radical leftists, thinking they could attack law enforcement officers, in public, on such a scale with such impunity. Thomas concludes that suspension of disbelief and delusion that violent acts will not have consequences has implications for addressing hybrid threats of conspiracy-fuelled extremism. Those less concerned

how law enforcement will react may be more “brazen in directly confronting or even assaulting police than more traditional extreme actors.”

### The Coup

Those prone to insurrection may be the kindling, but kindling needs a spark to burst into flames. The insurrectionists were the foot soldiers; the insurrection, as Sidney Blumenthal [wrote](#) in the Guardian, “is only the tip of the iceberg.” It emerged from the coup as the coup was failing. In 2020, the rest of the iceberg – the attempted coup – was in Blumenthal’s words “months in the making.” It “gestated within the central organizations of the Republican right, and it was a learning experiment for the Republican party as a whole.” The elements of the coup were, to recap a “parade of horrors” modelled on years of voter suppression efforts (if you cannot win legitimately, change the rules):

- myriad efforts to create the perception that votes for Biden were fraudulent, involving legislative leaders in swing states, legal teams deployed to swing states and ranked social media influencers to spread the “big lie”;
- a blueprint for state legislatures in battleground states of Arizona, Georgia, Michigan, Nevada and Wisconsin to exercise legislative powers to appoint alternate slates of electors to support Trump;
- for the Justice Department, based on pressure from the White House, to take up the allegations of election fraud, endorse the false claims of fraud and file a lawsuit in the Supreme Court to invalidate the Biden victory (see the [Senate Judiciary Committee Staff Report](#));
- Vice President Pence would declare that the certification of the presidential election could not be done, causing the proceedings to be delayed and pushed into constitutional limbo land;
- for the decision on which electors to recognize to end up in the House of Representatives, voting by state delegations with a majority of 26 controlled by Republicans;
- for protests to break out (perhaps the attack on the Capitol would suffice);
- for Trump in his “Reichstag fire” moment to invoke the Insurrection Act (the dress rehearsal for this being Lafayette Square) and impose martial law (what did Chief of Staff Meadows mean when he wrote in an email that “national guard would be present to ‘protect pro-Trump people’”); and
- for the then recently installed Trump acolytes at the Pentagon to forestall any efforts to counter the imposition of martial law (what other rational reason was there for them to be placed there in the final weeks of the Trump administration).

The coup failed. Efforts at the Justice Department were thwarted, the military kept themselves out of politics and honored their oaths to uphold the laws and defend the Constitution, state election officials rejected Trump claims of fraud, the courts rejected the false claims advanced by lawyers acting on behalf of the Trump campaign, and Mike Pence refused on January 6<sup>th</sup> to follow Trump’s entreaties. Congress certified the results of the Electoral College.

It is fair to say then that the guardrails held (Congress, the courts, the bureaucracy, a free press, an apolitical military and the federal system with its complex allocation of rights and responsibilities between the states and the federal government); but will they in the future? As Lilliana Mason, a political scientist at Johns Hopkins University’s SNF Agora Institute has noted ([cited](#) in the

Washington Post), ironically, the fact that the guardrails worked gave them greater visibility, and these protections are now targets of those who wish to weaken them. And clearly, the informal norms that govern the interactions within, and between, government institutions fared far less well.

Much is known, but there is far more to know. The [House Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol](#) has received more than 30,000 documents and interviewed more than 300 witnesses. Key witnesses have failed to cooperate. The process continues, and time is of the essence as a possible Republican House majority in 2023 looms large over the effort.

In the meantime, Trump and his supporters have moved away from focusing on the federal government to focusing on the machinery of elections – at the state level – by making it legally harder to vote and weakening the ability of election officials to oversee free and fair elections. According to the [Brennan Center for Justice](#), over 425 bills with provisions restricting voting were introduced in 49 states in the 2021 legislative session, with 33 already law in 19 states. Republicans simply identified the elements that led to the highest voter turnout in more than a century and went about limiting as many as they could, justifying their anti-democratic efforts based on what the Brennan Center labelled “falsehoods steeped in racism about election irregularities and breaches of election security.” The Freedom to Vote Act and the John R. Lewis Voting Rights Advancement Act hang in the balance in the Senate. In the meantime, threats against election officials, who for years have worked in anonymity, have skyrocketed. An [NBC report](#), citing a [Brennan Center for Justice](#) study, reported that 30% of election officials surveyed say they are concerned for their safety and one in five listed threats to their lives as a job-related concern.

### **What Next**

Where are we on the anniversary of the January 6<sup>th</sup> insurrection? The attacks on democracy continue. The attacks lack a violent element, but are potentially just as corrosive. The “big lie” continues to find purchase among millions of Americans, stoked by leaders of the Republican Party, both in Congress and state legislatures, and outside government. The right to vote is under threat as are the myriad mechanisms at the state level for conducting elections. Trust in the role of government, the institutions of government, government officials and elections continues to erode, and be eroded.

While historically one could see dysfunction in American politics as manifestations of fundamental disagreements over policy – trade, immigration, guns and abortions, we now find ourselves in a political landscape where a significant minority of Americans are willing to turn against democracy, and to use force if necessary. One of our two political parties has failed to repudiate anti-democratic forces; far from it, in contrast to 1974 when Republicans joined with Democrats over Nixon and Watergate, the Republican Party of today is normalizing anti-democratic forces and expelling from its ranks those few who reject the “big lie.”

A University of Massachusetts at Amherst poll (December 14-20, 2021) [reported](#) in the Washington Post found that only 21% of Republicans believe the Biden victory was legitimate (6% definitely believe, and 15% probably believe), largely unchanged from the 19% figure found in an April poll. Overall 58% believed the victory was legitimate, and among independents the figure is 54%. The researcher posits that polling responses suggest that the beliefs are firmly held and not the result of so-called expressive responding (wishful thinking). The polling was online, which reduces social desirability bias. The researcher points to the support for specific theories – fraudulent ballots (83%), counting ballots of the deceased (81%), ineligible voters voted (76%), states changed election rules

to favor Biden (69%) and election officials destroyed Trump ballots (65%) – as further evidence that the beliefs are firmly held. An additional “list experiment” suggested that only 28% of Republicans believe Biden was legitimately elected.

But as Professor Joanne Freeman notes, [writing](#) in the Washington Post, the damage to democracy goes deeper than the erosion of trust and the widespread belief in the “big lie” – faith in democracy is eroding as well. Think about it – the attack on the Capitol could have had yet more tragic consequences had a few of the actions taken by US Capitol Police that day not happened. What if insurrectionists had managed to capture members of Congress or the Vice President? What if the plot to kidnap Governor Whitmer had succeeded? As it is, the Republican establishment is doing its utmost to trivialize – to normalize – the events at the Capitol. A common refrain from the right, even from mainstream Republicans, is that it is “time to move on.”

Barton Gellman, writing in [The Atlantic](#), notes that it is a mistake to place any hope in the fact that Trump no longer can deploy the presidential powers that he had at his disposal in 2020 but failed to deploy. Trump, he notes, did not need the Oval office authority to sabotage the machinery of the elections. “It was citizen Trump – as litigant, as dominant party leader, as gifted demagogue, and as commander of a vast propaganda army – who launched the insurrection and brought the peaceful transfer of power to the brink of failure. All of these roles are still Trump’s for the taking. In nearly every battle space of the war to control the count of the next election—statehouses, state election authorities, courthouses, Congress, and the Republican Party apparatus—Trump’s position has improved since a year ago.”

What then does this all mean for upcoming elections in 2022 and 2024. What does this mean for critical legislative efforts to combat climate change and meet the Paris Agreement thresholds? What does this mean for global stability? Will the United States stand up to Russia should it make further moves on Ukrainian territory or to China should it move against Taiwan? What does this do to encourage autocrats around the world to act with greater impunity?

The challenge we face, simply put, is that, while the United States remains the most powerful country in the world – be it based on its economic might, its military, its capacity for innovation, its technology companies -- democracy has eroded, and that which has been eroded needs to be rebuilt.

How else does one describe a country so fundamentally divided over January 6<sup>th</sup> – insurrection/sedition versus patriots fighting to install whom they view as the victor in the 2020 election. A year later that tribal divide is starker. A year later, as Ian Bremmer notes in his [podcast](#) on the anniversary of January 6<sup>th</sup>, larger numbers of Americans believe their principal enemy is their fellow Americans. A year later, the Republican Party has not repudiated Trump for perpetuating the “big lie.” A year later, the Republican Party largely has backed away from its criticisms of Trump for inciting the violence, instead doubling down on the “big lie,” engaging in “whataboutism” and downplaying the criminality of the day and the severity of the attacks on US Capitol Police, DC Metropolitan Police and journalists. A year later, according to NPR/Ipsos [poll](#), 64% of Americans believe “US democracy is in crisis and at risk of failing.”

### **But, Some Positive News**

Joe Biden did win with 81 million votes; 66.8% of eligible voters voted and 72.7% had registered to vote. The election had the greatest increase on record in voters between two presidential elections (17 million more voted in 2020 than in 2016). While Trump won 2,588 counties covering much of the national landscape, Biden carried 551 counties, but those counties according to Ron Elving,

writing in an NPR [piece](#), had a total population of 198 million (versus the 130.3 million in the Trump counties), home to 60% of the US population.

The country elected Barack Obama, twice. The day before the January 6<sup>th</sup> insurrection, Georgia elected an African American Senator and a Jewish Senator. According to a Navigator [report](#) (January 2022), significant majorities reject anti-democratic tendencies:

- 72% of Americans oppose the actions of the insurrectionists vs. 19% who support), including 83% of Democrats, 68% of independents and 61% of Republicans.
- 78% of Americans believe it is important for federal law enforcement to find and prosecute insurrectionists (including 57% who say it is very important); by affiliation: 94% of Democrats (81% say it is very important), 77% of independents (52% say it is very important) and 61% of Republicans (30% say it is very important) believe it is important.
- 88% of Democrats, 67% of independents and 48% of Republicans support the investigation into the insurrection; the split among Republicans between support and opposition is the narrowest – 48% vs 43%, a margin of +5 points) – the margin among Democrats is +79 and among independents is +48.
- 67% overall express concern that Trump and Congressional Republicans encouraged violence and are now trying to rig election rules in state legislatures to make it easier in the future to steal elections (including 95% of Democrats, 67% of independents and 36% of Republicans).
- 66% overall express concern that the insurrection was the beginning of a campaign by Trump and elected Republicans to ensure an extremist minority government is overrepresented (including 91% of Democrats, 75% of independents and 35% of Republicans).
- 49% of Americans describe the attack on the Capitol as a riot, driven by Democrats (58%) and independents (50%); 59% of Republicans viewed the events as a protest.

Just because respondents may view violence as justified or justifiable, that does not mean that they themselves would pick up arms (though Bob Pape and his team have some thoughts on how to analyse the likelihood that aspiration or sentiment turns to actual action). And while violence may break out, that is a far cry from outright conventional civil war. Irish journalist and author Fintan O’Toole, [writing](#) in the Atlantic (January 2022), warns of self-fulfilling prophecies. Though the Troubles in his words “brought death to thousands and varying degrees of misery to millions, ... the conflict never did rise to the level of a civil war.” “Premonitions of civil war served not as portents to be heeded, but as a warrant for carnage.”

### **For Consideration**

Trump retains his popularity and is incapable of accepting defeat, assuming he runs again. Those doing his bidding have learned from their mistakes in 2020 and will be far smarter about subverting the process. The far-right acolytes in the House, led by Marjorie Taylor Greene, Matt Gaetz, Lauren Boebert and Madison Cawthorn, are seeking to expand their MAGA ranks in the House. Trump has incited violence before (January 6<sup>th</sup>) and he has encouraged violence (whether his statements after Charlottesville, his “stand back, stand by” statement to the Proud Boys or his frequent comments during campaign rallies).

The presidential election in 2016 was viewed at the time as the existential election. We were wrong – consequential but in retrospect not existential. Four years later, that election was viewed as the

existential election of our time. Again, we were wrong – consequential, yes. Given what has happened though in 2020 and what has happened since, 2024 will likely be the make-or-break election – for democracy as we know it.

I set out below a menu of actions and considerations:

- We must all recognize, and not underestimate, the threats facing our democracy. Trump and his acolytes have been blunt in their intentions. We cannot assume they are not serious or will not succeed if they are serious.
- The Department of Justice must continue to pursue charges against insurrectionists and, to the extent possible, bring actions against those culpable for inciting the insurrection. (See [Prosecuting Trump and his Accomplices: Their Crimes and the Laws They Broke](#).)
- Congress must pass voting rights legislation. Voting rights should not be viewed as a partisan issue. The 1965 Voting Rights Act [passed](#) the Senate by a [vote](#) of 77 (47 Democrats and 30 Republicans) to 19 (17 Democrats and 2 Republicans) and the House by a vote of 328 to 74. In 2006, the Voting Rights Act was reauthorized by a vote of 390 to 33 in the House and 98 to 0 in the Senate; 16 of the Republican Senators who voted that day are still in the Senate. As President Biden noted in his [Atlanta remarks](#), Presidents Nixon, Ford, Reagan, Bush (HW) and Bush (W) supported the Voting Rights Act.

A few Democratic Senators ([and not just two](#)) need to come around to the idea of by-passing the filibuster or undertaking other overhauls of the rules to pass The Freedom to Vote Act and the John R. Lewis Voting Rights Advancement Act. [Other procedural changes](#) may be more palatable. Senate rules were just changed to raise the debt ceiling (by simple majority). As Senator Warnock [noted](#) so eloquently, “it is misplaced to change the Senate rules only for the benefit of the economy when the warning lights on our democracy are flashing at the same time.” See also [Filibuster Reform](#). In the meantime (and there is precious little time), greater effort must be made to build public support for voting rights legislation.

- As three retired Army generals urged in an [op-Ed](#) (December 2021), further efforts should be undertaken by the military to ensure that the military remains above politics and to avoid a breakdown of the chain of command along partisan lines.
- Social media platforms must do more to police content on their platforms, particularly content calling for violent confrontations with government officials, and these efforts cannot be limited to periods leading up to elections. A ProPublica-Washington Post [investigation](#) found that between Election Day and January 6<sup>th</sup>, at least 650,000 posts on Facebook (averaging at least 10,000 a day) attacked the legitimacy of the Biden election victory, with many calling for political violence and executions. Facebook shut down its internal election task force immediately after the election. The platforms should be cooperating with the House Select Committee.
- We must reform the Electoral Count Act of 1887 (adopted in response to the contested election in 1886), whose ambiguous provisions lay at the heart of the plot [set out](#) by John Eastman. (An analysis written in anticipation of a contested 2020 election by one of the pre-eminent election scholars, Edward B. Foley, is available [here](#).)
- Democrats in Congress must be prepared to work with any Republicans they can find that are willing to undercut subversion tactics. This includes reform of the Electoral Count Act –

after all, in 2025 it will be Kamala Harris sitting in the Mike Pence seat to oversee the certification process.

- Republican donors and establishment Republican figures should make their voices heard. The country needs a two-party system, with both parties invested in democracy and governing. As Jennifer Rubin [so eloquently put it](#) (January 2022), “The Cheneys can’t do it alone. We need Republican all-stars for democracy.” That only Liz Cheney and her father stood on the House floor as the only Republicans to honor police officers who died as a result of the insurrection, “was a reminder that we have one ‘normal’ patriotic party and one overtaken by an authoritarian cult based on lies.” This need not be about endorsing candidates but rather to reaffirm the core tenets of democracy - “that people decide elections and politicians respect outcomes.” Rubin calls on former Senator Corker, former governors Daniels, Pawlenty, Huntsman, Snyder and Engler, former national security officials Hayden and Coats, retiring Senators Toomey and Portman, among others, to condemn the “big lie,” defend election officials, deplore the sham state election audits and denounce the politicization of election administration.
- Corporate sponsors should [rethink](#) their allocation of ad spend to news organizations that perpetuate the “big lie.” Media Matters [reports](#) that in the two weeks following the election, Fox News cast doubt on the results of the election 774 times, and NPR notes that Fox News [has failed](#) to stem the incendiary statements by prominent hosts and guests.
- Do not surmise that the Republican Party-led efforts will fail because the actions and the claims are so outlandish, so beyond the pale. It was easy to label the Arizona election audit by the Cyber Ninjas as “a clown car” undertaking, but there was a method to the madness. And do not be lulled into complacency by the prevalence of polling data dating back to 2016 that finds college versus high school education as a predictor of support for Trump. One need only look to Trump’s inner circle, his original Cabinet, the ring leaders in the Senate behind the stolen election claims and the election certification objections – these are very well-educated folks, and they know better.
- Democrats and Democratic-leaning independents must engage and must vote in the mid-terms. We cannot allow the conventional wisdom around mid-term elections to become a self-fulfilling prophecy. Imagine a House controlled by Republicans; Kevin McCarthy today said he would move to prevent a number of prominent Democrats from serving on committees if the GOP wins control. And that may be the least of the destructive acts coming down the pike.

And there are myriad tactical steps. For example, to protect election officials, the [Brennan Center](#) suggests that the Department of Justice create an election threats task force, that states pass laws and appropriate funds to provide greater security for election officials and that states prioritize implementing processes to investigate and prosecute threats to election officials.

On a broader scale, returning to my first bullet, we need a whole of society response, civic and professional organizations, religious organizations, labor unions and the business community. Of these, perhaps the business community is uniquely positioned. Simply stated, the business community needs to recognize the threats posed to business if anti-democratic forces prevail. As Thomas Freedman noted in his [op-Ed](#) (January 2022), “Civil wars are not good for business... Corporate America shouldn’t be lulled by 2021’s profits, because once a country’s institutions, laws, norms and unstated redlines are breached — and there is no more truth, only versions, and no more trust, only polarization — getting them back is almost impossible. Can’t happen here? It sure can.”

Business thrives in environments where the rule of law prevails, where government is accountable and transparent, where rights to assembly and expression are respected and protected, where truth matters.

As Rep. Liz Cheney noted in a [CBS interview](#),

[W]e as Republicans, have a choice to make. I am a conservative Republican. I believe strongly in the policies of low taxes and limited government and a strong national defense. I think the country needs a strong Republican Party going forward, but our party has to choose. We can either be loyal to Donald Trump or we can be loyal to the Constitution, but we cannot be both. And right now, there are far too many Republicans who are trying to enable the former president.

The business community spoke up in 2020, beginning in October and culminating in a statement on the 2020 election issued by a coalition of business leaders, led by the Business Roundtable (“BRT”), the National Association of Manufacturers and the US Chamber of Commerce. Following the election each of these associations issued statements affirming the integrity of the election, and 164 New York business leaders urged the Trump administration to move forward with the transition process. In April 2021, a number of prominent African American business leaders, led by Kenneth Chenault and Kenneth Frazier, called on businesses to fight restrictive voting bills. In May, hundreds of other businesses and executives signed onto to a statement opposing discriminatory legislation that inhibits the right to vote.

On the anniversary of January 6<sup>th</sup>, the BRT CEO [released](#) a statement noting that “The lawless and violent attack on the Capitol ... was an assault on American democracy, which [it] condemned at the time” and reiterated “[its] strong condemnation of the perpetrators and the falsehood of an illegitimate 2020 presidential election.” Business for America [issued](#) a statement: “Let us put this plainly: Encouraging employees to vote and issuing statements is important – but it is simply not enough. Left, right and center, each of us must recognize our stake in having a system of government that functions well for the public interest as well as business interests, and then we must do something about it.” And the punch line: “We urge all companies to ensure their future donations go to those supporting free, fair, accessible, and secure elections that represent the will of the people. Democracy should never be a partisan issue.” See generally [US companies condemn election fraud “falsehood”](#) in the Financial Times (January 2022).

Groups such as the [Leadership Now Project](#), of which I am a member, are [urging](#) political and business leaders to join it in continuing to counter election disinformation and ensure election processes that encourage citizens to vote. Speaker Pelosi is of the view that the most effective message for CEOs to hear is the danger of voter nullification.

As Business for America has stated, it is not enough for businesses to merely encourage their employees to vote. Businesses groups can speak to their members and speak publicly in reaffirming support for democracy and against efforts to limit or subvert the right to vote. Businesses located in states that are continuing to push through voter suppression legislation should consider ramping up their efforts to make known their opposition. Ultimately, for businesses, in the post-*Citizens United* world, money speaks and withholding political contributions from those who refused to certify the Biden election or who endorse election nullification is an important affirmation of democracy.

Corporate political spending should be subject to greater transparency, and stakeholders should pay attention to what companies are saying and doing. Greater attention should be paid to what the [Center for Political Accountability](#) (“CPA”) calls [conflicted corporate consequences](#). While a number

of public companies pledged not to donate to the campaigns of members of Congress who objected to the certification of the 2020 election or to the committees supporting their re-election, more should follow suit, and more should express public support for federal voting rights legislation. The CPA seeks to improve the level of corporate political disclosure and accountability through various initiatives, including its [CPA-Zicklin Index](#) (see its [2021 Report of Corporate Political Disclosure and Accountability](#)). Obviously too, companies can make donations to campaign committees while still honoring pledges not to support directly those who objected to certification, which undermines the effort. See generally [Accountable.US](#).

In light of the significant increase in the level of attention paid by corporate stakeholders to ESG issues in the past two years or so, it is reasonable to expect that political contributions will draw far greater focus in the coming months. These two trends are directly connected given that public companies today are under significant pressure to speak out on a range of ESG themes (from fighting climate change to achieving greater gender and racial diversity), while at the same time remaining under pressure to continue to make campaign contributions, creating as Dorothy Lund and Leo E. Strine Jr. [noted](#) in a Harvard Business Review article (January 2022) the “almost unavoidable risk of ensnaring [themselves] in the hypocrisy trap.”

Finally, as suggested by Michael Posner, [writing](#) in Forbes (January 2022), business leaders and businesses should finance and promote civil society efforts (for example, the work of the [Brennan Center](#), the [Renew our Democracy Initiative](#) and [Common Cause](#)) to fight anti-democratic attempts to suppress or subvert voting.

Returning to my list of actions: we do ourselves a disservice if we continue to downplay the relevance to the United States of 2022 of anti-democratic events and trends outside the United States. There is no shortage of authoritarian regimes outside the United States whose rise to power can be analyzed. If anything, the events leading up to, on and following January 6<sup>th</sup> underscore that America is as vulnerable to anti-democratic forces, and potentially sectarian violence, as any other country. My use of the term “sectarian” is intentional – admittedly the term, which denotes clashes between hostile identity groups over ideology or policy, who view the other as illegitimate – as an enemy, is more often written in the context of religious sectarianism, but the rise of political sectarianism in the United States is unmistakable. That is a scary thought for the country, but an equally scary thought for much of the rest of the world. The hope has to be that we find a way back.

### **The Failure of Imagination**

Ultimately, we cannot afford a repeat of the failure of imagination that characterized much of the thinking in 2019 into mid-2020 – the pre-election inflection point being the Lafayette Square debacle. Trump could run again (Robert Kagan, among others, [assumes](#) he will). Trump might win outright, that is, he might win without the voter subversion mechanisms falling into place in key battleground states. Remember those 43,000 votes. And that may well result in significant protests on the streets, strikes and potentially civil unrest. Or Trump might lose, and therein lies the greater danger to democracy. The election could end up being decided by the House, which in all likelihood will have a Republican majority for 12<sup>th</sup> Amendment purposes. Or Trump might unleash the full panoply of subversion tactics to steal the election. Vigilance is not enough.

Towards the end of his remarks in [Atlanta](#), President Biden asked, in reference to the passage of voting rights legislation, “Will we choose democracy over autocracy, light over shadows, justice over

injustice?" I submit this has broader application and is the existential question we all need to focus on.

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