

American Democracy: Alive or Dead?

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What is the status of our democracy—is it alive, do we still live in a democratic republic, or is our democracy dead, no longer a governance of, by and for the people? How is the American Experiment faring? As it turns out, not so well.

To this point on November 22, 2021, the International Institute for Democracy and Electoral Assistance (IIDEA), based in Stockholm, Sweden, released its 2021 Report on “The Global State of Democracy.”¹ The report’s introduction begins with these chilling statements. “Democracy is at risk,” “Its survival is endangered by a perfect storm of threats, both from within and from a rising tide of authoritarianism.” “The world is becoming more authoritarian as nondemocratic regimes become even more brazen in their repression, and many democratic governments suffer from backsliding by adopting their tactics of restricting free speech and weakening the rule of law.”

Indeed, the annual report from Freedom House reports that freedom around the world declined in 2021 for the 16th consecutive year, that China and Russia are exporting authoritarianism, that undemocratic regimes are growing more so, and that even in established democracies, like the U.S., “internal forces have exploited the shortcomings of their systems, distorting national politics to promote hatred, violence and unbridled power.” Over the past year, 60 countries became less free, while only 25 improved.² 38% of the global population live in countries that are not free (the highest since 1997); 20% live in free countries; and 42% live in “partly free” countries. Sadly, the United States falls within this last category.³

In her recent book, *How Civil Wars Start and How to Stop Them*,⁴ Professor Barbara F. Walter, describes a middle zone occupied by governances that are neither democracy nor autocracy. These are called anocracies.⁵

¹ <https://www.idea.int/gsod/global-report>

² Heather Cox Richardson, Letters from an American, March 10, 2022, heathercoxrichardson@substack.com

³ Axios AM, by Mike Allen, February 24, 2022.

⁴ *How Civil Wars Start and How to Stop Them*, Barbara F. Walter, Crown Publishing, New York, 2022 (hereafter referred to as Walter).

Categorizing governments involves painstaking research and analysis. This work is presently gathered in several large datasets, each measuring different variables.⁶ However most researchers rely on what is called a Polity Score compiled by the Polity Project at the Center for Systematic Peace. A Polity Score captures how democratic or autocratic a country is in any given year and uses a 21point scale ranging from -10 (most autocratic) to +10 (most democratic). Full democracies receive scores between +6 and +10 and autocracies receive scores between -6 and -10. Anocracies are in the middle, receiving scores of between -5 and +5.⁷ Until recently, the United States had a +10 Polity Score.

However, as of 2020 our Country has dropped below the “democracy” threshold and is now considered an anocracy (+5). The US has also lost its designation as the world’s oldest, continuous democracy; that designation now belongs to Switzerland (171 years), followed by New Zealand (142) and the United Kingdom (139).⁸ The World Justice Project, which annually ranks countries around the globe according to critical Rule of Law Factors, reported that the United States declined in the organization’s 2021 Rule of Law Index. Similarly, in its 2021 Report, the IIDEA identified the United States as a democracy that was “backsliding,” that is, experiencing a “gradual but significant weakening of Checks on Government and Civil Liberties, such as Freedom of Expression and Freedom of Association and Assembly over time.” Indeed, this Report notes that the U.S. has fallen victim to “authoritarian tendencies.”⁹

And why does this matter? Because for a decaying democracy the risk of civil war—the risk of armed conflict--increases from the moment it becomes less democratic as a result of fewer executive restraints, weaker rule of law, and diminished voting rights. When such a democracy’s Polity Score reaches between

⁵ Walter, p 11.

⁶See, Walter, p.20, for a more complete discussion of these various indices.

⁷ Walter, p. 13.

⁸ <https://kottke.org/21/01/usa-downgraded-from-democracy-to-anocracy-part-democracy-and-part-dictatorship>

⁹<https://ldad.org/democracy-commitment?emci=fd8c7c15-1594-ec11-a507-81878b83d8a&emdi=47d41d74-c494-ec11-a507-281878b83d8a&ceid=6017506>;See,also: Heather Cox Richardson, Letters from an American <heathercoxrichardson@substack.com, November 23, 2021

+1 and -1 citizens face the real prospect of autocracy¹⁰-- living under an authoritarian government.

And, what characterizes autocracy, authoritarian behavior? Steven Levitsky and Daniel Ziblatt, in their book *How Democracies Die*¹¹ provide an interesting table. See Appendix A at the end of this document. Take a look.

Do you recognize any of these characteristics in today's America, in today's Montana? Look closely. I suggest that the governments of both our Country and our State exhibit at least one behavior in each of the four major categories.

So how did we get here; what has gone wrong in America's experiment in democracy? There are a number of factors.

- ✓ Factionalism: Factionalism is defined as an acute form of political polarization, where political parties become based on ethnic, religious, or racial identity rather than on ideology. These parties then seek to rule to the exclusion and at the expense of others. These parties may be “personalistic” in nature, that is revolving around a dominant figure who often appeals to ethnic or religious nationalism to gain and maintain power. A coherent policy platform is often absent. Factionalism arises in predictable ways. Specifically, elites and supporters of a particular group seize an opportunity, perhaps a weakness in a regime, or a demographic change that heightens popular grievances or vulnerability. These elites and supporters then encourage loyalty not around policy issues, but rather using words and symbols related to identity—religious phrases, historical rallying cries or visual images. The goal is to reinforce the group's separateness, thus creating tension in society, and the ability to suppress rival factions by sowing fear, resentment and distrust in rival groups. Politics goes from being a system where citizens care only about members of their group instead of caring what is good for the country.¹²

¹⁰Walter, p. 22.

¹¹ *How Democracies Die*, Steven Levitsky and Daniel Ziblatt, Broadway Books, New York, 2018 (hereafter referred to as Levitsky).

¹² Walter, pp 35-38.

Tom Nichols in his recent book *Our Own Worst Enemy*¹³ describes much the same thing, noting that we, as a people are more narcissistic, more racist, more consumer-oriented, more self-absorbed and more vengeful than at any time in our history.

We've no doubt asked ourselves over the past five years, "why do people vote against their own interests?" Nichols has provided the only answer that makes any sense to me. He posits that we suffer from confirmation bias—that is we listen to and read, what we want to hear and already believe. We applaud and vote for politicians that tell us what we want to hear. And, this has manifested itself in a very malignant way. We no longer care about what our chosen political leaders can do for us; rather we vote for and encourage those politicians who will hurt our perceived enemies. It's not what you can do for me, it's how you are going to marginalize, demonize, and nullify those who don't agree with my partisan or religious ideology. Nichols describes it as the power of resentment.¹⁴ And, he describes how authoritarian governments weaponize this mind set against the *them* in them versus us.

Walters also discusses how a part of a faction might become a super-faction—not unlike the one we have in America, specifically the urban-rural divide.¹⁵

- ✓ Ethnic Entrepreneurs: Ethnic Entrepreneurs are the people who facilitate factions. These mouthpieces make discriminatory appeals and pursue discriminatory policies in the name of a particular group. These are people who are seeking political power or are trying to stay in office. They lock in constituencies by provoking and harnessing feelings of fear. Average citizens may know these mouthpieces have their own agenda and may not be truthful, but are willing to trust such persons if there is even a small chance that the opposition may get the upper hand. Ethnic entrepreneurs may also include business elites, religious leaders and media personalities.¹⁶
- ✓ Predatory Political Parties: Predatory Political Parties may arise out of the factionalism and become the tools of ethnic entrepreneurs. These parties

¹³*Our Own Worst Enemy*, Tom Nichols, Oxford University Press, 2021, (hereafter referred to a Nichols).

¹⁴ See, Nichols, Chapter 3, "Is There No Virtue Among Us," pp 87-110.

¹⁵ Walter, pp 39-42.

¹⁶ Walter, pp 44-52.

tighten their political power by attacking free and fair elections, freedom of speech, and freedom of association.¹⁷ They often use slash and burn tactics and pursue power with a win-at-all-cost agenda.

- ✓ **Downgrading:** Downgrading takes place when group feels left out of the political process, when the group once held power, but sees it slipping away. The group feels a sense of resentment, rage, injustice and a loss of status in a place that is theirs. These people might be referred to as “sons of the soil.” Sons of the soil may be downgraded by migration, differences in birth rates or simple demographics.¹⁸
- ✓ **Economic Inequity:** Economic Inequity is not the same thing as Income Inequality. Rather Economic Inequity refers to more structural changes in society—modernization, for example, which involves the process by which rural, traditional societies are transformed into urban secular societies. The latter favor citizens who have the education and skills to function in a mechanized, technological society. Globalization has shifted manufacturing jobs to less developed countries while favoring service-oriented workers. Sons of the soil tend to be disproportionately affected by these structural shifts. Immigration is often a flashpoint, because migrants often compete for jobs that sons of the soil consider theirs. To make matters worse, climate change will exacerbate migration as people flee inhospitable climates and conditions for those more favorable. The net effect of Economic Inequity is to aggravate anger and resentment and make it easier for those with wealth to suppress those without.¹⁹
- ✓ **Loss of Hope:** Downgraded groups in anocracies can absorb a lot of pain, including discrimination and poverty. What they cannot tolerate, however, is the loss of hope—looking into the future and seeing nothing but more pain. It is then that these people find violence as their only path to progress. Failed protests by people incentivize violence, as they come to believe that they cannot work within the system, that their government doesn’t care

¹⁷ Walter, p 53.

¹⁸ Walter, pp 63-69. See, also The New York Times, Opinion today, March 17, 2022 by Laura Reston, Senior Staff Editor, Opinion on the trucker’s strike: “It’s an all-too-familiar story: of blue-collar workers worn down to the nub by white-collar efficiencies; of frustration with a public that can forget how even today, a supply chain is still made up of actual people; of resentment and gratitude for the work at hand in equal measure.”

¹⁹ Walter, pp. 75-77

about them. Free and fair elections can provide citizens with hope for change,²⁰ but, just the opposite is also true: voter suppression, rigged elections, and gerrymandering can convince citizens that the system cannot be changed except by violence.

- ✓ The Internet and social media: Perhaps the greatest accelerant pushing democracies into anocracy and authoritarianism is the internet, smart phones and social media. This information environment is the single biggest cultural and technological change the world has seen in this century. Yet, while hailed as a vehicle to connect people and facilitate the exchange of information, ideas and opinions and to allow citizens to obtain their news from their preferred sources, rather than from major networks, this change has been far from benign. Social media platforms have proven to be the Pandora's box, that, once opened, have inflicted upon our democracy, unregulated channels for spreading disinformation, misinformation, conspiracy theories and providing a bully-pulpit for charlatans, trolls, demagogues, anti-democratic agents, foreign governments and others that had had great difficulty in gaining a mass audience before there was social media. As a result, ethnic factions have grown, social divisions have widened, resentment at immigration has increased, violence has increased and bullying populists have been elected. And, all this has happened primarily since 2009—in just 13 years²¹ (with the advent of the smart phone). If you are an extremist, a terrorist, an authoritarian or a dictator-wannabe, you have in your smart phone the perfect tool to peddle your hate and propaganda, to create factions, to downgrade, to demonize, to fearmonger, to troll and to build your base. Social media allows candidates and leaders to instantly disseminate doubts about democracy, attack institutions and norms, undermine public trust in the press, the judiciary, the rule of law, support for pluralism, stoke fear and question the results of elections and election integrity (when there is absolutely no evidence of election fraud or irregularities).²² The algorithms of social media can be the drivers of fear, outrage and doubt—the engines to destroy hope.²³ Social media enable politicians and authoritarians to organize insurrections and to tell the Big Lies to the most people instantaneously and to have those lies

²⁰ Walter, p. 84-96

²¹ Walter pp.108-112.

²² Walter pp. 116-117.

²³ Walter, pp115-117.

validated, promoted, and re-published by other liars, thus destabilizing democracy and driving it down the ladder toward autocracy.

So, to summarize: The United States' Polity Score has slipped from the +10 of democracy to +5 of anocracy; our Country is suffering from factionalism, ethnic entrepreneurs, predatory political parties, downgrading, economic inequity, loss of hope and the abuses of an unrestrained and unregulated social media; and the U.S. is exhibiting one or more behaviors identified as part of the four key indicators of authoritarian behavior. In short, American democracy is dead; we are, by all indications, an anocracy sliding toward autocracy.

Professor Walter puts it more chilling terms: "We are a factionalized anocracy that is quickly approaching the open insurgency stage, which means we are closer to civil war than any of us would like to believe."²⁴

The question, the challenge, is can we stop the slide? Maybe.

For one thing, we need to focus on those values that sustain democracy. These include: 1. the rule of law; 2. the equal and impartial application of legal procedure; and 3. voice and accountability, meaning the extent to which citizens are able to participate in selecting their government as well as freedom of expression, freedom of association and free media; and government effectiveness, meaning the quality of public services and the quality and independence of the civil service.²⁵

The right to vote is fundamental to the existence of democracy, but it has been increasingly politicized (the Big Lie, and false claims of voting irregularities and fraud, for example). So, here I want to interpose some Montana law. Montana's Constitution at Article II, Section 1 provides in the strongest possible terms that: "all political power is vested in and derived from the people . . . and is founded on their will only." And Article II, Section 2 provides that it is "the people" "who have the exclusive right of governing themselves."

It follows, however, that if we can't vote, we have no political power and, thus, no ability to participate in self-government. The ability to vote is We the Peoples' way of getting our official say about who governs, who leads, and what

²⁴ Walter, p 159. At pp 156-159 Walter discusses the CIA's three stages that birth an insurgency: Stage 1 is the pre-insurgency stage; Stage 2 is the incipient conflict stage; and stage 3 is the open insurgency stage, which is characterized by sustained violence as increasingly active extremists launch attacks that involve terrorism and guerrilla warfare including assassinations and ambushes, as well as hit-and-run raids on police and military units.

²⁵Walter, p.200.

laws are enacted or repealed. Without the right of suffrage, we have no ability or power to ensure that our fundamental constitutional rights are protected— those guarantees that include our rights to life, liberty and to own property; to a clean and healthful environment; to freedom of religion and to assemble; to free speech; to a free press; to participate in government; to examine public documents and observe the deliberations of public bodies; to individual privacy; to bear arms; to equal protection of the laws and to due process of law; and to our most fundamental right, our inviolable right to human dignity. If we can't vote then our voices will not be heard, and these rights will be devoid of any real substance and meaning.

That's why Montana's Constitution at Article II, Section 13 protects our fundamental right to vote in the strongest terms. This section provides: "Right of suffrage. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."

The women and men who framed our Montana Constitution used this extremely clear and explicit language to, at one and the same time, recognize the importance of our franchise and to protect that fundamental right from being impaired by, among others, government actors.

In no uncertain terms, our Constitution requires that *all*, not just some, but every election (1) must be *free and open*—that is, exempt from external authority, interference or restriction; and (2) that *no power, civil*--including members of the Legislature, the Executive, and the Judicial branches—or military; (3) *shall at any time*—that is, before, during or after an election; never; (4) *interfere to prevent*—that is to hinder or stop by law or other direct or indirect means, or meddling; (5) the *free exercise*—that is, each person's personal right and liberty interest; (6) of *the right of suffrage*—our right to vote.

The U. S. Supreme Court has left it up to the States to regulate voting.²⁶ This is important, because, while a state cannot provide less protection of a constitutional right, a state constitution can provide *more* protection of a civil right than does the federal Constitution. Thus, even if voter suppression laws may not offend the federal constitution, those same laws will offend Montana's Constitution since our Constitution provides greater protection of the right of

²⁶ See, *Shelby County v. Holder*, 570 U.S. 529, 133 S.Ct. 2612 (2013) and *Brnovich v. Democratic Nat'l Comm.*, ___ U.S. ___, 141 S.Ct. 2321 (2021). See also the Lawyers Defending American Democracy editorial at: <https://ldad.org/letters-briefs/are-there-any-voting-rights-left?emci=48f7b992-c4f7-eb11-b563-501ac57b8fa7&emdi=3ec52a18-49f8-eb11-b563-501ac57b8fa7&ceid=6017506>

suffrage than does the federal constitution. In the fight to undo partisan voting suppression, Montana law, not federal law, controls.

Because of these greater protections of our right to vote, no bureaucrat, no civil power, no legislature, no governor, no secretary of state, no one can impair or prevent we the people from exercising our right of suffrage.

Yet, contrary to what the Constitution requires, the 2021 session of Montana's legislature enacted and the Governor signed into law, bills that do, in fact, "interfere to prevent the free exercise of the right of suffrage." Those bills include: HB 176, closing same-day voter registration; HB 530, requiring the secretary of state to adopt administrative rules prohibiting a person from accepting a pecuniary benefit in exchange for distributing, ordering, requesting, collecting or delivering ballots; and SB 169, which revises voter identification laws and revises certain identification requirements for voter registration and voting.²⁷ The 2021 legislature and our governor have made it harder to vote; have made elections less free and open; and have interfered with our right of suffrage.

Not surprisingly, these three laws are being challenged in court,²⁸ and if our Montana courts enforce the plain language of Article II, Section 13, these three laws will be ruled unconstitutional.

We need to strengthen the Voting Rights Act, we should have some type of opt-out automatic voter registration through for example the DMV, Jury rolls, eliminating or minimizing voter identification requirements and, of course, we need meaningful campaign finance reform. We need to eliminate gerrymandering at all levels, federal, state and local. And we need to get rid of the Electoral College, which does nothing but frustrate the popular vote and the goal of one-person-one-vote.²⁹

We must not abandon democracy in favor of authoritarianism run by the leader of a cult. Rather we must strive to improve our democracy by reforming government, making it more accountable to voters, more transparent, and more inclusive of all citizens. Our schools must again start teaching true history and

²⁷ These (and other bills) can be viewed at the following Montana government website: <https://leg.mt.gov/bill-info/>

²⁸ The Montana Free Press provides a "Laws on Trial" updated synopsis of various litigation challenges to laws enacted by the 2021 Legislative session. Court documents can also be viewed at this web feature. https://apps.montanafreepress.org/montana-legislature-lawsuit-tracker/?utm_medium=email&mc_cid=afd661f2c9&mc_eid=cf87abc54a

²⁹Walter, 201-203.

basic government and civics. We must adopt laws that actually criminalize domestic terrorism (we don't have any presently). We should not indulge extremists or politicians, or groups that support extremism.^{30 31}

These reforms are a tall order, to be sure. That's why I said "maybe" we can stop the slide into autocracy. The inescapable fact is, however, that if We the People are not committed to saving our American Democracy, then we are lost. Nobody is going to bail us out.

Pogo, stated it most eloquently: "Resolved then, that on this very ground with small flags waving, and tinny blasts on tiny trumpets, we shall meet the enemy, and not only may he be ours, he may be us."³²

Author's endnote:

I highly recommend the three texts I have referenced above. I have utilized Professor Walter's book more than the other two because not only is hers the most current, but it is devoted to the subject on which I wanted to talk about in this essay. The other two books say much the same thing, but I suggest are less comprehensive overall. Importantly, however, I did not find any significant disagreement amongst the texts.

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March 23, 2022

³⁰Walter, pp 209-214.

³¹In the final chapter of her book, Professor Walter goes into much more detail on how we can save democracy.

³²Nichols, p 9.

Appendix A.

From *How Democracies Die*, pp 23, 24

Table 1: Four Key Indicators of Authoritarian Behavior

<p>1. Rejection of (or weak commitment to) democratic rules of the game</p>	<p>Do they reject the Constitution or express a willingness to violate it?</p> <p>Do they suggest a need for antidemocratic measures, such as canceling elections, violating or suspending the Constitution, banning certain organizations, or restricting basic civil or political rights?</p> <p>Do they seek to use (or endorse the use of) extraconstitutional means to change the government, such as military coups, violent insurrections, or mass protests aimed at forcing a change in the government?</p> <p>Do they attempt to undermine the legitimacy of elections, for example, by refusing to accept credible electoral results?</p>
<p>2. Denial of the legitimacy of political opponents</p>	<p>Do they describe their rivals as subversive, or opposed to the existing constitutional order?</p> <p>Do they claim that their rivals constitute an existential threat, either to national security or to the prevailing way of life?</p> <p>Do they baselessly describe their partisan rivals as criminals, whose supposed violation of the law (or potential to do so) disqualifies them from full participation in the political arena?</p> <p>Do they baselessly suggest that their rivals are foreign agents, in that they are secretly working in alliance with (or the employ of) a foreign government—usually an enemy one?</p>

<p>3. Toleration or encouragement of violence</p>	<p>Do they have any ties to armed gangs, paramilitary forces, militias, guerrillas, or other organizations that engage in illicit violence?</p> <p>Have they or their partisan allies sponsored or encouraged mob attacks on opponents?</p> <p>Have they tacitly endorsed violence by their supporters by refusing to unambiguously condemn it and punish it?</p> <p>Have they praised (or refused to condemn) other significant acts of political violence, either in the past or elsewhere in the world?</p>
<p>4. Readiness to curtail civil liberties of opponents, including media</p>	<p>Have they supported laws or policies that restrict civil liberties, such as expanded libel or defamation laws, or laws restricting protest, criticism of the government, or certain civic or political organizations?</p> <p>Have they threatened to take legal or other punitive action against critics in rival parties, civil society, or the media?</p> <p>Have they praised repressive measures taken by other governments, either in the past or elsewhere in the world?</p>