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Democracy is Fragile: Extreme Partisan Polarization Has Become Rampant in the World

Suzin Win

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"Democracy is in retreat across nearly the entire globe." – Joshua Kurlantzick, Yale University Press.

The status of democracy once seemed irrelevant in discussions of government in the United States and other long-established democracies. However, with the rise of extreme partisan polarization and the contempt that each party shows for the other, maintaining constitutional democracy is now a major concern for people in America. There is no longer any ideological overlap between the most conservative Democrats and the most liberal Republicans. In the words of Professor Daryl J. Levinson and Professor Richard H. Pildes of NYU School of Law, the **"separation of powers" has been replaced by a "separation of parties."** The actions of the Trump administration have only added fuel to the fire, with the former President popularizing the term **"fake news"** to berate the media, tip toeing the line of violating the right to freedom of the press. Added with **the recent attempted coup at the U.S. Capitol**, people have been uneasy about the status of a true democratic government. While a democracy-ending

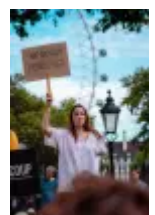


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emergency has not happened in America, Trump's repeated attacks on the media, the judiciary, and Congress have left Americans concerned about a constitutional crisis. The future of constitutional democracy is also at serious risk in many other parts of the world.

The Overthrowing of Democracy in Other Parts of the World

In a number of countries, including [Hong Kong](#), [Myanmar](#), [Hungary](#), and [Turkey](#), the people have witnessed an overthrow of democracy, with the extreme use of violence and brutality. In Hungary, Prime Minister Viktor Orbán pushed through a law that suspends elections, using the coronavirus as a pretext. The so-called "[corona-virus coup](#)" in 2020 was used to make Orbán stay in power under an authority rule by decree indefinitely. The Hungarian Parliament, controlled by Orbán's party, voted to cancel all elections and suspended its own ability to legislate. Full authority and control was given to Orbán in what appears to be essentially a dictatorship.

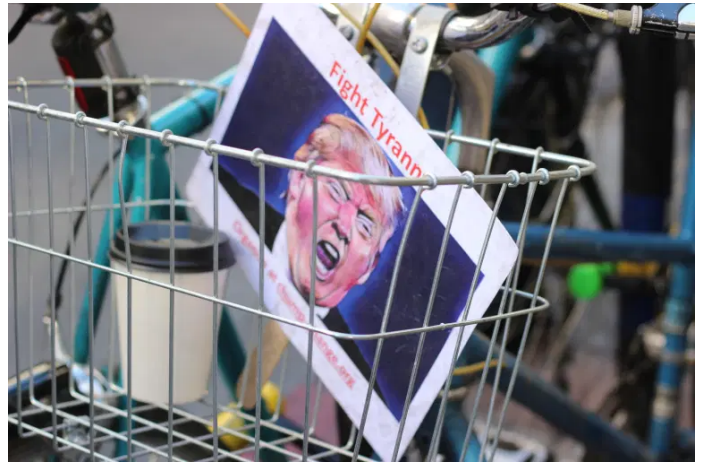


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The Rise in Excessive Use of Force

What is particularly concerning is the excessive use of force by the police and the military working under the orders of the dictator. This brutality has led civilians to literally die fighting for their freedom. An [Amnesty International field investigation](#) has documented a pattern of the Hong Kong Police Force's heavy-handed crowd control response to the mass protests that broke out in 2019 and 2020. More than 1,300 people have been arrested in the mass protests, with almost every arrested person interviewed by Amnesty describing being tortured and beaten with batons and fists during their arrests. In Myanmar, the military has gone beyond the scope of brutality, with police and soldiers [shooting indiscriminately at unarmed protesters](#), ordering country-wide [WiFi and cellular data shutdowns](#), and [issuing warrants](#) to various journalists and celebrities in response to them documenting and spreading news about the military coup. As of April 27th, the death toll has risen to over [700 civilians](#) killed by the military, with more than [40 children](#) included in the toll. As of today, the people of Myanmar are still waiting for a response from the international community, and most notably the United Nations, to expel this military government and restore democracy.



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Defective Democracies: Election Fraud Claims Are Increasingly Trending

Many of the coups and political turmoils that follow are breaking out in newly formed democracies, with the power of the people being overthrown by the power of violence. [Empirical research](#) suggests that newer democracies have become increasingly authoritarian, with nearly 53 of the 128 countries being assessed as "[defective democracies](#)" in 2010. A worldwide index of democracy, which measures the electoral process, pluralism, participation, government

functioning, and civil liberties, found that “**democracy was in retreat across nearly the entire globe.**” The primary concern with this is that election fraud is now being used to seize control of the country--with both former President Trump and Myanmar’s army chief Min Aung Hlaing claiming voter fraud without any evidence. In Turkey, President Recep Tayyip Erdogan successfully remained in power in 2015, by **challenging the results of the election in court** and forced a re-run election. These global trends prompt the question of whether the survival of constitutional democracy in America is at serious risk. Although not a newly formed government, there begs the question as to what extent the Constitution has contributed to the present political unrest, and conversely to what extent will the Constitution ensure the survival of democracy.

The Constitution’s Role in Protecting a Democratic Institution

It is ironic that the institution that the Framers believed would prevent an unsuitable president is the institution that put Trump into the White House--where he would go on to attack the very principles that the **Constitution tried to instill**. Such attacks are eroding democratic norms and processes. Furthermore, the current political climate in the United States includes the toxic partisan dynamic in Washington, with a firm line drawn between the Democrats and the Republicans. What is necessary for democratic governance is compromise from both sides. However, with the intense political competition, it is likely that politicians in Congress will block the passing of legislation that is beneficial to the public, just to prevent the other party from an electoral advantage. The erosion of these democratic norms of compromise and cooperation leads to a corresponding decline in the functioning of a democratic institution.

The Role of the President

Aside from the deficiencies presented in the Electoral College, there are a number of non-optimal features of the Constitution. One major problem is that the president is the wrong person to singularly hold authoritarian powers, particularly in the case of “emergencies.” **50 U.S.C.A. § 1701** states that “any authority granted to the President... may be exercised to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to national security... if the President declares a national emergency with respect to such threat.” In other words, the moment the president declares a national emergency, something that is entirely within his own discretion, more than 100 special provisions become available to him. These provisions include the ability to shut down electronic communications and freeze Americans’ bank accounts. Other powers are available to the president even without the declaration of an emergency, including allowing the deployment of troops inside the country to subdue domestic unrest. With the examples of excessive force and military/police brutality in the international sphere, there is a general uneasiness that this power may be given to the wrong hands.

A State of Emergency

Other modern constitutions may specify when and how a state of emergency may be declared and which rights may be suspended. The U.S. Constitution, on the other hand, includes no separate regime for emergencies. Certain legal



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scholars believe that the Constitution gives the president “inherent” emergency powers through his position as “Commander in Chief” of the armed forces, or by vesting a broad “executive Power.” The Supreme Court has often upheld the use of such actions, such as when Franklin D. Roosevelt ordered for the internment of U.S. citizens and residents of Japanese descent during World War II in *Korematsu v. United States*. The ambiguous constitutional limits, as well as the legal track record for declarations of national “emergencies” seemingly provides the ingredients for an encroachment on democracy and civil liberties.

What is next for Americans to protect their freedom and conserve democracy? The justification for extraordinary powers granted to the president is that the president will only act in the country’s best interests when using them. However, the rise of power-hungry political leaders across the globe suggests that a president backed into a corner, facing electoral defeat might declare an emergency for the sake of holding onto power. Trump attempted to do so by asserting claims of “election interference” with no further evidence, just 3 days after Election Day. In a scenario where such claims are successful enough to declare an “emergency,” the Constitution and the law may not save the people from a presidential power grab. This might be what takes down the democracy in America.

Political Figures Must Reaffirm Democratic Values

Ultimately, much will depend on the developments in the political arena. The interaction between constitutional and political factors will be determinative, rather than the Constitution on its own. The practices of democracy may only be proclaimed by political figures from both parties re-affirming democracy’s central values and working for the best interest of the civilians. Many weaker nations have succumbed to dictatorship and extreme indiscriminate violence due to a frail constitution and a lack of a strong separation of power that promotes accountability. For America, the health of constitutional democracy rests upon whether political practices affirm or erode the central democratic values of fairness and equality. However, there is hope. In the words of the late Justice Ruth Bader Ginsburg, “the true symbol of the United States is not the bald eagle; it is the pendulum. And when the pendulum swings too far in one direction, it will go back.”



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Suzin Win is a member of the Class of 2021 at Golden Gate University School of Law. Prior to law school, she graduated from Boston University in 2017, with a Bachelor's Degree in Economics and International Relations. She is primarily interested in business and antitrust law.



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