America's Election System Dodged Disaster This Time—Here's How We Can Protect It Next Time

By Walter Olson

The problems with America's election system extend to how we select candidates, how votes are counted, and who gets to make the rules. But there are solutions.

In response to the mob that stormed the Capitol building on January 6, 2021, Congress passed the Electoral Count Reform Act, which clarifies that the vice president's role is purely ceremonial and raises the threshold for lawmakers to object to the electoral count. (GETTY IMAGES)

Trust in American elections, once considered a bedrock of our democracy, has been declining for years. It's a trend that if left unchecked threatens the stability of the political system itself. Recent surveys show that nearly half of the country believes election outcomes are no longer trustworthy, with divisions strongly following party lines. While this election season has not seen violence as of this writing—it helped a lot that the White House results were not close enough to leave room for dispute as to who won—the defensive preparations were unprecedented, with fortresslike security for vote-counting centers in some states and the election director of at least one state choosing to wear a bulletproof vest. Given the extent of polarization and suspicion, an outbreak of violence in some future election cycle, if not this one, must be seen as a genuine concern.

Our electoral system, long admired for its openness and fairness, now faces threats on multiple fronts, such as gerrymandering that distorts representation, a primary process that sidelines moderate candidates, and laws that might one day enable bad actors to derail the reporting of certified results. These flaws are undermining faith in our political process.

Reform isn't optional—it's essential.

TOP: The failed attempt to stop the certification of the 2020 election results exposed vulnerabilities in the presidential election process. (GETTY IMAGES)

BOTTOM: Cato Institute senior fellow Walter Olson (behind Maryland Gov. Larry Hogan on the left) served as cochair of the Maryland Redistricting Reform Commission, which sought to curb gerrymandering.

The Appearance—and the Reality—of Honest Elections

Fortunately for all of us, the 2024 vote passed with few logistical alarms. A wave of bomb threats closed polling places temporarily in some states, someone in the Pacific Northwest committed several ballot drop-box arsons, and forged videos circulated misrepresenting candidates. In general, though, law enforcement proved equal to these challenges, and the misinformation in particular was met by the rapid dissemination of accurate counterinformation—which libertarians stress is a remedy suited to a free society, unlike attempts at censorship.

The 2024 US election was fair and honest. So was the 2020 US election, run largely by the same methods under largely the same laws and often by the same people. (Beware candidates who endorse the validity of one of the two elections while contesting the other or whose interest in election security begins and ends with trying to explain away the elections they lose.)

America achieves high standards of election integrity in part through careful updating and maintenance of voter registration lists, audits both before and after the vote, and use of technologies such as weight sensors to detect unauthorized removal or addition of ballots. And yet it is crucial that election processes be secure in appearance as well as in reality. There is always room for improvement—and Cato is part of that debate. We can and should harmonize needed safeguards for the security and integrity of elections with efforts to make it easy and convenient for all lawful voters to cast a ballot.

One priority of some urgency in restoring public trust is to make the tabulation of votes rapid—ideally by Election Night, a standard achieved by Florida and a number of other states. When counting drags out for days and even weeks, there is an opening for reports of skulduggery to circulate, accurately or not. Most countries tabulate results quickly, and that's the right approach.

The Aftermath of 2021

The events of January 2021 exposed deep vulnerabilities on a different topic, the way we certify election results. More than 100 members of Congress moved to block the outcome of a presidential election that had been certified by the states. They did so under the outdated and ambiguous Electoral Count Act of 1887, which allowed Congress to delay and question the results of an election in ways the Framers of the Constitution never intended.

This wasn't just a procedural error; it was a crisis of legitimacy. The failure to swiftly and clearly affirm the results of a certified election shook public confidence and set the stage for future disruption. If we can't trust the process, what holds the system together?

In response, a cross-ideological coalition came together to reform this broken system, culminating in the passage of the Electoral Count Reform Act of 2022. While Congress took the final steps to enact the law, it was a behind-the-scenes collaboration that made the reform possible. Organizations like the Cato Institute played a key role in drafting language that ensured the bill would not only fix the problems of 2021 but also be fully constitutional. Cato's team worked to keep the reforms focused on protecting the rights of the states to certify elections, staying true to the original intent of the Framers in Article II, Section 1 of the Constitution.

The result was legislation that clarified Congress's limited role in certifying elections, reduced opportunities for

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frivolous objections, and protected the integrity of the process. It was a victory for both the Constitution and for those working to safeguard elections from future crises.

Improving the Candidate-Screening System

One of the most glaring weaknesses in American elections is the primary system. The reformers of the Progressive Era believed that primaries would democratize candidate selection by taking the power away from party bosses. In practice, however, primaries have created a different problem, narrowing the field to candidates who appeal to the most committed—often the most extreme—voters within a party. Candidates who might run strongly in a general election often get squeezed out.

In many cases, primary elections draw a small fraction of the electorate, but they determine the outcome in districts heavily skewed toward one party. As a result, general elections have become a formality in many races, and the candidates who make it through often reflect the most polarized views.

This isn't just a procedural glitch; it's a systemic issue that stifles competition and discourages bridge-building between different political factions.

What to do? America's election heritage is one of diversity and innovation, and Cato is part of the discussion on how states and localities might design better methods.

Alaska has experimented with one potential solution: a system known as "Final Four." In this model, all candidates compete in a nonpartisan primary, with the top four or five advancing to a general election decided by ranked-choice voting. Ranked-choice voting allows voters to rank candidates in order of preference, ensuring

that the eventual winner has broader support across the electorate.

Alaskans narrowly voted to keep ranked-choice voting in the 2024 election, but voters in several other states rejected similar electoral reforms. Despite those setbacks, the impact in Alaska has been promising. Candidates are forced to appeal to a wider audience, and the overall tone of campaigns has shifted toward more constructive and less divisive messaging. This is the kind of innovation that has the potential to reshape our elections. Yet it's important as well that election administrators and voters themselves see any new scheme as practical and understandable.

The Case Against Federalizing Elections

While states and cities are moving toward innovative solutions, there are constant pressures to centralize control over elections at the federal level. The idea seems simple: Create national standards to ensure uniformity and fairness across the board. However, the risks of this approach far outweigh the potential benefits.

In particular, gathering power over election administration in the nation's capital invites a danger that forces in Washington could manipulate national election outcomes, undermining the system's integrity. Local oversight serves as a check on the possibility that any one group or institution will gain excessive control over the process.

Cato has been a consistent voice in warning against the dangers of federalizing elections. Our scholars have argued that keeping elections managed at the state and local level builds resilience into the system, ensuring that no single point of failure can disrupt the entire process. Local administration allows for the sort of trial-and-error reforms—

currently being tried around the country—that can gradually improve outcomes without widespread disruption.

Looking Ahead

America's election system is at a critical juncture. While reforms like the Electoral Count Reform Act have yielded important improvements, deeper structural changes are needed to restore trust in the process. The problems go beyond outdated laws and unclear procedures—they touch the very way we select candidates, the way votes are counted, and who gets to make the rules.

But there are solutions. Alaska's experiment and other versions of ranked-choice voting could offer a step toward addressing the polarization that the current system entrenches. Maintaining local control of elections ensures that we avoid the pitfalls of centralizing too much power. And perhaps most important, reforms like these offer a path to restoring public confidence in elections—confidence essential to the health of any democracy.

Cato's work in this area underscores the importance of constitutional principles, nonpartisan analysis, and a commitment to improving the system from the ground up. The stakes are high, but the path forward is clear: America can fix its election system—but only if we make the necessary changes before it's too late. ✦

ABOUT THE AUTHOR

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