

United States

Country:

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Year:

2016

Freedom Status:

Free

Political Rights:

1

Civil Liberties:

1

Aggregate Score:

90

Freedom Rating:

1.0

Overview:

As the 2016 election campaign got under way, relations between the Democratic Party administration of President Barack Obama and Congress—controlled by the Republican Party—remained tense throughout 2015. The two sides managed to enact a crucial spending bill in December, but only after John Boehner stepped down as speaker of the House of Representatives in October, under pressure from hard-line conservatives in the Republican rank and file. Facing continued legislative gridlock on many issues, Obama attempted to push through parts of his agenda by issuing executive orders and other such measures. While this led to some policy actions, especially on environmental regulation, his efforts to remove the threat of deportation from as many as 5 million undocumented immigrants, a substantial portion of the estimated 11 million thought to be in the United States illegally, were stymied when federal courts blocked the plan's implementation.

Immigration was also a major subject of debate among the 2016 presidential candidates. Some Republican contenders called for mass deportations of undocumented immigrants and the construction of a wall along the border with Mexico. Most of the Republicans also called for a halt in the admission of refugees from the war in Syria, ostensibly to prevent infiltration by terrorists, and one contender, wealthy real-estate developer Donald Trump, proposed a complete ban on entry to the United States for all Muslims. The campaign in general featured a surge in popularity for strident, antiestablishment candidates like Trump on the right and Senator Bernard Sanders of Vermont on the left.

Mass shootings continued to claim lives across the country, renewing a perennial discussion of proposed restrictions on gun ownership. While the targets of the separate attacks included a college campus and a women's health clinic and featured a variety of motives, the year's deadliest assault was carried out in San Bernardino, California, by a husband and wife who had pledged

allegiance to the Islamic State (IS) militant group. Obama took modest executive actions to tighten enforcement of existing laws and urged further changes through the legislative process. However, the gun lobby, led by the National Rifle Association, and the Republican Party remained strongly opposed to any new gun-control proposals.

A controversy over relations between black citizens and the police grew in intensity in 2015. There were demonstrations in Baltimore, Chicago, Minneapolis, Cleveland, and other cities after high-profile incidents in which black people, often unarmed, were shot or fatally injured in confrontations with the police. While seeking justice in individual cases, protesters also demanded major changes in police use-of-force practices and asked the federal Justice Department to investigate local law enforcement policies.

In a major advance toward equal rights for LGBT (lesbian, gay, bisexual, and transgender) people, the Supreme Court ruled in June that the federal constitution guaranteed a right to same-sex marriage, effectively legalizing such marriages nationwide.

Trend Arrow:

↓

Political Rights and Civil Liberties:

Political Rights: 36 / 40 (-1) [Key]

A. Electoral Process: 11 / 12

The United States is a presidential republic, with the president serving as both head of state and head of government. Cabinet secretaries and other key officials are nominated by the president and confirmed by the Senate, the upper house of the bicameral Congress. Presidential elections are decided by an Electoral College, making it possible for a candidate to win the presidency while losing the national popular vote. Electoral College votes are apportioned to each state based on the size of its congressional representation. In most cases, all of the electors in a particular state cast their ballots for the candidate who won the statewide popular vote, regardless of the margin. Two states, Maine and Nebraska, have chosen to divide their electoral votes between the candidates based on their popular-vote performance in each congressional district. The president may serve up to two four-year terms. In the 2012 election, President Obama, the incumbent, won the Electoral College tally by 332 to 206 and the popular vote by 51 to 47 percent, defeating his Republican Party challenger, Mitt Romney.

The Senate consists of 100 members—two from each of the 50 states—serving six-year terms, with one-third coming up for election every two years. The lower chamber, the House of Representatives, consists of 435 members serving two-year terms. All national legislators are elected directly by voters in the districts or states that they represent. In the 2014 congressional elections, Republicans won control of the Senate with 54 seats. Democrats control 44 seats, and there are two independent senators who generally vote with the Democrats. In the House, Republicans added to their majority, taking 247 seats, versus 188 for the Democrats. Republicans also control the majority of state governorships and legislatures.

In some states, citizens have a wide-ranging ability to influence legislation through referendums. Such direct-democracy mechanisms, often initiated by signature campaigns, have been hailed by some as a reflection of the openness of the U.S. system. However, they have also been criticized on the grounds that they can lead to incoherent governance, undermine representative democracy, and weaken the party system. Referendums in various states in recent years have resulted in the

legalization of same-sex marriage, elimination of affirmative-action programs for minority groups, legalization of recreational use of marijuana, and increases in the state minimum wage.

B. Political Pluralism and Participation: 15 / 16 (-1)

The intensely competitive U.S. political environment is dominated by two major parties, the right-leaning Republicans and the left-leaning Democrats. The country's "first past the post" or majoritarian electoral system discourages the emergence of additional parties, as do a number of specific legal and other hurdles. However, on occasion, independent or third-party candidates have significantly influenced politics at the presidential and state levels, and a number of newer parties, such as the Green Party or groups aligned with organized labor, have modestly affected politics in certain municipalities in recent years.

Election campaigns in the United States are long and expensive. The two main parties and the constituency and interest groups that support them have used an array of methods to circumvent legal restrictions on campaign spending, and the Supreme Court on several occasions has struck down such restrictions, finding that they violated free-speech rights. The cost of the 2012 presidential race alone reached at least \$5.8 billion, and spending on television and radio advertising for the 2016 race in 2015 was more than triple that spent in 2011, suggesting even greater spending in the coming year. Such ballooning expenditures have drawn criticism in part because they lead elected officials to devote more time to fundraising and less to official duties, and because large donations increase the risk or appearance of corruption. Among other such reports during the year, the *New York Times* found that just 158 families accounted for the majority of campaign donations in the first half of 2015, reinforcing the perception that the wealthy and other privileged groups wield undue influence in the political system.

While the majoritarian system has discouraged the establishment of parties based on race, ethnicity, or religion, religious groups and racial or ethnic minorities have been able to gain a political voice through participation in the two main parties. A number of laws have been enacted to ensure the political rights of minorities. However, relatively new laws in a number of states require voters to present driver's licenses, birth certificates, or other forms of identification before casting ballots. Sponsors of such legislation claim that the intent is to combat voter fraud. Critics contend that such fraud is at most a minor problem and accuse Republicans of adopting the laws to suppress participation by demographic groups that tend to support Democrats, particularly low-income black voters. While the courts have struck down some voter identification laws, others have been upheld, and the issue was set to be contested further as the 2016 elections approached.

C. Functioning of Government: 10 / 12

Federal policymaking and government have been hampered in recent years by partisan gridlock in Congress, and between Congress and the executive branch. Impasses over taxation, federal debt, and spending bills have repeatedly threatened to halt government operations or trigger a default on public debt. While the all-encompassing "omnibus" spending bill passed in December 2015 is set to fund the government until October 2016, Congress again failed to use "regular order"—the traditional procedure for appropriations legislation whereby each of 12 bills funding different portions of the government are debated and passed individually in each chamber before being reconciled in conference committees. Regular order, which has not been followed in full in at least a decade, is widely seen as more transparent than recent practices.

American society has a tradition of intolerance toward government corruption, and the media are aggressive in reporting on such malfeasance. Cases of corruption at the federal level have been

relatively rare or small in scale in recent years. The most serious abuses have instead been uncovered among state and local officials. In 2015, the Democratic leader of the New York State Assembly and the Republican leader of the State Senate resigned their leadership posts to face corruption charges, and both were eventually convicted.

The United States has a history of open and transparent government. It was the first country to adopt a freedom of information law. A substantial number of auditing and investigative agencies function independently of political influence. Such bodies are often spurred to action by the investigative work of journalists. Federal agencies regularly place information relevant to their mandates on websites to broaden public access.

In 2009, Obama ordered that millions of government documents from the Cold War era be declassified, and instructed federal agencies to adopt a cooperative attitude toward public information requests. However, the administration has since encountered criticism for engendering an atmosphere of secrecy. Prosecutors have exerted efforts to compel journalists to reveal the sources of leaked national security information, and the administration has been accused of implementing an aggressive policy to discourage government officials from having contact with the media. Journalists and scholars have also charged that the administration has failed to live up to the president's promise of a responsive policy toward freedom of information requests. A 2015 report by the Justice Department found that the backlog of information requests had grown to nearly 160,000 in the 2014 fiscal year, from 77,000 in 2009, as an increase in requests coincided with a decline in dedicated staffing. Also in 2014, agencies cited exemptions to withhold information related to nearly 220,000 requests.

Civil Liberties: 54 / 60 (-1)

D. Freedom of Expression and Belief: 15 / 16

The United States has a free, diverse, and constitutionally protected press. While newspapers have been in economic decline for a number of years, the media environment retains a high degree of pluralism. Internet access is widespread and unrestricted, and news websites now constitute a major source of political news, along with cable television networks and talk-radio programs. News coverage has also grown more polarized, with particular outlets and their star commentators providing a consistently right- or left-leaning perspective.

The Justice Department has been criticized for its efforts in recent years to compel journalists, via the courts, to reveal their sources of classified information. However, both the president and the attorney general pledged in 2014 that journalists would not be jailed for refusing to identify sources.

The United States has a long tradition of religious freedom. The constitution protects the free exercise of religion while barring any official endorsement of a religious faith, and there are no direct government subsidies to houses of worship. The debate over the role of religion in public life is ongoing, however, and religious groups often mobilize to influence political discussions on the diverse issues in which they take an interest. The Supreme Court regularly adjudicates difficult cases involving the relationship between church and state.

The academic sphere features a substantial level of intellectual freedom. Nevertheless, universities have faced problems related to their establishment of overseas branches in such repressive settings as China, Singapore, and the United Arab Emirates. Critics have accused universities of avoiding discussion of sensitive issues at these foreign campuses and agreeing to restrain student political activism. U.S. universities have also been criticized for giving in to pressure from student activist groups that object to speakers who have been invited to campus events. Speakers have

regularly been disinvited or decided to withdraw from appearances after protests were launched. University students have also mounted protests over what they perceive as an environment of racism on campus. In 2015, both the chancellor and the president of the University of Missouri resigned in the wake of such protest actions. Another controversy involves academic involvement with Israel. Several scholarly associations have voted to condemn Israeli policies and endorse the anti-Israel Boycott, Divestment, and Sanctions campaign.

Americans generally enjoy open and free private discussion, including on the internet. However, civil libertarians, many lawmakers, and other observers have pointed to the real and potential effects of National Security Agency (NSA) data collection and other forms of government monitoring on the rights of U.S. citizens. In June 2015, Congress passed the USA Freedom Act, which banned the bulk collection of citizens' telephone and internet records, a step urged by civil libertarians. Meanwhile, policymakers and experts continued to debate possible restrictions on encrypted communications, which ensure privacy but prevent even legally authorized monitoring by law enforcement agencies.

E. Associational and Organizational Rights: 11 / 12

In general, officials respect the right to public assembly. Demonstrations against government policies are frequently held in Washington, New York, and other major cities. In response to acts of violence committed in the course of some past demonstrations, local authorities often place restrictions on the location or duration of large protests directed at meetings of international institutions, political party conventions, or targets in the financial sector. During 2015, demonstrations over alleged police misconduct were held in a number of cities. While most were peaceful, protests in Baltimore over the death of a black man during transportation in a police van were punctuated by an outbreak of violence and arson in late April.

The United States gives wide freedom to trade associations, nongovernmental organizations, minority rights advocates, and issue-oriented pressure groups to organize and pursue their civic or policy agendas.

Federal law guarantees trade unions the right to organize and engage in collective bargaining. The right to strike is also guaranteed. Over the years, however, the strength of organized labor has declined, and less than 7 percent of the private-sector workforce is currently represented by unions. While public-sector unions have higher rates of membership, with over 35 percent in 2015, they have come under pressure from officials concerned about the cost of compensation and pensions to states and municipalities. The overall unionization rate in the United States is approximately 11 percent. The country's labor code and decisions by the National Labor Relations Board (NLRB) during Republican presidencies have been regarded as impediments to organizing efforts, although the board has been sympathetic to unionization during the Obama presidency. Union organizing is also hampered by strong resistance from private employers. In 2015, Wisconsin became the 25th state to adopt "right to work" legislation, which weakens unions by allowing workers who benefit from union bargaining efforts to opt out of paying union dues or fees. A case challenging such fees among public-sector workers in California was before the Supreme Court at year's end. Organized labor's political clout at the national level has diminished along with its membership, but unions continue to provide significant support to Democratic candidates during election campaigns.

F. Rule of Law: 13 / 16 (-1)

Judicial independence is respected. Although the courts have occasionally been accused of intervening in areas that are best left to the political branches, most observers regard the judiciary

as one of the country's strongest democratic institutions. In recent years, much attention has been paid to the ideological composition of the Supreme Court, which has issued a number of major decisions by a one-vote margin and is currently seen as having a conservative majority. Concern has also been raised about a trend toward the politicization of judicial elections in some states.

While the United States has a strong rule-of-law tradition, the criminal justice system's treatment of minority groups has long been a problem. Black and Latino inmates account for a disproportionately large percentage of the prison population. Civil liberties organizations and other groups have also advanced a broader critique of the justice system, arguing that there are too many Americans in prison, that prison sentences are often excessive, that too many prisoners are relegated to solitary confinement or other maximum-security arrangements, and that too many people are incarcerated for minor drug offenses. A broad left-right political coalition calling for reform on the last issue has emerged despite increased partisan rancor on other matters. Although the U.S. incarceration rate has declined somewhat in recent years, it remains easily one of the highest in the world. Additional calls for prison reform have focused on the incidence of violence and rape behind bars.

Many critics of the incarceration problem point to abuses and deficiencies at other stages of the legal process. Media reports and analyses in 2014 and 2015 drew new attention to the extensive use of plea bargaining in criminal cases, with prosecutors employing the threat of harsh sentences to avoid trial and effectively reducing the role of the judiciary; the practice of municipalities imposing fines for minor offenses as a means of raising budget revenues, which can lead to jail terms for those who fail to pay; deficiencies in the parole system; and long-standing funding shortages for public defenders, who represent low-income criminal defendants.

The increased focus on the criminal justice system has coincided with a series of widely publicized incidents over the past two years in which police actions led to the deaths of black civilians. A number of the confrontations were captured on video, and the recordings appeared to show unjustified use of force by the officers in question. In response, the Justice Department has launched investigations into both specific incidents and broader police practices in several municipalities. As officers have often avoided indictments in such cases, critics called for sweeping changes to the grand jury system and the appointment of special prosecutors for cases involving police shootings. Some jurisdictions have enacted policies requiring police to wear body cameras and record interactions with civilians. While bipartisan efforts to reform aspects of the criminal justice system are gaining momentum in Congress, responsibility for the overwhelming majority of law enforcement issues rests with state and local governments.

Use of the death penalty has declined significantly in recent years. There were 28 executions, in six states, in 2015—the lowest number in more than two decades. The death penalty has been formally abolished by 19 states; in another 15 states where it remains on the books, executions have not been carried out for the past five years or more. The most recent federal execution was in 2003. Of particular importance in this trend has been the exoneration of some death-row inmates based on new DNA testing, as well as legal challenges to the constitutionality of the prevailing methods of lethal injection. Lethal injection has also come under pressure due to pharmaceutical companies' refusal to supply the designated drugs for the purpose of executions, forcing states to search for new suppliers or adopt new drug combinations, which in turn draw fresh legal challenges.

The Supreme Court has effectively ruled out the death penalty for crimes other than murder and in cases where the perpetrator is a juvenile or mentally disabled, among other restrictions. In 2012, the court further decided that juvenile offenders could not be subjected to mandatory sentences of life imprisonment without the possibility of parole.

The Obama administration made slow progress in 2015 in its effort to close the detention facility at Guantanamo Bay, Cuba, which has been used to hold terrorism suspects captured abroad in the early 2000s, in many cases without formal charge or trial. While Obama has repeatedly stated his determination to close the detention center, Congress has expressly forbidden the transfer of

detainees to American prisons. A number of detainees determined to be low-level threats were transferred to cooperating countries, but at year's end, 107 men remained confined at Guantanamo.

The United States is one of the world's most racially and ethnically diverse societies. In recent years, residents and citizens of Latin American ancestry have replaced black Americans as the largest minority group, and the majority held by the non-Latino white population has declined. An array of policies and programs are designed to protect the rights of minorities, including laws to prevent workplace discrimination. However, the black population and some other groups continue to lag in overall economic standing, educational attainment, and other social indicators. The Supreme Court has authorized the use of race or ethnicity as a factor in university admissions under certain narrow conditions to improve access for minorities, but several states have banned it outright through referendums. A new challenge to the practice was pending at the court at the end of 2015.

Federal antidiscrimination legislation does not include LGBT people as a protected class, though many states have enacted such protections. The government bans discrimination based on sexual orientation or gender identity in federal employment and among federal contractors.

The United States has generally maintained liberal immigration policies in recent decades. Most observers believe that the country has struck a balance that both encourages assimilation and permits new immigrants to maintain their religious and cultural customs. Many Americans remain troubled by the large number of immigrants in the country illegally, however, and the government has responded by strengthening border security and stepping up deportation efforts, especially for undocumented immigrants found guilty of criminal offenses.

Although the Obama administration and most Democrats support proposals that would offer many current undocumented immigrants a path to resident status and eventual citizenship, such reforms have been opposed by most Republican elected officials. The administration has focused its enforcement policies on criminals and other high-priority categories of migrants while explicitly sparing groups like those who entered the country illegally as children.

During 2015, a controversy arose over the administration's September announcement that it intended to allow 10,000 refugees from the Syrian conflict to resettle in the United States over the next year. Only about 2,000 Syrians had been admitted since the war began in 2011, and other countries, including Canada, were taking in many more. Thirty-one U.S. governors said they would oppose the refugees' settlement in their states, citing the possibility of terrorist infiltration. However, the governors apparently had no legal authority to block the plan, and Syrian refugees began arriving in larger numbers by year's end. The United States was set to take in 85,000 refugees from all countries in the 2016 fiscal year, up from 70,000 in previous years.

G. Personal Autonomy and Individual Rights: 15 / 16

Citizens of the United States enjoy freedom of movement and a high level of personal autonomy. The right to own property is protected by law and is jealously guarded as part of the American way of life. Business entrepreneurship is encouraged as a matter of government policy.

Women have made important strides toward equality over the past several decades. They now constitute almost half of the American workforce and are well represented in professions like law, medicine, and journalism. In December 2015, the Defense Department announced that all combat roles in the military were open to women. Although women with recent university degrees have effectively attained parity with men, the average compensation for female workers is roughly 80 percent of that for male workers. Many female-headed families continue to live in conditions of chronic poverty. In the past five years, there has been a renewed effort in some states to restrict a woman's access to abortion. A number of new state laws are being tailored to push the boundaries

of prior court decisions, and some have survived initial judicial scrutiny, adding to state-by-state variation in access.

In its June 2015 ruling in *Obergefell v. Hodges*, the Supreme Court found that all states must allow same-sex marriage. The practice had already become legal in most states through court decisions, legislative action, or referendums, but the new ruling invalidated laws in a minority of states that still barred same-sex couples from marrying.

The “American dream”—the notion of a fair society in which hard work will bring economic and social advancement, regardless of the circumstances of one’s birth—is a core part of the country’s identity, and voters tend to favor government policies that enhance equality of opportunity. Recently, however, studies have shown a widening inequality in wealth and a narrowing of access to upward mobility. A principal driver of inequality is the widening gap between Americans with university degrees and those with a high school degree or less. A number of states and municipalities have enacted substantial hikes in the minimum wage, and the unemployment rate continued to decline in 2015. However, wages overall have remained stagnant for many years, and the number of well-compensated jobs for the less-educated have fallen steeply. A consequence of this trend is working-class resentment of immigrants, who are seen as competitors for blue-collar jobs. At the same time, Democratic Party leaders have generally failed to win passage of measures that require wealthier citizens to pay more in taxes. Among the world’s prosperous, stable democracies, the United States is unique in having a large underclass of poor people who have at best a marginal role in economic life.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology

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