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Country:

United States

Year:

2015

FIW Status:

F

PR Rating:

1

CL Rating:

1

Aggregate Score:

92

Combined Freedom Score:

1.0

Overview:

The opposition Republican Party scored a decisive victory in midterm congressional elections in November 2014, adding to its majority in the House of Representatives and winning control of the Senate for the first time since 2006. Despite this setback, President Barack Obama made clear his intention to pursue his agenda during the remaining two years of his tenure. Increasingly, Obama resorted to the use of his powers as chief executive, bypassing Congress where possible to achieve policy goals. Shortly after the election, the president announced executive actions that would remove the threat of deportation for some 4.4 million undocumented immigrants, a substantial portion of the estimated 11 million thought to be in the United States.

The country experienced one of its most serious racial crises in recent years after a white police officer shot and killed Michael Brown, an unarmed black 18-year-old, in Ferguson, Missouri, in August. The incident triggered months of protests in the area, including some violence, as well as solidarity demonstrations elsewhere in the country. The protest movement was fueled in part by other recent deaths of black men at the hands of police, including that of Eric Garner, a New York City man who died in July after being placed in a chokehold. The incidents highlighted the uneasy relationship between police departments and black communities in many cities, and brought fresh calls for changes in police practices and the criminal justice system more broadly.

The cause of same-sex marriage took a major step forward in October, when the Supreme Court declined to review lower court rulings that cleared the way for such marriages in five states. Although a minority of states continued to deny marriage rights to same-sex couples at year's end, the decision appeared to place the United States on a path toward recognition of same-sex marriage across the country.

Explanatory Note:

The numerical ratings and status listed above do not reflect conditions in Puerto Rico, which is examined in a separate report.

Political Rights and Civil Liberties:

Political Rights: 37 / 40 [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, as happened most recently in 2000. 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, incumbent Barack Obama of the Democratic Party 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. Recent referendums in various states have resulted in the legalization of same-sex marriage, legalization of recreational use of marijuana, and increases in the state minimum wage. Even as the more conservative Republican Party dominated the elections in 2014, voters approved increases in

the minimum wage in a number of states and municipalities.

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, with billions more spent on elections for Congress and state and local offices. 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.

B. Political Pluralism and Participation: 16 / 16

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.

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 political influence 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, however, contend that such fraud is at most a minor problem and accuse Republicans of adopting the laws to suppress voting by demographic groups that tend to support Democrats, particularly low-income blacks. While the courts have struck down some voter identification laws, others have been upheld; several cases were in the appeals process during 2014.

C. Functioning of Government: 10 / 12

American society has a tradition of intolerance toward corrupt acts by government officials, corporate executives, or labor leaders, and the media are aggressive in investigating and reporting on such malfeasance. Cases of corruption involving administration officials, members of Congress, and others in the federal government have been relatively rare or small in scale in recent years. The most serious instances of political corruption have instead been uncovered among state-level officials. In New York State, a number of state legislators and municipal officials have been convicted on charges of bribery, theft, and other forms of graft. Former governors of Connecticut and Virginia were convicted on corruption charges during 2014 and were awaiting their sentences at year's end.

The United States has a history of open and transparent government. It was the first country to adopt a freedom of information law. In an action widely praised by scholars and civil

libertarians, Obama in 2009 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. 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.

However, the Obama administration has 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. A 2013 report issued by the Committee to Protect Journalists criticized the administration's "Insider Threat Program," under which federal employees are obliged to monitor the behavior of colleagues to prevent unauthorized leaks. 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. According to the Associated Press (AP), the administration's censorship or denial of access to documents has grown worse in recent years—reaching 39 percent of all information requests in 2014—even as officials pledged more openness.

Civil Liberties: 55 / 60

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 the past decade, 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 for classified information. However, both the president and the attorney general pledged in 2014 that journalists would not be jailed for refusing to identify sources. In one high-profile case, federal prosecutors largely abandoned a lengthy campaign to force James Risen, a *New York Times* reporter and author of several books on national security issues, to testify about information he may have received from Jeffrey Sterling, a former Central Intelligence Agency (CIA) employee, in the course of researching a book about American efforts to disrupt Iran's nuclear program.

Journalists occasionally encounter physical obstacles or brief detentions while attempting to cover protests, but the 2014 demonstrations in Ferguson featured an unusual degree of police interference. As of October, the PEN American Center had documented a total of 52 violations against journalists, including detentions, threats, obstructions of access, and physical assaults.

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 often adjudicates difficult cases involving tensions between church and state. In June, the court ruled that requiring family-owned businesses to provide insurance coverage for contraception under the 2010 Affordable Care Act represented a violation of religious freedom.

The academic sphere features a substantial level of intellectual freedom. Nevertheless, universities have faced problems related to their establishment of overseas branches in such authoritarian settings as China, Singapore, and the United Arab Emirates. Critics have accused such universities of avoiding discussion of sensitive issues at their 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. Other points of controversy on campuses include student campaigns to encourage universities to divest themselves of assets linked to Israel or West Bank settlements, a step which trustees have so far declined to take.

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. A Human Rights Watch report in July 2014 described how the fear of surveillance had affected the work of journalists and lawyers, particularly since several NSA programs were revealed in 2013. Legislation that would restrict the NSA's bulk collection of domestic telephone records failed to win adoption in 2014, but the issue was expected to be taken up again in 2015. Separately, the Supreme Court ruled in June that police need warrants to search the mobile phones of those they arrest, a decision that was praised by civil libertarians.

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. In 2014, after the killing of Michael Brown in Ferguson, demonstrations were held for months in the town and in other cities around the country, mostly without serious friction with the authorities. However, police deployed in Ferguson were accused of imposing unreasonable restrictions on assembly at times, using dispersal devices or tactics in an arbitrary or excessive manner, and intimidating protesters with firearms and military-style equipment.

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 nearly 36 percent in 2014, 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 about 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. Union organizing is also hampered by strong resistance from private employers. In 2012, Michigan became the 24th state to adopt "right to work" legislation, which makes union organizing more difficult. 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: 14 / 16

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. Although the incarceration rate has declined somewhat in recent years, the United States still has the highest proportion of citizens in prisons or jails in the world. Additional calls for prison reform have focused on the incidence of violence and rape behind bars.

The tempo of criticism increased after the Michael Brown shooting in 2014, as demonstrations called for an overhaul of police practices and a reversal of the recent tendency toward "militarization" in law enforcement. Officials took some steps in response during the year. The Justice Department began a comprehensive investigation of the Ferguson police force that was expected to result in obligatory reforms and oversight. In December, Congress reinstated an expired law designed to ensure the collection of accurate information on deaths in custody across the country. Policymakers in many jurisdictions debated proposals that would require police to wear body cameras and record interactions with civilians. After grand juries failed to indict the officers involved in the Brown and Garner deaths, some called for reforms to the grand jury process or the laws governing use of force. Separately, on the incarceration issue, the U.S. Sentencing Commission in July allowed tens of thousands of federal inmates to seek reductions in their prison terms for drug offenses; many states have passed legislation to scale back incarceration for drug crimes in recent years, and further reforms were under consideration in 2014.

The United States has the highest rate of legal executions in the democratic world, though the

number has declined from a peak in the late 1990s. There were 35 executions in the country in 2014, the lowest number in two decades. Two states, Texas and Missouri, each accounted for 10 of those executions, and just five states made up the rest. The death penalty has been formally abolished by 18 states; in another 13 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 in recent years 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 botched April 2014 execution of Oklahoma inmate Clayton Lockett, who died after a flawed and drawn-out attempt at lethal injection, generated fresh criticism. At year's end, some states were considering alternate execution methods such as firing squads, the electric chair, and hypoxia by gas.

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 sentenced to life imprisonment without the possibility of parole.

Major controversies surrounding counterterrorism policies dating to the administration of President George W. Bush remain unresolved. In December 2014, the Senate Intelligence Committee released the declassified summary of its long-awaited report on Central Intelligence Agency (CIA) detention and interrogation tactics in the years after the 2001 terrorist attacks on the United States, some of which have been widely denounced as torture. Although Obama quickly ended the Bush-era program after taking office, no one involved has been prosecuted for their role. The Senate report detailed the CIA's abuses, accused the agency of misleading elected officials about the program, and found that the program was largely ineffective.

In November, the Obama administration issued a revised interpretation of the UN Convention Against Torture, agreeing that it applied to U.S. officials in overseas locations like the naval base at Guantanamo Bay, Cuba, which are not U.S. territory but where the United States exercises "governmental authority." Human rights groups said this still fell short of the UN Committee Against Torture's official standard of "effective control." Long-stalled releases of Guantanamo terrorism detainees continued in 2014, but 127 detainees remained at the facility at year's end; legal, diplomatic, and political obstacles have prevented their release or transfer to U.S. prisons.

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, affirmative-action plans for university admissions, quotas to guarantee representation in the internal affairs of some political parties, and policies to ensure that minorities are not treated unfairly in the distribution of government assistance. The black population, however, continues to lag in overall economic standing, educational attainment, and other social indicators. Affirmative action in employment and university admissions remains a contentious issue. The Supreme Court has given approval to the use of race or ethnicity as a factor in university admissions under certain narrow

conditions, but several states have banned it outright through referendums.

Federal antidiscrimination legislation does not include LGBT (lesbian, gay, bisexual, and transgender) people as a protected class, though many states have enacted such protections. Moreover, the government bans discrimination based on sexual orientation in federal employment, and in July 2014, Obama signed an order extending this rule to include gender identity. The order also barred employment discrimination against LGBT people by federal contractors. The Justice Department in December said it would include transgender status under an existing law that allows it to file suit against state and local public employers for sex discrimination.

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 legal immigrants to maintain their religious and cultural customs. Many Americans remain troubled by the large number of illegal immigrants in the country, and the government has responded by strengthening border security and stepping up efforts to deport illegal immigrants, especially those found guilty of criminal offenses. Some states have enacted laws to restrict various economic and civil rights of undocumented immigrants, though the federal courts have struck down key sections of these laws, partly because of their potential side effects on the rights of U.S. citizens. At the same time, other states have adopted policies that discourage local law enforcement officials from identifying or reporting illegal immigrants, except in cases of serious crimes.

Although the Obama administration and most Democrats support proposed plans that would offer many current illegal immigrants a path to resident status and eventual citizenship, such immigration reform has been opposed by most Republican elected officials. The Obama administration has recently refocused its enforcement policies to target criminals and other high-priority categories of migrants while explicitly sparing groups like those who entered the country illegally as children. In November 2014, Obama extended protection from deportation and the right to work to some 4.4 million undocumented immigrants who are parents of U.S. citizens or legal permanent residents and have lived in the country for at least five years. Opponents filed legal challenges in an attempt to block the move. Earlier in the year, a months-long surge in migration by unaccompanied minors from Central America raised concerns about the conditions of their temporary detention and the handling of their cases by immigration authorities.

G. Personal Autonomy and Individual Rights: 15 / 16

Citizens of the United States enjoy 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 a majority of the American workforce and are well represented in professions like law, medicine, and journalism. 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 recent years, there has been a renewed effort in some states to restrict women's access to abortion. In the past, most such measures were ultimately

struck down by the Supreme Court, but the new 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.

Many states have passed laws or constitutional amendments explicitly banning same-sex marriage, but the courts have increasingly rejected these measures, and voters or elected officials in other states have granted gay couples varying degrees of marriage and family rights. By the end of 2014, same-sex marriage was legal in some 35 states, including many of the most populous.

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, trends that have been accentuated in the years since the 2008–09 financial crisis. Obama has cited the reduction of inequality as a major objective of his administration. The government has proposed an increase in the federal minimum wage, and a number of states and municipalities have proposed or enacted substantial hikes in their own minimum wage levels. At the same time, Americans seem resistant to increases in tax rates, and Democratic Party leaders have generally failed to win passage of tax measures that call for wealthier citizens to contribute more. 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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