

How Could Democracy Be Challenged?

In response to the 2020 election results, former President Donald Trump's legal team filed an onslaught of lawsuits claiming that the election results were fraudulent. For instance, in the state of Pennsylvania, the Trump campaign sued election officials and seven county boards of election on the basis that the state's treatment of mail-in and absentee ballots created the potential for fraud.

However, the Trump campaign's lawsuits were only one step in their strategy. Another aspect of their strategy was for the Trump campaign to rely on the state electors who are responsible for the certification of the election results. Utilizing court orders to delay vote certification, Trump's legal team hoped to create the opportunity for Republican-controlled state legislatures to appoint pro-Trump electors who would reject the certification of the votes cast for President Biden. Even if the electoral votes had been finalized by the states' electors, Congress would have still been able to object to the electoral results submitted by the state. Such tactics exploited the U.S. Constitution and the Electoral Count Act of 1887, which gives Congress the authority to settle and finalize every state's electoral votes.

At the same time that Trump was exploiting the procedural weaknesses in the electoral system, he was trying to manipulate public opinion to advance his agenda. Despite having little evidence, Trump repeatedly maintained to his supporters that the election was "stolen" from him. Additionally, 126 Republicans in the House of Representatives, 7 Republican senators, and 18 Republican state attorneys general openly endorsed Trump's propaganda. 146 Congressional Republicans voted against certification of Biden's electoral votes from two states which Biden won. Eventually, according to a survey conducted months after the election, 70% of Republicans and even a larger share of Trump's voters believed that Biden's victory was not legitimate. These messages led to the January 6th insurrection.

The January 6th insurrection highlighted the vulnerability of democracy even in a developed country like the United States. Following the insurrection, Congress has pushed for a revision of the Electoral Count Act. However, as the late Senator John Lewis said, "democracy is not a state. It is an act, and each generation must do its part." Much work still needs to be done to protect the integrity of American democracy.

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Information gathered from Daniel Geary, Camilla Schofield, Jennifer Sutton's *Global White Nationalism: From Apartheid to Trump* (Manchester University Press, 2020); Miles Parks' "Congress May Change This Arcane Law to Avoid Another Jan. 6" in NPR, January 8, 2022; Joshua D. Hawley's "The Transformative Twelfth Amendment" in *William & Mary Law Review*, April 2014, vol. 55; "Electoral College" in *The Columbia Encyclopedia* (Columbia University Press, 2018); "Twelfth Amendment: Overview," Cornell Law School, (law.cornell.edu); Edward J. Markey's "To Prevent Another Insurrection, We Must Fix Our Democracy(viewpoint)" in *Masslive*, January 6, 2022, and Gary C. Jacobson's "Donald Trump's Big Lie and the Future of the Republican Party" in *Presidential Studies Quarterly*, June 2021, vol. 51, no. 2, 273-289.