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Beyond Redistricting and Campaign Finance

Six Bold Ideas to Rebuild Our Democracy

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SIX BOLD IDEAS TO REBUILD OUR DEMOCRACY



1. CREATE A NEW POLITICAL INFRASTRUCTURE FOR PRAGMATIC CANDIDATES

Make it available to Republicans or Democrats willing to work across party lines and break the iron grip that party leaders and extreme interest groups now hold on rank-and-file members.



2. ALLOW STRATEGIC TARGETED SPENDING

Often derided as “earmarks,” this is actually a critical part of the give and take required to strike bipartisan deals.



3. TERM-LIMIT SUPREME COURT JUSTICES

Why should a president, who serves eight years at the most, have the power to shape the Supreme Court and therefore the country for 30 years or more?



4. A 21ST CENTURY FAIRNESS DOCTRINE

Holding a federal broadcast license is a privilege and a public trust. The government — which essentially means the American people — should demand a modicum of honesty, transparency, and fairness in return.



5. DEMAND GREATER ACCOUNTABILITY FROM CAMPAIGN CONSULTANTS

Media and campaign consultants form a political-industrial complex with incentives to push political dialogue and advertising toward the extremes. It's time to demand some transparency and accountability.



6. TRUTH IN SOCIAL MEDIA

It may be time to reconsider the total legal immunity tech companies get for illegal, fake or hateful content that appears on their platforms.



Beyond Redistricting and Campaign Finance: Six Bold Ideas to Rebuild Our Democracy

Our political system is broken. That's not news. What's endlessly frustrating and even dangerous for our society is the failure of proposal after proposal, and study after study, to start turning our system around.

Well-meaning people and organizations call for reforming the nation's congressional and state legislative redistricting practices and campaign finance laws. This, they say, is the key to easing congressional gridlock and dampening *hyperpartisanship*: have nonpolitical bodies draw congressional district lines, and reduce the flow of money pouring into campaigns.

These are serious issues and reasonable-sounding proposals. On the surface, they make sense, and there are good reasons to pursue them. The problem is that reducing gridlock and partisanship are not among these reasons, because these proposed reforms have at best a minor impact on these ills.

Moreover, they fail to address the bigger, deeper roots of our national dilemma: Over the past few decades, polarization has become so extreme that it has crippled our political system, turned Congress into a den of dysfunction, and disillusioned countless Americans who now question the utility and sustainability of democracy. Rather than being political opponents who disagree on policies while seeking a common good, we've devolved into political tribes that are absolute in our loyalties. If you're in my tribe, I will support you no matter what you say or do (even if you shoot someone "in the middle of Fifth Avenue," as President Trump once said).¹ If you're in the other tribe, I will hate you and try to defeat you - even destroy you - any way I can.

Several political scientists have studied this growth in "affective polarization," or the tendency to dislike and

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distrust people from the other political party. <https://www.dartmouth.edu/~seanjwestwood/papers/ARPS.pdf>

The Pew Research Center publishes regular updates on polarization. In a major 2014 report, it found that the ideological overlap between Democrats and Republicans had sharply diminished: "Today, 92 percent of Republicans are to the right of the median Democrat, and 94 percent of Democrats are to the left of the median Republican. Partisan animosity has increased substantially over the same period. In each party, the share with a highly negative view of the opposing party has more than doubled since 1994."²

Matters have become worse in recent years. In January 2019, under the headline, "Trump is the most polarizing president on record," *The Washington Post* reported: "The past 15 presidential years account for 14 of the top 15 most polarized years since Gallup began regularly measuring both job approval and party identification in the 1950s." (Trump's approval rating among Republicans remains impressively high, while it's at a near-historic low among Democrats.)³

These surveys and studies do a good job of measuring political polarization. Understanding its causes is more difficult. But it's essential if we are to seek possible remedies that might actually work.

The Roots of Polarization

Partisan polarization reflects several deep and longstanding trends. These include the “sorting out” of our two major parties into the mostly liberal Democrats and the mostly conservative Republicans. The number of ticket splitting voters has declined, and people who describe themselves as only “leaning” toward one party are much more likely to vote consistently for that party.

We know this sorting out involves deep differences on hot-button issues such as abortion, gun safety, immigration, welfare and government’s role in health care. We also know that this sorting out isn’t just at the elite level, because the number of *supermajority* counties and states—in which Democrats or Republicans hold an unassailable advantage—has soared during the past four decades. And we acknowledge that there’s no silver-bullet solution.

Two strands of polarization are intertwined and feed off each other, but are nonetheless separate phenomena. One is a polarization of increasingly homogeneous and divergent *beliefs* and policy positions. The other is a polarization of intransigence and unwillingness to cooperate and compromise. Combined, they make it much more difficult for legislative bodies, including Congress, to operate as they did a few decades ago, when political parties were philosophical rivals but not despised enemies.

Too often, but not always, these intertwined brands of polarization make even the smallest efforts at bipartisan collaboration and achievement nearly impossible. Now and then, however, brave, risk-taking politicians show a willingness to cooperate and even compromise with someone whose beliefs are very different from their own.

Consider the remarkable televised exchange of mutual respect that Reps. Elijah Cummings (D-MD) and Mark Meadows (R-NC) displayed at the end of former Trump lawyer Michael Cohen’s dramatic testimony to the House Oversight Committee on Feb. 27, 2019. These two men could hardly be farther apart on the political spectrum. Yet, they had developed a personal bond that helped them reach accord on at least some issues.



These included finding a way to defuse the emotional and potentially explosive accusations of racism aimed at Meadows that day by a freshman Democrat.

Personal bonds build trust, and trust can dissolve affective polarization. If Mark Meadows and Elijah Cummings can express mutual admiration on national TV, there’s hope for bipartisan achievements in our government. It’s that hope that motivates us to write this paper and propose new ways to begin chipping away at polarization and political dysfunction. These include:

- Institutional reforms to give a greater voice and political protection to lawmakers willing to work across the aisle to achieve meaningful results. (The House Problem Solvers Caucus’ 2018 Break the Gridlock proposal—which featured many rule reform ideas that were subsequently included in the House rules package passed on the first day of the current Congress—is an encouraging example.)
- Ways to incentivize rank-and-file lawmakers to cast politically difficult votes on touchy-but-necessary issues such as raising the debt ceiling.
- Efforts to make the political process more civil, through reforms of social media and campaign consulting, for example.
- Ways to lower the stakes (and animosity) in highly contentious battles over issues such as Supreme Court nominations.
- Fundamental changes to the ways the House and Senate govern themselves.

Gerrymandering and Campaign Finance: The Wrong Targets

It's important first to explain why the most familiar remedies aren't working. Consider gerrymandering, the practice of deliberately drawing congressional and state legislative districts to help one political party and hurt the other. The familiar complaint is "politicians choose their voters, not the other way around."

Without question, gerrymandering has helped both major parties, in various places and times, to increase their electoral advantage beyond what they would have enjoyed under a politically blind or neutral map-drawing system. However, studies show that well-intentioned people place too much blame on gerrymandering for our political ills, especially when they suggest it increases polarization. In fact, the "Big Sort" phenomenon—people choosing to live and work among like-minded neighbors—plays a larger role in creating solidly red and solidly blue districts. People vote with ballots, yes, but also with their feet and moving vans. In that respect, we Americans gerrymander ourselves.

As a result, our nation's states and counties have become much more politically polarized in recent years, even though their boundaries haven't changed. The group FiveThirtyEight reports that in the 2016 presidential election, "more than 61 percent of voters cast ballots in counties that gave either Clinton or Trump at least 60 percent of the major-party vote... That's up from 50 percent of voters who lived in such counties in 2012, and 39 percent in 1992."⁴

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Consider the four closest elections in the past half century, all with popular vote margins of 2 percent or less. In the close election of 1960, the outcome in 33 states was decided by 10 percentage points or less, so that a shift of five points from one major party to the other would have reversed the result. In 1976, the situation was much the same, with 30 states within the 10-point margin. But by 2000, the number of contested states had fallen to 22;

by 2016, to 17, barely half the total in 1960.

Political scientist Danielle Thomsen nicely summarizes major studies of gerrymandering's impact in her book, *Opting Out of Congress*. When it comes to partisan polarization in Congress, she writes, "The academic consensus is that gerrymandering matters anywhere from a little bit to not at all."⁵

Among the scholars Thomsen cites are Nolan McCarty, Keith T. Poole and Howard Rosenthal. They wrote in 2006, "The strongest argument against over-emphasizing the politics of apportionment [in the U.S. House] is the fact that the United States Senate (which of course is never redistricted) has endured an almost identical history of polarization."

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As for frequent calls to reform campaign financing, there are two major problems. The first is that many people overstate money's power in politics. Money is important, to be sure, and virtually no candidate or cause can get traction without some minimum amount. Once a campaign obtains that minimum critical mass, however, the law of diminishing returns rapidly kicks in. It's not unusual for high-spending campaigns to lose to more frugal opponents, especially if they are well-established incumbents.⁶

As Campaign Finance Institute researchers Michael Malbin and Brendan Glavin write, "Money is never a sufficient condition for winning. If the voters do not like what they are hearing, telling them more of the same will not change their opinion."⁷

The second problem with placing so much emphasis on trying to reduce money's role in politics is that numerous court rulings have made it exceedingly difficult to do so. Time and again, the Supreme Court has overturned laws meant to limit the scope and impact of political donations. The most celebrated (or reviled) case is the Citizens United decision of 2010, which concluded that the

First Amendment's free speech clause bars restrictions on independent expenditures by corporations, labor unions and other associations.

The Supreme Court, even before President Trump's nominations of Neil Gorsuch and Brett Kavanaugh, has made clear that it sees many efforts to further limit campaign donations and expenditures as unconstitutional infringements on speech. While some additional measures, particularly in the area of disclosure, would meet the court's constitutional test, more serious changes probably would require a constitutional amendment. And that's an exceedingly high bar—which is not to say that it's not worth pursuing for the long-term.

For the foreseeable future, however, structural campaign finance reform, no matter how meritorious, is going nowhere.

Is More Competition the Answer?

Recently, a new explanation for rising polarization has gained traction: The major parties are behaving badly because they form a duopoly that faces inadequate competition from outsiders. The remedy includes running centrist independents for offices at every level, starting with the Senate, where a small number could act as a swing coalition in a closely divided body.

There are two flaws with this approach. First, independent candidates face daunting odds and will prevail against the major parties only in unusual circumstances. Second, most political scientists have concluded that the problem is not too little competition, but rather too much. (See, among others, Frances Lee, *Insecure Majorities: Congress and the Perpetual Campaign*, Chicago: University of Chicago Press, 2016).⁸

When Democrats controlled the House of Representatives for 40 years between 1954 and 1994, relations between the political parties were civil by today's standards. The majority party could afford to make concessions to the minority, and the minority was willing to cooperate on legislation for which the majority would get political credit.

Since the insurgency of Republican House Speaker Newt Gingrich in the late 1980s and early 1990s upended the permanent Democratic majority, partisan control of the House of Representatives has shifted four times. Since 1994, moreover, partisan control of the Senate has changed seven times, and since Bill Clinton's election in 1992, control of the White House has shifted between the parties every eight years with metronomic regularity.

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Because control of our political institutions is up for grabs in every election, competition for control has given the parties incentives to promote their

own electoral advantage and undercut the opposition, whatever the consequences for the legislative process. Each party looks for issues to score political points by putting the other at odds with public opinion. Governance gives way to the permanent campaign, and issues whose resolution requires cooperation and compromise are shunted aside.

Our constitutional system of checks and balances works well when a single party is dominant for an extended period, as were the Republicans between 1896 and 1932, and the Democrats for two decades after the onset of the New Deal. Our system also functions effectively when the parties are not far apart on fundamentals, as was the case for much of the period between Dwight Eisenhower's election in 1952 and Ronald Reagan's in 1980. But we have learned the hard way that when the parties are both closely divided and deeply divided, partisan competition takes priority over the legislative process and responsible administration of the executive branch.

In sum, there are more promising targets for reform than gerrymandering, money in politics, and the partisan duopoly. There is no realistic near-term alternative to the two-party system that has dominated our politics for most of our existence as a constitutional republic. We must make it work better, even if the level of partisan polarization remains high.

Most Voters Want Politicians to Work Together to Solve Problems

But first we must ask: Do Americans really want pragmatic, collaborative representatives in Congress and state legislatures? How does that square with the recent narrative of a resurgent left in the Democratic Party, and an entrenched, fiercely pro-Trump electorate on the right?

Voters needn't be—and indeed are not—philosophically consistent in their desires, their actions, and their responses to pollsters. Evidence shows that even in the face of growing tribalism and polarization, most Americans still want government officials who will bend enough to reach bipartisan agreements to solve major issues.

In late 2017, Gallup reported that 54 percent of Americans “want political leaders in Washington to compromise to get things done. This far outpaces the 18 percent who would prefer that leaders stick to their beliefs even if little gets done, while the views of 28 percent fall somewhere in between.”⁹

The Hidden Tribes: A Study of America's Polarized Political Landscape report (2018), by the group More in Common, found that the loudest and most attention-getting bloggers, tweeters, and all-around social media commentators give a distorted view of the overall political electorate. The Democratic Party is not as far left as its most frequent online commenters would suggest, and the Republican Party is not as far right.

The Hidden Tribes report found that “77 percent of Americans believe our differences are not so great that we cannot come together.” Moreover, it concluded that two-thirds of American adults fall into the category of either Moderate, Politically Disengaged, Passive Liberal, or Traditional Liberal. The researchers call this group the Exhausted Majority. They contrast these people with Progressive Liberals, Traditional Conservatives, and Devoted Conservatives, who combined make up the remaining third of the adult U.S. population.

“Members of the Exhausted Majority are consider-

ably more ideologically flexible than members of other groups,” the report says. “While members of the ‘wing’ groups (on both the left and the right) tend to hold strong and consistent views across a range of political issues, those in the Exhausted Majority tend to deviate significantly in their views from issue to issue.”



One might think that congressional leaders would tap this large vein of pragmatic, results-oriented sentiment to build a legacy of legislative achievements. Sadly, leaders of both parties do the opposite. They rein-

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force and exploit demands for party purity and strict loyalty. The party—not Congress or the nation's needs—has become the all-important entity to preserve and protect.

These leaders repeatedly push highly partisan measures that might appeal to ideological voters back home, but have no hope of becoming law. It's po-

litical theater, designed to provide fodder for campaign ads and red meat for talk radio. When Republicans controlled the House, they voted more than 50 times to repeal Obamacare (the Affordable Care Act), even though it was always obvious that the Senate would kill the legislation or President Obama would veto it. Democrats pursue the same tactics. For instance, the Democratic-controlled House in May 2019 passed a health care package that included provisions to strengthen Obamacare. It received only five House Republican votes, and was doomed from the start in the GOP-controlled Senate.

Republican and Democratic leaders have concluded these tactics are the best way to stay in power and fend off challengers from within their ranks. That's why recent House speakers including Democrat Nancy Pelosi and Republicans John Boehner and Paul Ryan have demanded absolute party loyalty on issues such as opposing the minority party's efforts to amend bills on the House floor (via a "motion to recommit").

In doing so, however, party leaders in the Senate and House have maneuvered themselves into a corner where they are beholden to a comparatively small number of ideological extremists in their caucuses. This is partly because strongly

ideological voters tend to dominate primary elections, on the left and right. But it's also because House and Senate leaders have not found the courage to defy their stubborn fringes and to embrace legislation that could pass with enough votes from both parties' reasonable, pragmatic members.

We see this play out repeatedly. In the Senate, the majority leader often refuses to allow a vote on an issue that's opposed by his party's hardliners (and unlikely to muster the 60 percent threshold required to overcome a filibuster). Such legislation might actually be supported by a slim majority of 51 or so senators (comprised of nearly all the minority party's members and some majority party members), but it's not even allowed to be debated on the chamber's floor.

Similarly, in the House, speakers from both parties have often (though not always) adhered to the "Hastert Rule." This unofficial rule—named after the now disgraced former House Speaker Dennis Hastert—bars a floor vote on legislation that's not backed by the "majority of the majority" party. This is true even for legislation that demonstrates enough support to pass—if given the chance—with many votes from the minority party plus a significant number (but not most) of the majority party.

Party leaders in the House and Senate could resist pressures for all-or-nothing partisan purity if they chose.

They could begin moving legislation on meaty matters such as immigration reform, which has shown substantial bipartisan support in the recent past, with comprehensive immigration reform packages clearing 60 votes in the Senate in both 2006 and 2013. Yes, they might face a challenge from their party's political hardliners.

But wouldn't it be worth the risk to go down in history as effective leaders with a record of substantial accomplishments?

Instead, they hunker down and enforce heavy-handed rules that make it nearly impossible for the minority party in either chamber to present and debate legislation that might resonate with the public. Meanwhile,

rank-and-file party members who demonstrate a willingness to work across partisan lines can find themselves ostracized and even threatened with a well-financed (and more ideologically rigid) challenger in their next primary election.

These members are often stranded on an island that's as much structural as it is ideological. To fight back, they need the tools that all politicians need: professional help with fundraising, polling, media outreach, policy research, demographic data, voter-turnout machinery, etc. And these tools are almost entirely in the hands of the political parties.

No wonder, then, that so many rank-and-file lawmakers, Democrats and Republicans, scurry back to their party's never-yield-an-inch fortress after testing the waters of bipartisanship.

In fairness to congressional party leaders, they do face loud demands for strict ideological consistency from their party fringes. When it was learned that former House Speaker John Boehner had conducted quiet talks with President Barack Obama about a possible bipartisan "grand bargain" on several issues, hard-right Freedom Caucus members of his GOP caucus rebuked him. The "grand bargain" talks quickly collapsed. But conservative hardliners nonetheless cited them as one reason to challenge Boehner's right to remain the par-



ty's House leader. He had dared to talk with the "enemy" about possible collaboration. Weary of the constant intraparty battles, Boehner announced his retirement in September 2015. His Republican successor, Paul Ryan, faced similar pressures, and announced his retirement less than three years later.

The House Republicans' never-compromise hardliners wielded remarkable power considering their relatively small numbers. This was due in part to an obscure House rule known as the Motion to Vacate the Chair. The rule allowed a single House member to endanger the speaker's job by demanding a no-confidence vote, which if successful would remove the speaker immediately.

The mere threat of such a move by lawmakers—especially those who would tolerate no cooperation with the minority party—was enough to discourage Boehner and Ryan from making even minor bipartisan overtures after the grand bargain talks failed. It almost surely would have had the same impact on House Speaker Nancy Pelosi (from hardliners on the left) when she regained the speaker's chair in early 2019. But the House's bipartisan Problem Solvers Caucus worked hard to change the rules in January 2019, making it much more difficult to pass a Motion to Vacate the Chair.

The House rules change was one of those bipartisan victories that prove the middle can make progress when conditions are right. The key to achieving real political reforms is to create these conditions more frequently.

Time to Think Outside the Box

If they don't have to fear for their political lives, results-driven officeholders and office-seekers can reach out to the "exhausted majority." These are the voters (and potential voters) who are open to compromise in government to solve major problems.

To seize this opportunity, we need bolder and more innovative ideas. We can't shake entrenched powers from their perches with nudges and warmed-over pleas. It's time to think, and act, outside the box.

In framing our recommendations, we drew our inspiration from James Madison, who pointed out that when faced with unwelcome political phenomena, we can seek to weaken their causes, mitigate their effects, or both. Each of our recommendations pursues at least one of these strategies.

Here are six recommendations for a new approach to America's hyperpartisanship:

1. Create a New Political Infrastructure for Pragmatic Candidates

If we are to have any hope of breaking our government's dysfunction, we must find ways to provide courageous, results-oriented lawmakers with the political tools they need to survive when they dare to stray, even a little, from party purity. This requires a new political infrastructure for candidates willing to campaign and govern between the two extremes. This would not be a third party. It would, however, have many features of a political party. These would include the basic tools of modern campaigns and, of course, the money to sustain them.

Such an infrastructure—available to Republicans or Democrats willing to work across party lines—would break the iron grip that party leaders now hold on rank-and-file members. If lawmakers can survive after inching away from today's partisan tribalism (even if they don't intend to leave their party), it would dramatically change the congressional dynamics that now fail our country.

These members would suddenly find there's space for collaboration, for commonsense talks and negotiations that once were commonplace in Congress and state legislatures. Political tribalism has nearly wiped out such spaces. We must find ways to restore them.

Individuals and organizations don't need new laws or party approval to create such a new infrastructure. They only need the will and sustained commitment to do so.

2. Allow Strategic Targeted Spending

For years, members of Congress have shown less and less willingness to vote for legislation that's important—or even crucial—if it might prove unpopular back home. Witness the struggles to increase the federal debt ceiling, even though failure to do so would surely damage the U.S. and world economies, perhaps severely.

Congressional leaders of both parties say one way to persuade rank-and-file members to cast tough votes is to enable them to show their constituents how they've benefitted them at the local level. (“Look, you may not like my debt-ceiling vote, but I helped finance this local bridge renovation, and we've added hundreds of jobs at the nearby air base.”) Sometimes, leaders say, one must grease the wheels of government to keep them churning.

One means of doing this is to allow a limited number of targeted spending items to be added to must-pass appropriations bills. These spending priorities could steer a reasonable amount of funds to a local water plant, museum or other project likely to be popular with voters. These sweeteners would make it easier for rank-and-file members to cast tough votes on other bills that are unpopular but essential to a well-run nation.

Moreover, as former Virginia representative Tom Davis has explained, a ban on targeted spending has the effect of transferring decision-making power over the use of appropriated funds to the executive branch, contrary to the clear intention of Article I of the Constitution.

Still, the renewed use of targeted spending must address the justified criticisms of this practice in the past, which was often derided as wasteful “earmarks.” Such spending items must be justified and transparent. Their sponsors must publicly explain the need and purpose. There can be no midnight inserts quietly slipped into bills with no opportunity for review.

Targeted spending items can be good public policy, but only if they don't blatantly reward special interests in ways that could never survive public scrutiny. Congress has the power to reinstate this procedure, with appropriate safeguards, if it wishes.

3. Term-Limit Supreme Court Justices

It's hard to imagine now, but the Senate used to confirm Supreme Court justices with huge bipartisan majorities. The 1987 vote for Anthony Kennedy was 97-0. The 1993 vote for Ruth Bader Ginsburg was 96-3. But now, Supreme Court nominations have become brutal, virulently partisan brawls, as evidenced by the 2018 battle over Brett Kavanaugh.

One aspect in particular—partisans' increased focus on the lifetime appointment of justices—has raised the political stakes and increased the rancor. Presidents recently have nominated comparatively younger judges, hoping they will stay on the court and help determine public policy for decades.

Why should a president, who serves eight years at the most, have the power to shape the Supreme Court and therefore the country for 30 years or more? Why should some presidents randomly have the power to nominate three or four Supreme Court justices while others have one or none?

One way to lower the partisan fever in Washington, and bring more fairness and balance to presidencies, is to impose a single term limit of, say, 18 years for Supreme Court justices. This will probably require a constitutional amendment, which is no easy task. (We say “probably” because serious scholars have proposed legislative strategies designed to bypass the most significant constitutional obstacles.)

Staggered term limits would regularize the Supreme Court nomination process and make it less of a bare-knuckled political fight. Once the new, staggered terms were fully phased in, everyone would understand that each president would get to nominate two Supreme Court justices in any four-year term.

It's possible that Democrats would particularly oppose such a change just now, having watched a Republican president place at least two justices (Gorsuch and Kavanaugh) on the high court with highly partisan votes. Democrats may hope “their turn” to shape the Court and the country with appointments lasting three decades or more is coming soon. History, however, shows that predictions about upcoming presidential election results—and the number of likely Supreme

Court openings—are often wrong. It is better to work for rules that over time give both parties a fair chance.

4. Reinstate Some Version of the Fairness Doctrine

Broadcast networks can't operate without federally granted licenses. Until 1987, the government demanded something in return: The networks had to provide ideologically balanced programming on important public issues. The Fairness Doctrine was meant to ensure that contrasting points of view were presented on policy issues, and it provided people an opportunity to respond if they had been attacked on a particular station.

Today, federally licensed networks—especially cable news—can label their programs as “news,” and call their stars “journalists,” when in fact some are fiercely partisan ideologues with no interest whatsoever in fairness. This should not continue. Holding a federal license is a privilege and a public trust. The government—which essentially means the American people—should demand a modicum of honesty, transparency and fairness in return.



The Fairness Doctrine is largely forgotten today, and reinstating it would be a heavy lift. But the idea deserves serious debate. If nothing else, it would throw more light on the behavior (and misbehavior) of networks, and the resulting public pressure might curtail the worst practices.

Note that there's no legal bar to reviving the doctrine. In the leading legal case, the Supreme Court held unanimously that the Fairness Doctrine was constitutional and did not violate the First Amendment.

Another approach also deserves serious consideration: limiting a single company's ability to dominate news broadcasts in a given area. In an effort to make sure that every region of the country has a diversity of radio and broadcast options, the Federal Communications Commission has rules limiting the number of stations in a given area that one company can own. But these rules aren't

nearly tough enough. For example, in large markets one company can own up to two TV stations and six radio stations. In the smallest markets a company may own two TV stations and one radio station, which would probably amount to a local monopoly.

The FCC should tighten its rules by lowering the number of stations any company can own in one market, and eliminating loopholes that allow companies to evade or dilute these limits.

5. Demand Greater Accountability from Campaign Consultants

Media and campaign consultants are important actors in our political system. Most work hard to serve the interests of their clients while observing the limits of decent politics. Some do not, however, making reasoned, fact-

based political discourse—already under pressure in our polarized times—all the more difficult. Efforts to rein in these practices can quickly run into free speech and free-enterprise problems. But it may be possible to harness public pressure to discourage some of the most egregious behaviors.

The American Association of Political Consultants has an excellent code of conduct that all its members are required to sign every year. Among other provisions, the signatories pledge to refrain from false or misleading attacks on political opponents, to document all criticisms of opponents accurately and fully, and to avoid appeals to voters based on racism, sexism, religious intolerance, or any form of unlawful discrimination.¹⁰ In addition, the AAPC has established an Ethics Committee to monitor and, when necessary, discipline the conduct of its members. Reducing the frequency of conduct the Code prohibits would be an important contribution to a more civil and less divisive politics.

Although the mechanism the AAPC has established represents a good start, it is less effective in the real world than it appears on paper. The organization is understandably reluctant to publicly call out violators,

and it has thus far declined to comment on the conduct of non-members.

We call upon the AAPC to rethink both these restrictions. Although a “name and shame” strategy lacks the force of law, it can do considerable good. Professionals care about the reputation they enjoy among their peers and in the wider community. Lies, distortions, and appeals to discriminatory sentiments have no legitimate place in our politics, and consultants will be less willing to engage in, or to tolerate, such practices if they know they will pay a public price. And because citizens are in no position to distinguish between members and non-members of the AAPC, wrongdoing by a non-member will tarnish the image of what has become an important force in our politics.

6. Truth in Social Media

Social media’s impact on our nation’s politics—involving Facebook, Twitter, Instagram, countless websites and other platforms—is immeasurable. While some people embrace the “wild west” nature of social media, many are realizing it’s out of control and ripe for anti-democratic menaces such as Russian hackers, mean-spirited trolls, doctored videos, and other threats known and unknown.

Even Facebook founder and CEO Mark Zuckerberg says we need “a more active role for governments and regulators” in “updating the rules for the internet.” But Facebook is not yet ready to do what current circumstances demand. Justifying its refusal to remove a doctored video of House Speaker Nancy Pelosi from its site despite the fact that independent third-party fact-checkers had found it to be false, a company spokesman acknowledged that “We don’t have a policy that stipulates that the information you post on Facebook must be true.”

Given the damage that a flood of deliberate falsehoods is inflicting on our democracy, it is past time for Facebook and similar sites to institute such a policy. As “deepfake” technology rapidly expands the capacity of malicious actors to distort videos and put into speakers’ mouths words they never uttered, a prohibition on outright

falsehoods becomes all the more urgent.

Stricter accountability for social media platforms is no longer unthinkable. Indeed, democracies around the world are moving in this direction, while the United States lags well behind. Australia recently passed legislation to heavily fine social media companies, and jail their executives, if they don’t promptly remove “abhorrent violent material” from their sites. A recent paper by Clara Hendrickson and William Galston, which summarizes steps that countries around the world are taking to address this menace, could serve U.S. legislators as a useful inventory of policy options. (<https://www.brookings.edu/research/big-tech-threats-making-sense-of-the-backlash-against-online-platforms/>.)

For a sample of thoughtful reforms being suggested by U.S. scholars, see the 2017 article “The Internet Will Not Break: Denying Bad Samaritans § 230 Immunity,” by Danielle Keats Citron and Benjamin Wittes in the

Fordham Law Review.¹¹

They call on federal courts or Congress to put more teeth into Section 230 of the 1996 Communications Decency Act, whose original goal of imposing reasonable restrictions on internet behavior has been severely eroded.

Holding a federal broadcast license is a privilege and a public trust. The government—which essentially means the American people—should demand a modicum of honesty, transparency, and fairness in return.

Citron and Wittes write: “With modest adjustments to § 230, either through judicial interpretation or legislation, we can have a robust culture of free speech online without shielding from liability platforms designed to host illegality or that deliberately host illegal content.” Their proposals include eliminating immunity from liability for “the worst actors,” such as “sites that encourage destructive online abuse or that know they are principally used for that purpose.”

Conclusion: The Time for Bold Ideas Has Come

Political polarization and tribalism have pushed our nation into a governance crisis. Countries that once saw the United States as the model of a workable, effective democracy are rethinking this view.



The causes of this polarization are deep-seated and not easily reversed. But we must not surrender hope and watch the public's contempt for its government worsen. Business-as-usual cannot continue.

The good news is that a sizable proportion of Americans want their elected officials to work together to solve

issues (even if these voters don't always reflect that philosophy at the ballot box). To be sure, Congress has its share of "never compromise" partisan hardliners. But it also has plenty of reasonable lawmakers who sincerely want to help our country tackle its biggest problems. They know that in a nonparliamentary government like ours, legislative progress requires bipartisan collaboration. There's no way around it.

We believe the proposals we've outlined here, if implemented, would help create the environment in which elected officials who care about solving public problems would be able to do so—across party lines—with less fear of retribution from the fringes of their parties or from media organizations whose business models rest on hyper-partisanship.

Yes, these proposals are bold. But unlike more familiar strategies, their implementation would attack both the causes and the effects of the polarization that now disfigures our constitutional system. As our government remains mired in gridlock and threats to democracy rise, the costs of inaction far exceed the risks of change.

¹ Jeremy Diamond, CNN. (2016, January 24). Donald Trump could 'shoot somebody and not lose voters'.

² Pew Research Center. (2014, June 12). Political Polarization in the American Public.

³ Bump, P. (2019, January 16). Trump is the most polarizing president on record - and almost nobody's opinion of him is changing.

⁴ www.270towin.com Historic Presidential Elections.

⁵ Thomsen, D. (2017). Opting Out of Congress: Partisan Polarization and the Decline of Moderate Candidates.

⁶ McCarty, N., Poole, K. T., & Rosenthal, H. Polarized America: The Dance of Ideology and Unequal Riches.

⁷ Malbin, M., & Glavin, B. (2018). CFI's Guide to Money in Federal Elections.

⁸ Lee, F. (2016). Insecure Majorities: Congress and the Perpetual Campaign.

⁹ Gallup. (2017). Americans Favor Compromise to Get Things Done.

¹⁰ AAPC. (2019). AAPC Code of Professional Ethics.

¹¹ Citron, D., Wittes, B. (2017) The Internet Will Not Break: Denying Bad Samaritans § 230 Immunity.

The views expressed in this policy brief are solely those of the authors and not the Campbell Public Affairs Institute, the Maxwell School, or Syracuse University.

About the Authors

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Nancy Jacobson is founder and CEO of No Labels, the indispensable “connector” cultivating a growing network of citizens, leaders, resources, and ideas determined to cut through the dysfunctional politics of Democrats vs. Republicans. After having spent her early career helping Gary Hart and Bill Clinton remake the Democratic Party, she worked for Sen. Evan Bayh for fifteen years. Then, in 2010, she founded No Labels to get Washington back into the business of solving problems again—she has served since the organization’s founding as its volunteer CEO. Today, with 1.3 million supporters on Facebook and other social media, No Labels has developed into the only viable network effectively pulling candidates from *both* parties into the center.

The Honorable Tom Davis is one of America’s foremost experts on political demography and American elections. After serving as a member of the Fairfax County, Virginia, Board of Supervisors for fifteen years (three as the countywide elected chairman), he served in Congress for fourteen years, representing the 11th Congressional District in Virginia. Tom chaired the National Republican Congressional Committee in 2000 and 2002, where he was instrumental in maintaining his party’s majority in the House of Representatives. After the 2002 election, he was named chairman of the House Committee on Oversight and Government Reform. He is the author of a book he co-wrote with former Democratic Congressman Martin Frost about the polarization of the U.S. Congress and is often asked to appear on network political shows to discuss the current political landscape.

The Campbell Public Affairs Institute, named for Alan K. “Scotty” Campbell, was founded in 1996. The Institute’s mission centers on citizenship, public leadership, and governance. The Institute explores the relationships among leaders, citizens, private organizations, and governments in an effort to understand the development and implementation of effective management and policy, and encourages civic involvement. Over the years, the Institute’s projects and initiatives have included the Pew-funded Government Performance Project, dedicated to finding practical solutions to the problems of government; CNYSpeaks, an effort to broaden and deepen public deliberation and community participation in local affairs; published monographs on federalism, information sharing and homeland security, and government transparency; “The Campbell Conversations,” an award-winning weekly public affairs radio program airing on Central New York’s largest NPR-affiliate; the Campbell Debates, a public Oxford-style debate series on public policy issues at the national, state, and local levels; and numerous lecture series of interest to the University and the regional community.

No Labels is a non-profit 501(c)4 focused on cutting through the gridlocked politics of left vs. right. To breathe new life into the dysfunctional legislative process in Washington, the organization has built a grassroots movement of more than 1 million citizen-activists around the country and inspired the creation of the House Problem Solvers Caucus, a bipartisan bloc of lawmakers working to craft collaborative solutions to the nation’s toughest problems. In an era of worsening tribalism, No Labels sees the primary threat to American democracy as the growing belief that members of the other party are less opponents to be debated and more enemies to be destroyed. To preserve the Constitution, No Labels leads not a third party, but rather a third bloc committed to American unity.