

COMMON GROUND

An Alternative to
PARTISAN POLITICS

HOWARD KONAR

“

The greatness of America lies not in being more enlightened than any other nation, but rather in her ability to repair her faults.

ALEXIS DE TOCQUEVILLE

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TABLE OF CONTENTS

PREFACE | 1

INTRODUCTION | 4

- I. POWERS GRANTED & POWERS RESERVED | 8
- II. TO REGULATE COMMERCE AMONG THE STATES,
& TO PROVIDE FOR THE GENERAL WELFARE | 11
 - A. *Health Care Regulation* | 13
 - B. *Primary & Secondary Education* | 21
 - C. *Antipoverty Programs* | 32
 - D. *Preservation of Free Markets* | 42
- III. TO LAY AND COLLECT TAXES, TO PAY DEBTS,
& TO BORROW MONEY ON THE CREDIT
OF THE UNITED STATES | 53
- IV. TO MAKE TREATIES, & TO REGULATE COMMERCE
WITH FOREIGN NATIONS | 60
- V. TO PROVIDE FOR THE COMMON DEFENSE | 68
- VI. TO ESTABLISH A UNIFORM RULE
OF NATURALIZATION | 75
- VII. FREEDOM OF RELIGION | 89
- VIII. THE RIGHT TO BEAR ARMS | 93
- IX. THE OBLIGATIONS OF LEADERSHIP | 100
- X. THE OBLIGATIONS OF CITIZENSHIP | 109

CONCLUSION | 117

PREFACE

Hours after House Speaker Paul Ryan pulled a bill to repeal and replace the Affordable Care Act, I heard two news commentators discussing the Republicans' failure to bring their health care proposal to a vote. One suggested that rather than trying to work with the Freedom Caucus, Paul Ryan might try reaching out to House Democrats instead.

BOTH OF THEM LAUGHED AT THE SUGGESTION.

That type of cynicism about our political life is all too prevalent today. Three years ago, when I started writing this book, I worried that partisan gridlock was beginning to hold our nation back. The changes I've seen since then have become even more alarming. It was inconceivable that one party could control the Presidency and both Houses of Congress and still get nothing done – yet here we are.

I believe that many other Americans have grown concerned about the toxic nature of political discourse in our country. The conversation has veered far away from where many of us stand on the issues that affect our daily lives. I began writing this book to focus attention on those

issues, and to identify commonsense principles that can guide more productive political discussions.

To do this work, I spent several years researching our most pressing public policy issues from multiple points of view. From Mother Jones to the National Review, if something looked well-researched and well-reasoned, I read it. I have never registered with a political party, and have always felt that the best decisions result from considering multiple points of view.

The approaches I discuss here won't be all things to all people, but they could be a lot of things to a lot of people. That would be a tremendous improvement over the incoherent agendas our elected officials are debating now. I hope they motivate readers to say "These ideas sound reasonable. Instead of trying to block every possible advance like opposing teams, let's move forward together with the kind of non-partisan approaches that are laid out here."

I also hope that readers will take action. I hope you will write to your elected officials about an issue that affects your life, and suggest ways you would like them to address it. I hope you will go to a town hall meeting, not to shout down your member of Congress, but to deliver a message: "We hired you for a reason. Do your job. Make our government work." Most of all, I hope that the next time you talk politics with a family member, friend, or neighbor, you truly listen to their concerns, try to understand what motivates them, and try to address those concerns in your response.

Now more than ever, we must be able to talk with each other about the political and economic issues that affect every one of us and will impact the lives of our children. Instead, we talk over and past each other without listening. When we can no longer discuss important issues without questioning each other's motives and values; when we dismiss the beliefs and suggestions of entire groups of people because we label them by race, gender, ethnicity, religion, or party affiliation; and when we disagree even about the importance or relevance of basic facts, we stop talking altogether. All we are left with is the politics of anger, division, and blame.

No matter who wins our elections, we have stopped making progress as a nation. It's time we realize that the power to govern is not a prize to be won, but a responsibility to be used wisely and preserved for future generations.

July 4, 2017

Rochester, New York

INTRODUCTION:

Bridging our political divides

“A division of the republic into two great parties... is to be dreaded as the greatest political evil under our Constitution.”

John Adams | The Works of John Adams, Vol IX

To the authors of the Constitution, political parties had no place in the American republic. They developed a political philosophy that denied the usefulness of parties and stressed the dangers of factionalism. Yet they also believed in checks and balances and in the freedom and benefits of opposition. So, over time, people who had no use for political parties experienced the development of a two-party system.

Over two hundred years later we are witnessing the dangers of factionalism. Our nation is dominated by two parties, Democrats and Republicans, with constituencies bound together by special interests rather than ideas and motivated by power rather than principle. The extreme factions of both parties drive their agen-

das, leaving little common ground for pragmatism and compromise. Americans looking for moderate policies are faced instead with stark choices. We can choose between a party that will tax and spend and a party that will borrow and spend. We can choose between a party that will regulate our most basic business decisions and a party that will regulate our decisions to marry and bear children. Moderate politicians who seek the middle ground on the most pressing issues of our day are targeted by political action groups for extinction.

In this alignment of our politics, Americans have lost faith in government. Many of us choose not to vote because we do not like the choices presented by our candidates and their parties. In the November 2016 national election, the most divisive election in memory, around 40 percent of voters did not cast a ballot for President. We also hesitate to work for change on local levels because we realize our ability to control our own fate is severely limited by mandates from state capitals and from Washington. Moreover, as the federal government concentrates ever greater power, it further erodes the ability of state and local governments to operate as laboratories of experimentation and change.

What is the answer? If party factionalism is the problem, then formation of a new political party, in the traditional sense at least, is not a workable solution. The concentration of so much power in government requires that change must come from within, by electing representatives who share two basic traits. First, they must share a common understanding of the role of the federal government and the limits on its power relative to that of state and local governments. Second, they must be willing to make decisions based on consistent principles rather than a shifting set of political positions. This book is an attempt to explore these two issues in more detail.

The first issue concerns the scope of the federal government and the limits on its power. It is true that our government has grown exponentially since World War II. Arguments that government is too big, however, beg the question of what size would be appropriate. By any definition, an organization responsible for governing 330 million people will be a large one.

As the authors of the Constitution recognized, there are some areas in which one government must speak and act for us all, foreign policy, defense, and immigration policy among them. In other areas, the authors chose instead to reserve powers to the states. They did so because they firmly believed in checks and balances, and because they recognized that government works best when citizens feel they can take part in it. In Hamilton's words, "Human affections, like the solar heat, lose their intensity as they depart from the center."¹ The first question to explore, then, is whether it is possible to redefine a framework for sharing power between federal and state governments that places power at the lowest level of government that can effectively use it, and thereby allows citizens to feel more connected to political decisions that impact their lives.²

The second issue is whether, as a nation, we can find a way to climb out of the trenches dug by Democrats and Republicans in their ongoing war to win votes. To phrase the question a different way, how can we step back from the postures and positions staked out by both parties, hardened into battle lines, and then memorialized in 90-page political platforms that no one reads and that people of the same party would not agree on if they did? It simply is not possible to govern by position because circumstances change every day. Holding our representatives to positions they stated one year or even one month ago sets up predictable cycles of blame and distrust.

What if, in place of postures, promises, and positions, we could distill a set of principles on which a good number of Americans across political spectrums could agree? And what if, instead of voting for politicians who adhere to the party line on every issue, voters could elect representatives who will adhere to these principles in making decisions once in office? Our representatives still might argue about means versus ends, short-term sacrifices versus long-term gains, and even about different ways to apply the same set of principles to a new set of circumstances. After all, reasonable people can disagree about almost anything. If, however, a large number of our representatives were free to vote based on principle rather than party discipline, we would have a better chance to address and resolve the pressing issues of our time.

Section I of this book reviews the framework established by the Constitution for sharing power between the federal government and the states. Sections II through VIII examine seven basic functions of government identified in the Constitution with a focus on two separate issues. First, who should have authority to make decisions in each area, the federal government, or state and local governments? Second, can we identify a few basic principles in each area on which many of us – maybe even a majority of us – agree, and which can help guide our representatives to make better decisions?

Finally, Sections IX and X address the obligations of leadership and citizenship. Section IX argues that when our representatives behave as members of competing political clubs, they fail us in their role as public servants. Section X applies the same analysis to citizenship. Representative democracies require active participation by their citizens. That demands more from each of us than thinking and voting exclusively along party lines.

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1. National Archives (2017). New York Ratifying Convention. Remarks (Francis Childs's Version), [27 June 1788]. Retrieved from: <https://founders.archives.gov/documents/Hamilton/01-05-02-0012-0034>
 2. Levin, Y. (2016). *The Fractured Republic: Renewing America's Social Contract in the Age of Individualism*. New York, NY: Vintage.

Section I

POWERS GRANTED & POWERS RESERVED

“This government is acknowledged by all to be one of enumerated powers... But the question respecting the extent of the powers actually granted, is perpetually arising, and will probably continue to arise, so long as our system shall exist.”

John Marshall | *McCulloch v. Maryland*, 1819

Article I of the Constitution grants legislative powers to Congress, including the powers specifically enumerated in Section 8. Article II of the Constitution grants executive powers to the office of the president.

Some of the legislative powers vested in Congress, such as the power to establish post offices, seem out of date by today’s standards. Others remain vital, including the power to levy taxes, provide for the common defense, incur debt, regulate commerce with foreign nations and among the states, and declare war. The powers granted to the president include command of the armed forces, and, with the advice and consent of the Senate, the power to make treaties and appoint Ambassadors, Supreme Court Justices, and other government officials. Under the

Tenth Amendment to the Constitution, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” In other words, the federal government is one of limited, enumerated powers as opposed to the state governments, which retain broad power to regulate for the common welfare of their people.

A UNIQUE MODEL OF GOVERNMENT

The Declaration of Independence and the American Revolution gave the United States, like many nations before us, national freedom. The Constitution conveyed to American citizens political freedom and freedom of conscience as well. In very few nations before the United States had all three liberties existed together. Moreover, in England and other nations, ruling monarchs had granted individual freedoms to their subjects. In the United States, the power of law flowed the other way. Free citizens granted limited powers to their national government through the Constitution.

These two accomplishments – the combination of national, political, and individual liberties in one nation at one time, and the formation of that nation’s government by its own citizens – made the United States a unique creation of the eighteenth century. Drawing from their knowledge of history, their experience as English citizens, and their faith in the Enlightenment ideals of human reason, the authors of the Constitution created a new model of government that has endured for over two hundred years, and given rise to one of the most powerful and prosperous nations in history.

As Justice Marshall predicted, however, the debate over the role and extent of powers granted to the federal government has continued to this day. The fact that we live in a new age of technology when government can do more makes it no easier to decide whether or not it should. In fact, the most basic questions that confronted the authors of the Constitution still are relevant today. How can we balance our desire to protect individual freedoms against the need to “restrain men from injuring one another?” How can we assure that the federal government has the power to govern effectively without letting those

powers go unchecked? What is the proper balance today between the “enumerated” powers granted to the federal government and the powers reserved, under the Tenth Amendment, to the states and to the people?

FINDING CONSENSUS

We cannot frame lasting solutions to the problems that confront us today without addressing these most basic questions and finding some measure of consensus about the power of government and the limits on that power. Not surprisingly, the authors of the Constitution considered these same issues in depth, and created a framework for addressing them that remains viable today.

In many areas, such as foreign policy, defense, immigration, and taxation, the answer is simple: the Constitution grants the federal government exclusive power to make policy. In other areas, especially those affecting health care, education policy, anti-poverty programs, and regulation of commerce, the answers are more complex because these areas are subject to both state and federal regulation. Each of these four areas will be addressed in Section II.

Section II: Introduction

TO REGULATE COMMERCE AMONG THE STATES, & TO PROVIDE FOR THE GENERAL WELFARE

*“Were we directed from Washington when to sow, and when to reap,
we would soon want bread.”*

Thomas Jefferson | The Papers of Thomas Jefferson, vol. 17

The United States Constitution does not grant citizens the right to medical care or education, nor does it address the problem of poverty. These ideas do not appear in its text. The authors of the Constitution were more concerned with protecting citizens against government interference than providing them with rights to government services. Similarly, amendments to the Constitution were designed to correct deficiencies in civil and political rights, not to create new social and economic ones.

Nevertheless, Congress has enacted numerous laws establishing statutory rights to receive medical care, education, and financial assistance, and authorizing regulation of banking, insurance, commerce, and trade, as well as environmental and consumer protection. Congressional

authority to enact this legislation comes from the enumerated powers in Article I, Section 8 of the Constitution, including the power to regulate interstate commerce and to provide for the general welfare of the United States. These powers are among the broadest grants of authority to Congress under the Constitution.

One theme that will emerge from Section II is that the Constitutional system of checks and balances designed to protect citizens against excessive control by the federal government has created a predictable result: our government does not efficiently or effectively manage top-down systems of regulatory control. This result argues against further centralization of decision-making power in the federal government. A better approach would be to place power at the lowest levels of government that can effectively use it.

Section II.A

HEALTH CARE REGULATION

“I have lived in this old and frail tenement many years; it is very much dilapidated; and, from all that I can learn, my landlord doesn’t intend to repair it.”

John Adams | Letter to Daniel Webster, 1820

The complexity of current health care regulation is almost impossible to comprehend. The following is a partial list of federal agencies that regulate medical care. In addition, each state is free to impose its own laws and regulations as long as they do not conflict with federal statutes.

- Internal Revenue Service regulations determine the taxability of employer contributions to health plans.
- The Centers for Medicare and Medicaid Services (CMS) regulate the payment structures of Medicare and Medicaid.
- The Employee Benefits Security Administration regulates the structure of health care insurance and delivery, including administration of the Health Maintenance Organizations (HMO)

Act, and two statutes intended to increase the scope of health insurance coverage, COBRA and HIPAA.

- The FDA regulates pharmaceutical companies and medical device manufacturers.
- The Veterans Health Administration oversees an entirely separate (and arguably unequal) health care system for eligible veterans, delivering care to over six million patients per year and employing more than 300,000 full-time equivalent employees.
- Federal regulation of hospitals, nursing homes, and other health care facilities falls under the jurisdiction of multiple federal agencies.

Federal regulation of health care is intended to ensure quality, expand access, and manage cost. Nevertheless, prior to new coverage provisions of the Affordable Care Act (ACA), an estimated 46 million people lacked access to health insurance coverage. Even after passage of the ACA, no new coverage options were provided to the poorest residents of states that did not adopt the provisions of the Act intended to fill the gaps in Medicaid eligibility. As of January 2016, nineteen states had not adopted these provisions, and approximately 27 million people still had no health insurance.

Furthermore, the cost of medical care, and with it the cost of Medicare and Medicaid, continues to increase out of proportion to any other type of government spending. In fiscal year 2016, the federal government spent more than 1 trillion dollars on health care – 10 times more than on education and job training, 10 times more than on food and nutrition assistance programs, 25 times more than on all programs for land and water management and pollution control, and 29 times more than on federal law enforcement and immigration. And these expenditures represent only the federal portion of health care expenses. They do not include state expenditures, nor do they include the operating expenses of health insurance companies.

FLAWS AT THE HEART OF OUR HEALTH CARE SYSTEM

To date, all long-term efforts to control the cost of medical care have failed. Everyone involved in the health care system, from doctors to hospitals to insurance carriers to pharmaceutical companies, works

in a heavily regulated area full of subsidies and other structural distortions. Through fifty years of patchwork regulations, the United States has created a health care system that achieves passing grades for quality, poor grades for coverage, and failing grades for cost control. Several basic flaws lie at the heart of the system.

1) Confusion of Insurance Coverage with Care

First, as David Goldhill wrote in an insightful Atlantic article titled “How American Health Care Killed My Father,” we have confused health insurance with health care.¹ The purpose of most insurance coverage, including life, liability, and property insurance, is to spread the cost of catastrophic events among multiple policyholders. Health insurance, by contrast, is the primary payment mechanism for nearly all medical expenses, no matter how minor. We would never expect our car insurance to pay for our purchases of gasoline or our homeowner’s insurance to cover our electric bills. When it comes to health insurance, however, we expect that our policies will cover routine services and prescription costs, in part because subsidies provided for those services, particularly for prescription medicines, have made them completely unaffordable without insurance.

Goldhill writes that when individuals with health insurance walk into a doctor’s office, hospital, or other medical facility, it is implicit that someone else will be paying the bill. As consumers, we therefore tend to know less about the cost of medical treatment than we do most anything else. Until health care consumers pay some meaningful portion of the cost of all services and products, they will have little incentive to use them in financially responsible ways, and service providers and manufacturers – drug companies in particular – will have no incentive to be conscientious in setting their prices.

2) Competing Incentives

Second, through years of legislation and regulation we have, unintentionally, created an overly complex system with incentives that produce undesirable results. Physicians, for example, must code the treatment provided to their patients before they can submit a bill for reimbursement to a third party: Medicare, Medicaid, or an insurance company. In

doing so, they encounter a system of harmful incentives and bewildering complexity. Harmful incentives might include reimbursing more for one diagnosis over another, or reimbursing more for a test or a procedure than for preventive care. As for complexity, a doctor providing services to a Medicare beneficiary must choose among more than 8,000 Current Procedural Terminology codes to describe the service performed. This coding is part of a complex formula that determines how much Medicare reimburses the doctor for the service provided.

3) Unsustainable Spending

Finally, the financing mechanism for this system is unsustainable. In 2016, Medicare covered 55.3 million beneficiaries at a total cost of \$647.4 billion – \$278.9 billion for Part A, \$279 billion for Part B, and \$89.5 billion for Part D.² As the generation of Baby Boomers continues to reach retirement age, pressures on the system will only increase. Between 2010 and 2030, Medicare enrollment is projected to rise from 47 million to more than 80 million beneficiaries. During that same period of time, the number of workers per beneficiary will decline from 3.7 to 2.4. The ability of medical technologies to prolong life (sometimes without regard to its quality) will increase as well: in 2015, one quarter of Medicare expenses were incurred during the last year of Medicare beneficiaries' lives.³

The combination of more beneficiaries, fewer workers to support them, and ever-increasing costs cannot be sustained. We can wait for a crisis to force drastic change, or we can find constructive ways to make incremental changes and avert a crisis.

THE TRUE COST OF HEALTH CARE

If Medicaid in its current form were abolished in 2009, writes Goldhill, the same funds could have provided a \$2,000 premium payment and a \$3,000 Health Savings Account (HSA) contribution for 60 million people. Under this approach, a family of four would have received \$8,000 in premium payments for policy coverage, and \$12,000 in HSA contributions to cover everything else. The true cost of health care also includes (i) administrative costs of obtaining reimbursement under Medicare and Medicaid, (ii) the cost for insurance companies to process millions

of routine claims for office visits and minor services, (iii) costs incurred by employers to administer health care plans and COBRA coverage for employees, and (iv) the cost of lost tax revenue from deductions for employer payments of health insurance premiums.

In addition, these are costs incurred by employers to select, fund, and administer health care plans and COBRA coverage for their employees. There is no reason to keep employers in the business of providing insurance when employees could buy coverage directly from brokers or a public exchange. For their part, most employers would welcome almost any approach that enables them to exit the business of providing health care to their employees. Amounts now paid by employers for premium and administrative expenses could be paid directly to employees as compensation, and then used by employees to fund their own HSA accounts and pay their own expenses.

THE NEED FOR EXPERIMENTATION

The three basic goals of an efficient and effective health care system are quality, access, and cost control. Achieving one or two of these goals at the same time is challenging. The true puzzle is how to achieve all three. Possibly the best method for solving this puzzle is a flexible approach at the federal level that preserves choice, encourages experimentation, promotes competition, and removes artificial barriers to efficiency and effectiveness.

No single approach will be effective in limiting future cost increases while also continuing to expand access. We must therefore pursue experimentation on all fronts. In the private sector, one approach has been health plan designs combining high deductible limits with HSAs. Public sector ideas include offering the choice to buy in early to Medicare, and creating a public option for basic health insurance. Any ideas that bring choice and market pressure to bear should be tested, evaluated, and then tried again. Different approaches may prove to be more effective at different times. The only constant is the goal.

THE BENEFITS OF GREATER COMPETITION

In a more free market for medical services, consumers would be able to shop for care at the best possible value. Retail chains already offer low-cost prescriptions for monthly supplies of many generic medications, and are experimenting with clinics for routine care such as physicals, blood tests, and treatment for common ailments, often priced as a fixed fee. Primary care practices are beginning to offer “concierge care,” in which their doctors provide a variety of services and quick appointments in exchange for a fixed monthly fee. Rather than attempting to regulate each new form of health care delivery as it develops, the federal government could focus on maintaining a national rating system for quality of care, and ensuring the safety and efficacy of drugs and medical devices through the FDA.

It has been fifty years since the establishment of Medicare and Medicaid. It will take years of incremental changes to move from the current patchwork systems of health care we have developed over time into new systems that adequately address quality, coverage, and affordability. It will require years of experimentation as well. With the federal role in health care limited to setting broad policies and establishing a flexible framework for change, health care providers, insurance companies, and the states would be free to engage in their own experiments, especially experiments designed to make coverage more affordable.

Providing effective and efficient health care is a global concern. In trying to achieve quality, access, and cost control, we can learn from our own experiments and from the experiences of other nations as well. It is important to recognize that, as our population continues to grow and age and our medical technologies continue to improve, the balance among quality, access, and cost will constantly change.

To move forward, we must learn to view our health care system as a continuous work in progress, and to retain the greatest degree of flexibility possible in its ongoing design.

BASIC PRINCIPLES OF HEALTH CARE POLICY

First: Health care, like clean air and clean water, is a public good. It is in our national interest to ensure that every citizen and legal immigrant has access to quality health care at an affordable price.

Second: A viable health care system must be voluntary rather than compulsory, be accessible to everyone regardless of pre-existing conditions, and allow consumers to choose among different options for care.

Third: A competitive and accountable health care system would help control costs by (i) ensuring that consumers pay a portion of the cost of medical services and products; (ii) allowing consumers to shop competitively for health insurance coverage or contract directly with health care providers for services, as they choose; and (iii) leaving room for health care providers, insurance companies, and the states to experiment with different methods for delivering services and reducing costs.

Fourth: To be effective, certain areas of regulation must be the role of the federal government. These include:

- Setting broad national policies that preserve choice, promote competition, and encourage experimentation;
- Providing some form of financial assistance to consumers who cannot afford basic health care services;
- Creating national standards for the rating of health care providers, facilities, and insurance companies; and
- Ensuring the safety and efficacy of new drugs and medical devices.

Fifth: Other types of regulation can best be left to the individual states, including:

- Accreditation of health care facilities;
- Licensing of physicians and insurance companies; and
- Operating rating systems for health care facilities, physicians, and insurance companies under national standards created by the federal government.

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1. Goldhill, D. (2009). How American Health Care Killed My Father. The Atlantic. Retrieved from <http://www.theatlantic.com/magazine/archive/2009/09/how-american-health-care-killed-my-father/307617>
 2. Centers for Medicare and Medicaid Services (2016). 2016 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds. Retrieved from <https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/reportstrustfunds/downloads/tr2016.pdf>
 3. The Henry J. Kaiser Family Foundation (2016). Medicare Spending at the End of Life: A Snapshot of Beneficiaries Who Died in 2014 and the Cost of Their Care. Retrieved from <http://www.kff.org/medicare/issue-brief/medicare-spending-at-the-end-of-life/>
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Recommended Reading

Kathleen S. Swendiman, “Health Care: Constitutional Rights and Legislative Powers,” Congressional Research Service, July 9, 2012, examines the Constitutional issues affecting the authority of Congress to enact and fund health care programs.

Don W. King, “Federal Health Care Regulation,” Mercatus Policy Series, Policy Resource No. 2, March 2006, provides a comprehensive review of federal statutes and regulations that govern health care financing and the delivery of health care services.

A market-based, “defined contribution” alternative to the Affordable Care Act is outlined by James C. Capretta and Robert E. Moffit in “How to Replace Obamacare,” National Affairs, Spring 2012. Their article starts from the premise that a repeal-only approach to the Affordable Care Act is not practical because it fails to address serious flaws in our health care system as it has evolved over the years.

A wealth of market-based observations and ideas are found in David Goldhill, “How American Health Care Killed My Father,” The Atlantic Online, September 2009. Unfortunately, the essay arose from a personal tragedy: Goldhill’s father was killed by an infection he contracted while in the hospital, and Goldhill began educating himself about our health care system in an attempt to understand how we allow accidental infections to kill 100,000 people each year. Among his many insights is that we have come to confuse health insurance with health care, with the result that we expect insurance to cover our most routine expenses.

Section II.B

PRIMARY & SECONDARY EDUCATION

“Freedom can exist only in the society of knowledge. Without learning, men are incapable of knowing their rights, and where learning is confined to a few people, liberty can be neither equal nor universal.”

Benjamin Rush | Essay, 1786

The United States began as a nation of readers and writers. As early as 1642, Massachusetts passed a law requiring town board members to monitor children’s ability “to read and understand the principles of religion and the capital laws of this country.” According to one historian, “Of all European countries perhaps only Scotland surpassed America in literacy by 1800. Not only had the European literacy revolution been transplanted to the American periphery during the colonial period, but colonial literacy had somehow leaped past that of northwestern Europe.”¹

The success of our K-12 education system continued for the better part of two centuries. Until recently, no nation had a better high school graduation rate than the United States; by 2012, 17 nations did.² In that same year, U.S. teenagers ranked 36th on the Program for International

Student Assessment (PISA) math test, 28th in science, and 24th in reading.³ We rank among the top ten in the world in only one category: spending per pupil.

The decline in student learning is evident from our own test results as well. The 2015 National Assessment of Educational Progress (NAEP), the only national assessment of student performance, found that just 36 percent of fourth graders and 34 percent of eighth graders were proficient in reading. Thirty-one percent of fourth graders and 24 percent of eighth graders scored below basic. The results for minority students were even worse. Forty-eight percent of black fourth graders and 45 percent of Hispanic fourth graders scored below basic for reading skills. Their math scores trailed as well.⁴

THE COST TO STUDENTS

In her book “The Smartest Kids in the World,” Amanda Ripley describes the “perpetual struggle” for students who do not finish high school: low wages, high unemployment, and minimal fringe benefits for those who do find work. Young people who leave high school without a diploma cannot work as garbage collectors in New York City, nor can they join the Air Force. On average, they will earn half as much money as their peers who go to college, and they will encounter unemployment rates almost twice as high.⁵

Sadly, many students who do finish high school find they still are not well prepared for college or for the job market. Increasing numbers of high school graduates who enter college are immediately placed in remedial classes, relearning math and English skills they did not fully learn in high school. These students are paying to attend college, often with the help of student loans, but are not receiving college credit. As their debt adds up they are more likely to quit college altogether.

THE COSTS TO SOCIETY

Employers trying to hire high school graduates face related challenges. Many are willing to pay for technical training of new employees, only to find that some of the high school graduates they hire lack basic reading and math skills. Employers are learning that high school diplomas are

a poor tool for evaluating employee abilities; graduates of different high schools within the same state or even the same school district often have widely different sets of skills. And yet, school districts across the country protest more rigorous curriculum and graduation requirements backed up by standardized exams. As Ripley points out, they seem to operate on a different logic: students who pass the required classes and attend school the requisite number of days should receive their diplomas regardless of what they have learned. In other words, these students deserve a chance to fail later, when they enter college or apply for a job.

The impacts of failing school systems are hard to overstate. At the individual level, students drop out of high school or college, and find they cannot succeed in jobs that require problem-solving and communication skills. Their individual struggles have an impact on economic growth as well: economists have found a close correlation between PISA scores and nations' long-term economic growth.⁶ Over time, deficiencies in our system of public education will impact the growth of our gross domestic product (GDP) and affect our ability as a nation to compete in world markets.

Harder to measure, but equally important, is the impact of failing school systems on society as a whole. Our public school system is the key institution in our society for shaping the hearts and minds that will create our shared future. Failures in our system of public education, especially the failure to achieve a much greater measure of equality in learning outcomes, is destroying opportunities for economic and personal growth for generations of students who are most in need.

THE FEDERAL GOVERNMENT'S LIMITED ROLE IN PUBLIC EDUCATION

Compared to health care, the role of the federal government in education is fairly limited. Historically, primary and secondary education have been a state and local responsibility in the United States. States and communities, along with public and private organizations, are primarily responsible for establishing schools, developing curricula, and determining requirements for enrollment and graduation.

The structure of education finance reflects this responsibility. A substantial majority of funding for public school education comes from state, local, and private sources. For the 2012-13 school year, the federal contribution to elementary and secondary education was about 9.3 percent. This amount included funds from the Department of Education and from other federal agencies, including the Department of Health and Human Services' Head Start Program, and the Department of Agriculture's School Lunch Program.

One of the first examples of comprehensive federal education legislation came in 1958, when Congress passed the National Defense Education Act in response to the Soviet launch of Sputnik. Later, the anti-poverty and civil rights laws of the 1960s and 1970s focused the Department of Education on civil rights enforcement. In 1965, the Elementary and Secondary Education Act (ESEA) introduced a comprehensive set of programs intended to aid children from disadvantaged families. Among other measures, the ESEA authorized grants for elementary and secondary school programs for children of low-income families, school library resources and textbooks, supplemental education centers and services, and professional development for teachers. Congress originally authorized the ESEA through 1970, but has continued to reauthorize it every five to ten years since. The most recent reauthorization is called the Every Student Succeeds Act (ESSA), enacted in December 2015. ESSA will take full effect in the 2017-2018 school year. The prior reauthorization was called the No Child Left Behind Act of 2001 (NCLB).

The responsibility for public education rests with the states under the Constitution. Like other federal education laws, ESSA and NCLB rules therefore can apply to a state only if it voluntarily chooses to accept federal funds under the statute. As noted in a 2005 Department of Education publication on NCLB, *Ten Facts About K-12 Education Funding*, any state that does not want to operate under the requirements of a federal education program can "simply choose not to accept the federal funds associated with that program." Of course, states that declined to accept these funds lost access to federal tax revenues already collected from their residents.

The substantial majority of states chose to accept NCLB funding. Unfortunately, fifteen years of NCLB funding and education reforms did very little to improve our system of primary and secondary education.⁷ Understanding the failure of NCLB reforms is important for two reasons. First, the failure of NCLB illustrates the limits of federal influence on public education. Second, learning the wrong lessons from NCLB's failure may impair future action by the federal government in areas where it could be useful.

THE NCLB EXPERIENCE

The goals of NCLB were to close racial and other achievement gaps and bring all students to proficiency in reading and math within eight years. It created unprecedented measurement of academic progress in these two subjects (with science to be added later) through mandated annual tests in elementary and middle school, but allowed each state to set its own criteria for meeting many of the law's requirements and to conduct its own testing. Schools that failed to raise achievement in reading and math for two or more years in a row were subjected to increasing levels of sanctions, starting with the requirement that failing schools give students the option to transfer to better performing schools, and ending with the requirement that failing schools restructure or close altogether.

In essence, NCLB represented a top-down policy change designed to coerce large gains in achievement and equity out of underperforming public schools. Many of NCLB's results were predictable. Allowing each state to set its own criteria for meeting the law's proficiency requirement enabled officials to game the system by making the tests easier to pass. Determining the success or failure of a school on its math and reading scores alone meant that instruction in other topics suffered.

Possibly the most destructive flaw of all, however, was the assessment of teachers based on how well their students performed on the tests. Under the best of circumstances, there is a higher rate of teacher turnover in lower income, higher minority schools. In the schools where they are most needed, it is much easier to attract and retain teachers by rewarding them when they make a difference. Instead, NCLB testing did a

poor job of measuring teachers' success, and punished them for failing to meet prescribed standards.

SEPARATING FEDERAL AND STATE RESPONSIBILITIES

If the basic responsibility for public education rests with the states, then measures to improve public education must begin with the states. The federal government cannot coerce it by imposing top-down reforms like NCLB or Race to the Top. Furthermore, funding these programs at the federal level is inherently wasteful. The federal government collects tax dollars from state citizens, uses them to support a federal bureaucracy that creates new educational initiatives, and then forces each state to comply with one-size-fits-all requirements of the initiatives to earn the tax dollars back. (This same criticism applies to many federal programs beyond education.)

A better conceptual role for the federal government would be to promote uniform national standards for education in much the same way it promotes uniform national standards for commerce. There is no good reason, for example, why a student who transfers from a public school in Ohio to one in Colorado should not be learning the same subject matter in each grade, or why diplomas from schools in different states or different districts within a state should represent varying levels of achievement. Nevertheless, widespread public distrust of a strong federal role in K-12 education and a strong desire to maintain state and local control of education standards have blocked past efforts by the federal government to research, publish, and promote a set of model curriculum standards. In fact, efforts to promote Common Core standards succeeded in part because the federal government did not create the standards, and because states voluntarily chose to adopt them.

ESSA specifically prohibits the Secretary of Education from forcing or encouraging states to adopt a particular set of education standards, including the Common Core, and some states that initially adopted the Common Core have since rejected it. This result is unfortunate because the Common Core, as a curriculum, is an excellent tool. The basic problems were in its implementation. One basic complaint was that the tests, prepared by third-party vendors, actually did a poor job

of measuring Common Core skills. A second basic complaint was that Common Core testing failed to measure the value added by individual teachers working in very different environments. Furthermore, the Common Core is designed to build each year on skills taught and mastered in preceding years. Ideally, it would be implemented for one or two grades at a time. Many districts nevertheless chose to implement it for all grades at once.

Even without a uniform national education standard, however, the federal government for many years has conducted testing of students in each state to see how well they are learning. Testing of students in grades three and eight, as well as in high school, will continue under ESSA. The federal government could use this data to issue report cards comparing the test results state by state and even district by district. These reports would allow parents and educators to compare the results of their districts against others in the same state and in other parts of the country. This would allow for annual testing and reporting of test data without diverting education revenue from the states, and without public floggings of schools that fail their students.

Under this approach, states would retain the right to set their own standards for licensing of public schools, and for training, certification, and compensation of teachers. Each state could address the unique needs of its districts and students in its own way, developing its own best practices and borrowing best practices from other states when proven effective.

ELEVATING THE ROLE OF EDUCATORS

Examples in other countries show that there are many different ways to achieve excellence in public education. They also show that poverty is an important obstacle to obtaining a first-rate education, but is not in and of itself a barrier to success. One key and common feature of successful public education systems is the regard shown for educators. For many years before the subprime mortgage crisis of 2008, the United States produced nearly two and a half times the number of teachers we needed each year, many of whom attained their degrees from teaching colleges that focused more on theory than on intensive training in subject matter.

This combination of high supply and low standards, observes Ripley, contributed to reducing the standing of the profession. Holding teachers to rigid standards and then punishing them when their students fail has damaged it even more.

States that are serious about improving their public education systems might begin by limiting the number of teachers trained and licensed each year to more closely match hiring requirements, making the profession more selective, and also making it possible to recruit talented people who want to teach as a second career. They could close less effective teaching colleges and move teacher preparation into the most respected schools.

Nations that attract individuals with strong academic skills into teaching not only have rigorous training programs, but also take other steps to emphasize the value of teachers and teaching relative to other professions. They make teaching careers financially attractive, provide supportive working conditions, and offer opportunities for professional growth that encourage teachers to stay.

Some school districts also might choose to de-emphasize the role played by sports in their schools. Sports programs often absorb large portions of school budgets, dictate busing schedules, and influence the hiring of teachers based in part on their ability as coaches. Very few students make their careers as professional athletes, and there are many ways to fund and organize sports activities without using public education dollars.

These kinds of experiments can and should be conducted, but conducting them will require an end to top-down rule in favor of more local control. Under our federal system, it ultimately is up to the voters of each state and each district to decide on the priority assigned to public education.

BASIC PRINCIPLES OF PRIMARY & SECONDARY EDUCATION

First: Access to high-quality education is a basic right of every child, regardless of race, ethnicity, or family income.

Second: The primary responsibility for public education rests with state governments. States set their own standards for licensing of public schools, and for training, certification, and compensation of teachers.

Third: The federal government cannot coerce results in public education by imposing top-down programs tied to federal dollars.

Fourth: The proper role of the federal government in public education should be:

- Testing samples of students in each state and district to measure their proficiency;
- Publishing test results by state and by school district each year;
- Protecting the rights of students with learning disabilities; and
- Promoting and funding early childhood education programs, preschool programs, and similar initiatives for districts with the highest levels of children living in poverty.

Fifth: Testing is an effective tool for measuring student proficiency, but should not be used to determine teacher compensation.

Sixth: An important indicator of success in public education is the regard shown for teaching. Selecting people with strong academic skills for the profession, training them in their subject-matter areas as rigorously as possible, and giving them the compensation, working conditions, and opportunities for professional growth needed to do their jobs well is critical to student success.

Seventh: Poverty is an obstacle to obtaining a first-rate education, but should not be a barrier to student success. It should not be used as an excuse for failing schools.

In connection with Principle Seven above, it should be noted that in schools with extremely high concentrations of poverty, it is in fact very difficult for students to succeed. The issue of poverty is taken up in Section II. C.

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Recommended Reading

Data from the National Assessment of Educational Progress, along with a vast array of information about other aspects of education, are published by the Department of Education, National Center for Education Statistics. Comparative information concerning high school graduation rates can be found in “Education at a Glance

2015,” published by the Organization for Economic Cooperative Development (OECD) and available on its website.

For examples of studies charting the connections between educational achievement and economic performance, see “An Economy That Works: Job Creation and America’s Future,” James Manyika, Susan Lund, Byron Auguste, Lenny Mendonca, Tim Welsh, and Sreenivas Ramaswamy, McKinsey & Company, 2011. Also see “Education and Economic Growth,” Eric Hanushek, Dean T. Jamison, Eliot A. Jamison, and Ludger Woessmann, *Education Next*, Spring 2008, Vol. 8, No. 2.

The Department of Education website provides a concise overview of the federal role in education. More background information is available on the League of Women Voters website, especially the article by Carolyn-Jefferson Jenkins and Margaret Hawkins Hill, “Role of Federal Government in Public Education: Historical Perspectives,” LWVUS Public Education Study Background Papers, 2011. The League also has published a study of the Common Core standards and assessments.

“10 Facts About K-12 Education Funding,” published by the Department of Education in June 2005, provides basic information about federal funding commitments to No Child Left Behind and other federal programs. The effectiveness of NCLB was the subject of numerous studies and publications. See, for example, Lee, J., (2006), “Tracking Achievement Gaps and Assessing the Impact of NCLB on the Gaps: An In-Depth Look into National and State Reading and Math Outcome Trends.” Cambridge, MA: The Civil Rights Project at Harvard University.

An especially illuminating (and possibly hopeful) comparison of public education systems in the United States and three other nations is Amanda Ripley’s “The Smartest Kids in the World and How They Got That Way,” 2013. As a journalist, Ripley does not propose solutions, but her profiles of three American high school students at home and then abroad in Finland, Poland, and South Korea contrasts the value assigned to public education and teaching in different nations, and among different states as well.

The charter school movement will figure heavily in future discussions about public education. One attempt to study the effectiveness of charter school education is “Multiple Choice: Charter School Performance in 16 States,” Center for Research on Education Outcomes, Stanford University, 2009.

Even in the earliest years of school, family income closely correlates to academic achievement. The achievement gap is likely to grow if income inequality increases. See “The Widening Achievement Gap Between the Rich and the Poor: New Evidence and Possible Explanations,” Sean F. Reardon, in *Whither Opportunity? Rising Inequality and the Uncertain Life Chances of Low-Income Children*, R. Murnane and G. Duncan Eds., 2011.

Section II.C

ANTIPOVERTY PROGRAMS

“The freest government, if it could exist, would not be long acceptable, if the tendency of the laws were to create a rapid accumulation of property in few hands, and to render the great mass of the population dependent and penniless. In such a case, the popular power would be likely to break in upon the rights of property, or else the influence of property to limit and control the exercise of popular power.”

Daniel Webster | “The First Settlement of New England,” 1820

In January 1964, President Lyndon Johnson delivered his State of the Union address to Congress in which he declared an “unconditional war on poverty in America.” Beginning that year, the Johnson Administration and Congress passed an unprecedented volume of antipoverty legislation intended to address the problem of persistent poverty in all of its different aspects. These included the Economic Opportunities Act of 1964, the Food Stamp Act of 1964, the Civil Rights Act of 1964, the Elementary and Secondary Education Act of 1965, and the creation of Medicare, Medicaid, and the Department of Housing and Urban Development.

These statutes and subsequent legislation gave rise to hundreds of different antipoverty programs. In general, assistance programs fall into two

basic categories: means-tested programs and social insurance programs. Means-tested programs – which include Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP) formerly known as the Food Stamp program, Medicaid, and the Earned Income Tax Credit, along with programs for housing and job training – are designed to provide benefits to people with low income or assets. Social insurance programs include the Social Security retirement program, Social Security Disability Insurance, and Medicare. While not directly aimed at helping those most in need, these large-scale programs have a major impact on poverty.

Fifty years after President Johnson's declaration, however, poverty persists, as do the debates about antipoverty programs. Opponents of antipoverty programs tend to make two kinds of arguments, observes a 2013 article in *The Economist*.¹ The first, more doctrinaire argument is that antipoverty programs of all kinds create unfair transfers of wealth from some groups of citizens to others. The second, more practical argument is that antipoverty programs have done a poor job benefiting their intended recipients because the percentage of people living in poverty has not meaningfully declined. Proponents of this argument point to data indicating that between 1967 and 2010, the rate of poverty increased slightly from 27 to 29 percent.

MEASUREMENTS OF POVERTY

In fact, antipoverty programs have provided very significant benefits that have not always been measured with accuracy. Historically, the largest federal antipoverty programs are Medicaid, Food Stamps, and the Earned Income Tax Credit. But before 2010, notes *The Economist*, none of these programs were counted in determining whether or not a household was officially poor. Official poverty measures counted only cash income, and they counted it before deduction of social security and other taxes, and before addition of the Earned Income Tax Credit. This formula made the official poverty measure inaccurate for determining whether the major federal antipoverty programs were having any impact.

In 2010, the Census Bureau adopted a new measure of poverty that takes fuller account both of means-tested transfers and social insurance programs.

Applied to the period between 1967 and 2010, this measure of poverty reflects that the rate of poverty actually declined by 40 percent, from 27 to 16 percent of the population. Further declines brought the official poverty rate to 13.5 percent of the population by 2015.

While hopeful, this one statistic should not eclipse less positive developments. A poverty rate of 13.5 percent still means 43 million people living in poverty. Furthermore, while the poverty rate among elderly people has fallen since 1967 due to Social Security and Medicare, the percentage of poor working people between the ages of 18 and 64 has remained relatively stable, and child poverty in the United States remains stubbornly high. In 2013, nearly 17 percent of U.S. children – 12.2 million – lived in poverty. The percentage of children living in deep poverty that year, defined as children who live in families with incomes under half of the poverty line, was 4.5 percent. That means nearly one in twenty children lived in households that could not provide even half of what is considered a minimally adequate living.

Poverty is also difficult to measure because it represents a complex set of problems with multiple definitions beyond annual cash income. Some involve the lack of basic necessities like food and shelter. Some are concerned with self-sufficiency and income insecurity. Yet others have to do with related social ills like crime, health problems, and the lack of educational opportunities.

Furthermore, households grouped together as “poor” under official poverty data may exhibit very different characteristics. A 2008 paper for the Charles Stewart Mott Foundation offers some examples:

- Immigrant families in urban communities in which nearly everyone is poor when they first arrive, but in which many move up or out over time. Problems here may be temporary issues of opportunity.
- Working families that have fallen on hard times that are likely to be temporary. The basic problem here is income insecurity.
- Young workers starting out in their first jobs. There may be no real problem here at all, but many are counted among the poor.
- Families experiencing multi-generational poverty. The problems in these cases are enduring and complex.²

Each of these examples presents different sets of problems that cannot be identified using a single measure of poverty or addressed with a single approach. Different circumstances require different policy and program responses, sometimes at different levels of government. These policy responses also require a level of coordination that currently does not exist.

DISPARATE FEDERAL EFFORTS

Annual numbers vary, but during each of the last ten years, the federal government alone has funded and operated over 100 distinct antipoverty programs. In 2011, for example, there were 33 housing programs run by four different Cabinet departments, including, perhaps surprisingly, the Department of Energy. There were 21 programs providing food assistance, administered by three different federal departments and one independent agency. Six different Cabinet offices and five independent agencies oversaw 27 cash and general assistance programs.³ This kind of patchwork system assures that some groups of poor families or individuals are not covered at all, or are covered only by an in-kind program that helps with some particular form of assistance. It also means that people living in poverty sometimes avoid taking a new employment opportunity because the additional income will cause a drastic loss in benefits.

Reducing the sheer number of federal programs would help, as would improving coordination between different departments and agencies, and between the federal government and the states. These steps would reduce the cost of antipoverty programs as well. Reducing the number of programs also would allow the federal government to focus attention on those programs that work best.

One program that works is SNAP (food stamps). SNAP is responsive to changing economic circumstances. It is also widely used: the number of people receiving SNAP in an average month rose from 26.3 million in 2007 to a high point of over 47 million in 2013, before declining to just under 43 million today. But millions of households that are eligible for food stamps do not participate in the program, in part because using it can interfere with going to work: eight states still do not enable online applications. There is no need for applicants and recipients to wait in line at welfare offices when the whole process could be done online

or even through ATMs without any additional risk of fraud or abuse. SNAP also has the potential to provide a natural vehicle for improving family budgeting, addressing obesity, and improving nutrition-related health issues.

Improving the delivery of other antipoverty programs would increase their effectiveness as well. Two of the most important factors impacting equality of opportunity are the prevalence in a given area of single parents and of income segregation.⁴ Children in single-parent families are especially at risk when something happens to their parent. In many states that require occupational licensing for foster parents, children in need may end up living with strangers rather than a grandparent or other close family member. Allowing children in need to stay in familiar surroundings with responsible family members willing to care for them will help them stay in stable home environments. Government policy can aggravate income segregation as well. Administering Section 8 vouchers in ways that do not segregate lower income families would allow children to live in neighborhoods and attend schools with greater financial resources and different models of behavior and accomplishment.

DEFINING BETTER OUTCOMES

Ultimately, the long-term objective of antipoverty programs has to mean something more than providing a less meager existence. Making existing programs work better is a necessary first step, but not sufficient. The first goal in a more meaningful approach will be to provide a better education system for all citizens, including the poorest among us, which does not result in so many people needing assistance in the first place. The basic principles for improving primary and secondary education are set out in Section II. B above.

The second goal is more targeted job training, which can begin as early as high school. Many middle-skill jobs pay very well and do not require a four-year degree. The challenge will be to match job openings with the required training, ensure it's available in community colleges and vocational schools, and then provide consistent funding for the training.

The third goal is making it easier for lower-skilled workers to get a job, hold a job, and become part of the mainstream economy. Federal and state Earned Income Tax Credits (EITC) are the largest and most successful antipoverty programs for families with children. The EITC is designed to encourage more work and higher earnings. The credit equals a percentage of earnings until it reaches a maximum, and then gradually phases out as earnings continue to rise.

Unlike increases in the minimum wage, the EITC is sound economic policy. The EITC is funded by tax collections. It does not reduce hiring, prompt layoffs, increase consumer prices, or provide benefits to people who are not in real need. Finally, unlike minimum wage increases, the EITC does not reduce a family's eligibility for other forms of social assistance, such as Section 8 vouchers.

One basic problem with the EITC is that families receive the entire amount of the credit at tax time as one lump sum. This payment system is not practical for families living paycheck to paycheck. Enhancing the EITC, and paying the credit on a monthly basis rather than once per year, would greatly improve its usefulness and reduce political pressure to raise the minimum wage.

The fourth goal, often discussed but difficult to address, is strengthening the family. If there is one single policy that has undermined the family over the last twenty years, it is the increase in rates of incarceration resulting from the “war” on crime. Mary Jo Bane, a professor at Harvard University's Kennedy School of Government, puts it bluntly: “the massive increase over the last two decades in incarceration rates, especially those of young black men, has had profound economic and social impacts on the incarcerated, on their families and on the communities from which they come and to which they return. A vicious circle exists in many of these urban communities: of criminal activity leading to incarceration leading to disrupted families, limited economic prospects and poverty, leading to more criminal activity.”

Evidence of the relationship between incarceration and economic distress is too strong to ignore. Bane cites research indicating that of black men

born between 1965 and 1969, 20 percent will have at least one episode of incarceration by the time they reach age 35. Among non-college-educated black men, this rate increases to 30 percent, and among high school dropouts, it increases to 59 percent. Twice as many young black men go to prison than will graduate from college, and thirty percent more will have been in prison than in the military. Changes in sentencing policies account for a large percentage of the expanding prison population, as high as 80 to 85 percent.

Incarceration increases the odds these young men will be jobless or channeled into secondary labor markets, says Bane. Re-entry into society poses its own set of obstacles: difficulty finding work, difficulty finding housing, problems with relationships, and temptations to re-engage in criminal activities. As a result, lifetime earnings of those who have experienced incarceration will be 42 percent lower than the earnings of those who have not. The increase in the United States incarceration rate, approaching 500 percent between 1970 and 2005, represents one of the most costly failed social policy initiatives of our time.

Another way to strengthen the family is to ensure that all citizens, including those who live in poverty, have access to the same reproductive health services and family planning resources as the wealthiest among us. People of all economic classes and all faiths use counseling and contraception to help plan their most important decisions in life, and to insure that when they choose to have children they are prepared, financially and emotionally, to help them prosper. Denying these services to families who cannot afford them serves to weaken, not strengthen them. It is bad economic policy and bad social policy. For politicians whose families have access to these same services, it is utterly hypocritical as well.

The federal government and the states can clearly do a better job helping people work their way out of poverty. Still, it is important to recognize that it is unrealistic to declare “war” on poverty, just as it is unrealistic to declare war on drugs and crime. There will be no surrender in these imaginary wars, no treaty signings to signify formal victory. Crusades of this sort, fueled by reams of legislation and perpetuated by program

after program, aim too wide and miss their marks. We must do what we can to alleviate human suffering and expand opportunity for all of our citizens. We also must accept the fact that, despite our best efforts, some level of poverty will persist.

Finally, we must recognize that if poverty raises one set of challenges for our society, vast inequalities in income and opportunity raise another. Persistent inequalities harm people on the lower rungs of the income scale. Furthermore, they create the breeding grounds for corruption, populism, and demagogues. Economic inequality is the subject of Section D.

BASIC PRINCIPLES FOR REDUCING POVERTY

First: It is in our national interest to help people work their way out of poverty. Antipoverty programs that promote this goal are not unfair transfers of wealth.

Second: The federal government cannot effectively administer 100 different antipoverty programs each year. Eliminating redundant federal programs will (i) reduce the cost of federal antipoverty efforts; (ii) make more tax revenue available for state antipoverty programs, especially job training; and (iii) allow for greater focus on federal programs that work, and for coordination of federal and state programs.

Third: The most productive areas of focus for federal antipoverty programs are:

- The Supplemental Nutrition Assistance Program;
- Affordable housing programs; and
- An improved system of Earned Income Tax Credits.

Fourth: Improving the delivery of public assistance programs is necessary but not sufficient for helping people work their way out of poverty. The most basic step is improving our public education system. The poorest children deserve access to the same public education opportunities as the wealthiest.

Fifth: State governments, in particular, can help strengthen poor families by:

- Revising criminal sentencing guidelines;
- Diverting low-risk offenders into community settings rather than prison;
- Whenever possible, linking mandatory job training to probation;
- Helping children in need remain in familiar surroundings with supportive family members;
- Providing day care and transportation services that help all citizens find and keep employment; and
- Ensuring that all citizens have access to reproductive health services and family planning resources.

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Recommended Reading

The 50th anniversary of the war on poverty, declared by President Johnson in 1964, occasioned debates about whether or not welfare programs benefited their intended recipients. Many of the arguments for and against turn on the statistics used to measure poverty. A good summary of recent research is presented in *The Economist Online*, “Are We Helping the Poor?” December 18, 2013.

Studies by the National Poverty Center show that antipoverty and social insurance programs have had major impacts on poverty rates, but that over time expenditures have shifted away from groups with the lowest incomes toward those who are disabled and elderly, with the result that rates of deep poverty for some groups of people have persisted and even increased. See, for example, Yonatan Ben-Shalom, Robert Moffitt, and John Karl Scholz, “An Assessment of the Effectiveness of Anti-Poverty Programs in the United States,” National Poverty Center Working Paper Series, #11-19, June 2011. A study questioning the cost and effectiveness of antipoverty efforts is Michael Tanner, “The American Welfare State: How We Spend Nearly \$1 Trillion a Year Fighting Poverty—and Fail,” Cato Institute Policy Analysis, April 2012.

Studies published in 2014 by a team of economists challenged traditional notions of the United States as the land of opportunity, where children’s chances of success depended little on family backgrounds. Among their more important findings were substantial variations in “intergenerational mobility” across different areas in the United States, with high rates of mobility across generations in some areas, and others in which very few children escape poverty. Without proving a causal relationship, their studies identified several factors that correlated with upward mobility, including: (i) segregation by income and race; (ii) public school performance; (iii) the strength of social networks, community involvement, and religious affiliation; and (iv) measures of family structure, including the prevalence of single parents. Rej Chetty, Nathaniel Hendren, Patrick Kline, and Emmanuel Saez, “Where is the Land of Opportunity? The Geography of Intergenerational Mobility in the U.S.,” *The Quarterly Journal of Economics*, 2014, 129 (4): pp. 1553-1623.

Mary Jo Bane, “Poverty Reduction Strategies for the US,” August 2008, prepared for the Charles Stewart Mott Foundation “Defining Poverty Reduction Strategies” Project, provides specific recommendations for measuring the success of antipoverty programs, improving the Supplemental Nutrition Assistance Program, and reducing rates of incarceration. Many of these recommendations were included in this section.

Section II.D

PRESERVATION OF FREE MARKETS

“I sincerely believe, with you, that banking establishments are more dangerous than standing armies.”

Thomas Jefferson | Letter to John Taylor, 1816

Winston Churchill once remarked that “Democracy is the worst form of government, except for all those other forms that have been tried from time to time.” The same can be said about capitalism. For all its defects, capitalism offers the greatest opportunity to the largest number of people. Free and competitive markets have created the most widely distributed wealth in history.

The focus of a free market capitalist system is equality of opportunity, not equality of results. Even the most competitive free market systems create inequality of income and of wealth. In his book “A Capitalism for the People,” Luigi Zingales writes that, for the most part, inequality has been accepted in the United States as long as it is not excessive, is seen

as a part of an economic system that potentially benefits everyone, and is justified by principles that a majority of citizens deem fair.¹

Truly competitive free market systems, says Zingales, meet all three of these tests. They limit the possibility of earning extraordinary profits and help keep income inequality in check. They ensure that consumers enjoy the benefits of innovation. They pressure businesses to behave in ways that are efficient, and in order to compete efficiently, businesses must reward their employees based on merit. To a greater degree in the United States than in many other nations, disparities of income and wealth traditionally have been seen as fair compensation for intelligence, creativity, and hard work.

Opinion polls show, however, that public faith in the fairness of our capitalist system is eroding over time. Zingales tracks this change in public opinion: in 1998, 74 percent of people polled agreed with the statement, “Most people who want to get ahead can make it if they are willing to work hard.” By 2011, that figure had fallen to 58 percent. Faith in banks and large corporations is falling as well. In a 2008 Gallup poll, 42 percent of respondents said they trusted financial institutions, and 53 percent said they trusted large corporations. In a similar poll taken eight months later, after the subprime mortgage crisis, those percentages dropped to 34 and 12 percent.

GROWING INCOME INEQUALITY

The timing of the second poll shows that the subprime mortgage crisis deeply undermined people’s faith in the banking system and large corporations, but other factors are also at work. In the decade between 2000 and 2010, the real income of the median family dropped by seven percent, and in 2010, the median male in his twenties made 19 percent less in real terms than his father made at the same age. Moreover, as median incomes are falling, income inequality is growing. The share of national income going to the top .01 percent of the population – a mere 16,000 families – rose from one percent in 1980 to five percent in 2013.²

Part of this trend toward inequality can be explained by technical innovation and globalization. Advances in technology have eliminated whole

categories of manufacturing jobs, as well as clerical, administrative, and management jobs that produced middle-class incomes. Historically, increases in productivity fueled greater economic activity and created more jobs. Beginning in 2000, however, increases in productivity and job creation began to diverge. By 2011, continued economic growth was no longer accompanied by a parallel increase in job creation.³ Modern advances in technology, many of which are not capital or labor intensive in the manner of traditional manufacturing machinery, travel around the world at a rapid rate and accelerate the impacts of globalization.

Together, these forces have narrowed inequality among nations. Poorer nations have caught up with richer ones, and the economies of Western Europe and Russia, devastated by World War II, have recovered and continued to grow. Within many countries, however, the gap between rich and poor has widened. More than two-thirds of the world's population now live in nations with rising disparities in income.

Rising inequality matters. Technological innovation contributes to growing disparities of income in the United States, but it is not the only cause. Many of the economic problems we face today, including the decline in real income for middle-class families, are aggravated by two other factors identified and studied by Zingales: market distortions created by government subsidies, and less competitive markets caused by ineffective government regulation.

THE IMPACT OF SUBSIDIES

Federal government spending has increased exponentially over time. In 1900, non-defense spending totaled \$8 billion (calculated in 2005 dollars); by fiscal year 2012, these expenditures rose to over 2 trillion (that's 2,000 billion) dollars. Of this amount, the federal government spends billions of dollars every year on direct and indirect subsidies to small businesses, large corporations, and industry organizations – items collectively known as corporate welfare. As this type of spending increases, the rewards of lobbying increase as well. One infamous example of this trend is found in the Medicare Modernization Act of 2003, which added a prescription drug benefit to Medicare. Successful lobbying by the pharmaceutical industry eliminated the requirement that

Medicare negotiate bulk pricing for most widely used drugs. Removing this requirement conferred \$24 billion of benefits to prescription drug companies each year, subsidized entirely by taxpayers.

The billions of dollars Congress spends on corporate welfare each year amounts to an elaborate system of subsidies. In 2012, leading spenders were the Department of Agriculture (over \$25 billion) and the Department of Energy (over \$17 billion). These funds paid for programs ranging from farm subsidies (going disproportionately to the largest farms) to a variety of alternative fuel initiatives over the years, and even included loan programs for auto manufacturers like Ford and Nissan.⁴ In every area of business, public subsidies are woven into the fabric of private enterprise. Every dollar spent in this way represents the success of one lobbying group over another, having convinced the federal government to substitute its judgment for the collective judgment of competitive markets.

Traditional efforts to limit the role of money in politics by limiting political contributions have failed. In 2010, the Supreme Court decision in the case of *Citizens United v. Federal Election Commission* lifted all restrictions on political spending by individuals and businesses. *Citizens United* allowed the formation of ever-larger political action committees — Super PACs — that can raise and spend unlimited sums of money independent of candidates' election campaigns. Super PACs can raise hundreds of millions of dollars in an election cycle, and the sources of their funds are highly concentrated. One estimate is that 80 percent of their total funding comes from fewer than 200 donors.⁵

After *Citizens United*, there are few practical means left to limit the impact of money on politics. One approach is to reduce the potential rewards of lobbying by removing all government subsidies from the federal budget. With less incentive to compete for government preferences, business groups would shift the focus of their lobbying efforts to lowering tax rates, improving our national infrastructure, and making other changes that would benefit the business community as a whole rather than one industry group over another.

A second approach, still permissible after the *Citizens United* case, is to impose a progressive tax on corporate lobbying expenses. Large corporations can afford to spend much more on lobbying than small businesses, and obtain disproportionately greater benefits. A tax on corporate lobbying expenses, with the proceeds going to benefit consumer groups, would help level the playing field.

THE COST OF COMPLEX AND INEFFECTIVE REGULATION

Even a complete ban on subsidies, however, would not eliminate incentives for businesses to press for favorable regulatory treatment. It also would not address the related problem created by the revolving door between employees of government regulatory agencies and the industries they oversaw while in government office. Every presidential candidate, including Barack Obama, promised to stop government employees who leave office from immediately taking jobs as consultants and lobbyists for the businesses they regulated while in government. And every president, including President Obama, failed to fully deliver on those promises once they were elected.

Ineffective regulation of markets that require careful oversight has the same harmful effects as government subsidies: it distorts markets and makes them less competitive. The devastation caused by the subprime mortgage crisis of 2008 is an especially painful example of a crisis enabled by inadequate government regulation, and then compounded by flawed policy responses that followed in its wake. Initial regulatory reactions to the crisis were so inconsistent they may have done more harm than good.

Subsequent policies under the Troubled Asset Relief Program (TARP), by contrast, were uniformly generous to the banks, their creditors, and their shareholders. For example, TARP regulators provided the nation's nine largest banks with \$125 billion in cash infusions while allowing these banks to pay more than \$25 billion per year in dividends to their shareholders. As a result, TARP came to be viewed as a wholesale bailout of the banking system, undermining voters' faith in the financial system and in the government. Even worse, it signaled to bank officers and investors that large, politically connected financial institutions cannot fail, and therefore will never bear the losses caused by overly aggressive policies.

The subprime mortgage crisis is not the first or even the most glaring failure of the federal government to effectively regulate the banking and finance industry. In 1998, for example, Citigroup announced a plan to acquire Travelers despite the fact that the 1933 Glass-Steagall Act specifically prohibited combinations of banks and insurance companies. The head of the Treasury Department at the time, Robert Rubin, lobbied Congress to change the law. In 1999, one day after the House passed its version of the bill, Rubin left the Treasury Department. Three months later, Citigroup hired him at an annual salary of \$15 million.

THE THREAT OF CRONY CAPITALISM

The most basic role of government in a capitalist system is to keep markets competitive and open to new entrants by preventing businesses from gaining excessive market power. As Zingales notes, when businesses like Citigroup combine market power with political power, the free market system degrades into crony capitalism. Businesses become so powerful that they begin to control the political process. Competition wanes, economic life becomes unfair, and the system favors insiders based on connections rather than firms and individuals based on merit. Consumers can no longer turn to the government for recourse.

Our drift toward crony capitalism is not occurring for lack of regulation. Between the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and state regulators, there are almost 30,000 government employees regulating the banking industry alone. Instead, the problem is one of ineffective and overly complex regulation. So many employees working for so many different agencies inevitably creates problems of overlapping jurisdiction, coordination, and communication. It may also contribute to a mindset called “social loafing” – the thought that if I don’t catch a problem, someone else will.

Moreover, the laws themselves are becoming ever more complicated. Zingales traces the history of legislation to regulate the financial industry. The act that created the Federal Reserve System in 1913 was only 31 pages long. The Glass-Steagall Act, written in 1933 to separate investment banking from commercial banking, was just 37 pages long. The Sarbanes-Oxley Act, responding to the Enron and WorldCom

scandals of 2001 and 2002, was only 66 pages long. The Dodd-Frank financial reform bill, enacted in 2010 after the subprime mortgage crisis, is 2,319 pages long.

In theory, complex laws and regulations are more effective because they can target specific abuses while making exceptions for practices that do no harm. In practice, the problem with complex regulation is that the perfect becomes the enemy of the good. Part of the appeal of Glass-Steagall, notes Zingales, lies in its simplicity: commercial banks should not be allowed to gamble on investments using government-insured deposits. The rule is sensible and easy to understand. Furthermore, as long as investment banks and commercial banks remain separate, the power of the financial industry, economically and politically, remain fragmented.

As our laws and regulations become ever more complicated, legislators and regulators alike must rely more and more on industry expertise, lobbyists, and technical experts with connections to the industries they monitor and serve. Complexity increases the risk of regulators becoming dependent on the very industries they are supposed to oversee. Rules and exceptions become the subject of endless debates by technical experts. Businesses and moneyed interests gain political power. Accountability slips away.

THE BENEFITS OF SIMPLICITY

Simple rules, by contrast, facilitate accountability. New efforts to keep markets competitive therefore must begin with making rules clear and simple enough that efforts to rig the system through subsidies and lobbying become transparent. One way to ensure that rules are simple and effective is to legislate fewer of them. As noted above, banning subsidies from the federal budget would eliminate a great deal of legislation and the regulation that flows from it. Continuing the ban on earmarks (also known as pork) from the federal budget, especially those added to a bill after the House and Senate have passed it in different versions, is also crucial for transparency and accountability. Such a ban also would relieve members of Congress who oppose specific earmarks from voting against a bill they otherwise would support.

Another way to help ensure that rules are simple and effective is to require Congress and the Executive Branch to live by the same rules they apply to the private sector. Until 2012, for example, members of Congress were not bound by the same insider trading rules that apply to corporate insiders, Zingales notes. Members of Congress traditionally have followed different rules for health insurance and retirement savings than the rules that apply to their constituents. Agencies of the federal government, including Fannie Mae and Freddie Mac, are exempt from many of the generally accepted accounting rules that apply to the banking industry.

STRONG AND CONSISTENT ENFORCEMENT

Finally, it is critical that we enforce the rules already in place. Thirty thousand government employees working for various agencies at the federal and state levels did not protect the public against the subprime mortgage crisis of 2008. It is possible, in fact, that some financial institutions have grown so large they cannot even monitor themselves.

One of the earliest warnings of the 2008 financial crisis came not from a regulatory agency but from a whistleblower who worked for JP Morgan, which ultimately negotiated a \$9 billion settlement with the federal government. Whistleblowers, especially in financial industries, can identify corporate fraud more effectively than regulatory agencies at a fraction of the cost. Furthermore, any employee can be a whistleblower, and it is more difficult for an industry to hide fraud from its own employees day after day than it is to mislead government agencies during predictable audits. It is, therefore, more effective to enforce anti-fraud regulation by enhancing protections and rewards for whistleblowers than by adding more resources to government agencies.

BASIC PRINCIPLES FOR RESTORING COMPETITIVE MARKETS

First: Eliminating subsidies to businesses will reduce distortions of competitive markets.

Second: Imposing progressive taxes on corporate lobbying will limit the influence of money on competitive markets.

Third: When bailouts are necessary, government intervention should protect the stability of jobs and markets, not protect the interests of executives and shareholders.

Fourth: The revolving door between government regulators and industries corrupts the regulators and must come to an end.

Fifth: The complexity of federal and state regulations can be reduced by stressing simplicity over complexity, and by eliminating overlapping jurisdiction among agencies.

Sixth: Whistleblowers who report corporate fraud, abuse, and antitrust violations should be protected and rewarded.

If these principles seem radical, it is only because we have drifted so far away from the practices and expectations that created our competitive free market system in the first place. To maintain free and competitive markets, federal and state government policies must be pro-market, not pro-business. Pro-market policies aim at encouraging the best business conditions for everyone. Pro-business policies, by contrast, help maximize profits for existing firms. As government policies become more and more pro-business, efficient market competition degenerates into inefficient monopolies. When monopolies extend their power into the political arena, the free market system degenerates into crony capitalism.

This drift away from free and open markets has occurred before in our history. Speaking to a crowd of 30,000 people in 1910, Theodore Roosevelt said, “In every wise struggle for human betterment, one of

the main objects, and often the only object, has been to achieve in large measure equality of opportunity.” As president, Roosevelt had broken up the trusts of his day and cracked down on political corruption. A century on, both our economy and our government have grown larger than he ever could have imagined. Limiting the role of money in politics, and restoring freedom to competitive markets, will require enormous political will.

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 5. Bowie, B., & Lioz, A. (2012). Auctioning Democracy: The Rise of Super Pacs and the 2012 Election. *Demos*.
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Recommended Reading

Many of the arguments made in this section about the market distortions created by public subsidies and regulation are taken from Luigi Zingales, “A Capitalism for the People: Recapturing the Lost Genius of American Prosperity,” 2012. The author is a professor of entrepreneurship and finance at one of the nation’s leading free-market business schools, the Booth School of Business at the University of Chicago. He warns that as our economy continues to become more pro-business than pro-market, it risks drifting into the type of crony capitalism now prevalent in his native Italy.

“For Richer, For Poorer,” Special Report (World Economy), *The Economist*, October 13, 2012, examines growing income inequality in the United States and in other nations as well.

“How Technology is Destroying Jobs,” David Rotman, *Technology Review*, June 12, 2013, outlines the diverging relationship between productivity and job creation, and explores possible connections of this trend to advances in technology.

Estimates of direct and indirect subsidies paid to business interests in 2012 are found in Tad DeHaven, “Corporate Welfare in the Federal Budget,” *CATO Policy Analysis* No. 703, July 2012.

“The Rescue of Fannie Mae and Freddie Mac,” Frame, Fuster, Tracy, and Vickery, Federal Reserve Bank of New York, Staff Report No. 719, March 2015, describes the lack of accountability for both firms that led to intervention by the federal government in 2008, and cautions that measures taken to date have not yet made needed reforms to the housing finance system.

Section III

TO LAY AND COLLECT TAXES, TO PAY DEBTS, & TO BORROW MONEY ON THE CREDIT OF THE UNITED STATES

“To impose taxes when the public exigencies require them is an obligation of the most sacred character... To dispense with taxes when it may be done with perfect safety is equally the duty of their representatives.”

James Monroe | First Annual Message to Congress, 1817

Beginning with negotiations on the 2011 federal budget, Congress brought the United States to a series of crisis points in which funding for most federal programs, the nation’s credit rating, and public trust in our economic stability hung in the balance. In the absence of federal budgets for 2011 and later years, Congress resorted to passing continuing resolutions, or temporary spending acts, to enable the government to pay its bills. Congress also agreed in 2011 to raise the federal debt ceiling, the legal limit Congress places on its own borrowing, on the condition that a bipartisan committee agree on a plan to produce \$1.2 trillion in budget savings by 2021. The penalty for failing to agree on a budget plan was severe: indiscriminate spending cuts known as sequestration would take

effect to automatically reduce discretionary spending. The bipartisan committee failed to reach an agreement. Sequestration first took effect in March 2013, roughly halfway through the 2013 fiscal year.

Just as Congress failed to do the work of negotiating a budget for 2013, it also neglected to produce a budget for fiscal year 2014. The first day of the 2014 fiscal year was October 1, 2013, the same date on which the Affordable Care Act (ACA) was scheduled to take effect. As the new fiscal year approached, partisan differences reached new heights. House Republicans, who strongly opposed the ACA, refused to pass a continuing resolution to fund the federal government unless it included provisions to defund or delay implementation of the Act. With no funding in place for the new fiscal year, most operations of the federal government shut down on October 1, 2013. The shutdown lasted 16 days.

The uncertainties caused by ongoing failures to produce a federal budget, capped by the final showdown over implementation of the Affordable Care Act, deflected attention from critical facts about annual budget deficits and the federal debt. When the government shutdown began on September 30, 2013, the federal government's total debt stood at \$16.74 trillion, just \$25 million short of the statutory debt ceiling at the time, and roughly equal to the nation's GDP for the entire year. By the end of the 2015 fiscal year, federal government debt was estimated to be \$18.2 trillion.

UNSUSTAINABLE DEFICIT SPENDING

Fueled by deficit spending, federal debt is on the rise. Democrats blame Bush-era spending related to the war on terror, while Republicans point to the Obama administration's response to the subprime mortgage crisis. In reality, our debt crisis "is a slow-motion emergency that has been developing in plain sight for decades under presidents and congressional majorities of both parties."¹ In 1980, the United States was the world's largest creditor nation. By 1987, it was the world's largest debtor nation, thanks to more and more borrowing in order to pay for more and more deficit spending. Successive presidents and Congressional majorities, Republican and Democratic alike, have allowed government spending, especially on entitlements, to spiral out of control. By 2015, Social Security,

Medicare, and Medicaid together grew large enough to consume about 47 percent of the entire federal budget.

The full impact of these entitlement programs will be felt in the coming years, as 77 million baby boomers born between 1946 and 1964 reach the qualifying age for Social Security and health benefits. As the last of the baby boomers retire, the total cost of these programs will be almost four times the size of the entire GDP in 2010. By 2046, projected outlays for mandatory entitlement programs such as Social Security, Medicare, and Medicaid, plus interest on the debt, will absorb more revenue than the federal government collects under current tax rates. All other government responsibilities, including national defense, will be paid for with borrowed money.

Federal debt this high is not sustainable. It will drive up interest rates for borrowers and curtail economic growth by crowding out private investment. It will put our nation at risk by exposing us to the demands of foreign creditors, who may insist on severe austerity measures as a condition of purchasing more debt. Most importantly, as noted by a 2010 Council on Foreign Relations report, “the dollar’s status as the world’s reserve currency has become a key facet of U.S. power, allowing the United States to borrow effortlessly and sustain an assertive foreign “policy.”² Over time, spiraling debt will deprive the federal government of the resources it needs to invest in national priorities and respond to new challenges, from natural disasters to threats against national security.

To realistically address the debt crisis, we must begin by realistically acknowledging its primary cause: the unchecked growth of entitlement spending, particularly Medicare. The two most important trends driving up the cost of Medicare, in turn, are an aging populace and the hyperinflation of health care expenses. As long as these trends continue, no amount of cuts to Medicaid and other social safety net programs will balance the budget or reduce the debt.

Similarly, it will not be possible to balance the budget or reduce the debt without significant changes to the tax code. In the 25 years since the last

comprehensive changes to the tax laws, Congress has riddled the code with countless tax expenditures, valued in 2010 at \$1.1 trillion. Many of these expenditures contribute to the corporate welfare programs highlighted in the preceding section. Others primarily benefit the middle class and the wealthy. Through the mortgage interest deduction, for example, the federal government spends four times more on housing subsidies for the wealthiest 20 percent of the population than it does on public housing for the poorest 20 percent. In all, more than 60 percent of all tax preferences flow to the wealthiest 20 percent of the population, with only three percent going to the poorest 20 percent.³

NATIONAL COMMISSION ON FISCAL RESPONSIBILITY & REFORM

All attempts to reach bipartisan agreement on reducing annual deficits and the debt have failed. President Obama, who inherited a \$1.3 trillion deficit in 2009, appointed the National Commission on Fiscal Responsibility and Reform early in 2010 in hopes of producing a grand bargain both parties could support to bring long-term spending and revenue into alignment. The bipartisan commission, chaired by Democratic advisor Erskine Bowles and retired Republican Senator Alan Simpson, issued its report in December 2010. The Commission report recommended an ambitious package of spending cuts and tax code changes designed to reduce government expenditures, increase revenue, and gradually begin to reduce the deficit and pay down the debt. Their report included detailed recommendations to:

1. Cap discretionary spending, including defense spending, for ten years, reduce agricultural subsidies, and eliminate all earmark spending;
2. Contain health care costs by enacting a variety of changes to Medicare and Medicaid;
3. Bring civil service and military retirement programs in line with private sector benefits;
4. Change Social Security benefit formulas and increase early and full retirement age; and
5. Amend the tax code to broaden the tax base, cut tax expenditures, and lower rates.

As outlined in the Commission report, eliminating tax expenditures from the income tax code would save \$1.1 trillion per year. The revenue earned by eliminating these expenditures could be used to reduce the deficit and reduce income tax rates to as low as 8, 14, and 23 percent. Adding back selected tax expenditures that promote work, home ownership, health care, charitable contributions, and savings could be done at slightly higher tax rates of 12, 22, and 28 percent.

In the end, 11 out of 18 members of the Commission supported the report. The vote was three short of the 14 needed to force a Congressional vote on its recommendations. House Republicans on the Commission, including Congressman Paul Ryan, voted against the report, but all three conservative Senate Republicans on the Commission voted in favor. Despite these indications of bipartisan support, President Obama did nothing further to promote the work of the Commission he appointed. The report of the Commission nevertheless provides a blueprint for the type of approach needed to successfully address the debt crisis.

Opinion surveys routinely find that over 80 percent of citizens think it is “extremely important” or “very important” to reduce the federal budget deficit. Concern never translates into public pressure, however, because most of us value the immediate benefits we receive from the government more than we fear the future consequences of deficits and the debt.

That must change. Any realistic approach to reducing federal deficits must address a wide range of issues and affect a wide range of constituencies; in fact, each and every one of us is certain to feel the impacts of a plan that successfully reduces our deficits and our debt. As the National Commission stated in the preamble to its report: “None of us likes every element of our plan, and each of us had to tolerate provisions we previously or presently oppose in order to reach a principled compromise. We were willing to put our differences aside to forge a plan because our nation will certainly be lost without one.”

BASIC PRINCIPLES FOR REDUCING ANNUAL DEFICITS AND FEDERAL DEBT

First: Uncontrolled growth in federal debt is a serious threat both to our economic stability and our national security, for us, for our children, and for our grandchildren.

Second: Long-term reduction of federal debt requires a comprehensive plan to stabilize debt as a share of GDP, implemented gradually over time to minimize the impact on economic growth.

Third: A comprehensive plan must address every area of the federal budget without exception, including defense spending, Medicare, Medicaid, Social Security, and operations of the federal government.

Fourth: Eliminating business subsidies will reduce the level of federal debt.

Fifth: Long-term debt reduction also requires changes to the Internal Revenue Code to broaden the tax base, eliminate all but selected tax expenditures, and raise revenue to reduce both annual deficits and the federal debt.

Sixth: Curtailing the growth of federal debt is consistent with protecting the needs of citizens who are truly disadvantaged. We can refine and preserve benefits for the people who need them most.

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Recommended Reading

The complete findings of the Simpson-Bowles Commission were published in a clear and comprehensive 59-page report, “The Moment of Truth,” Report of the National Commission on Fiscal Responsibility and Reform, December 2010.

“Why Won’t Americans Listen to Alan Simpson and Erskine Bowles?”, Bloomberg Businessweek, February 28, 2013, examines the failure of the Commission’s report to produce a grand bargain on debt reduction, and describes the ongoing efforts of Simpson and Bowles to promote key elements of the plan. Further resources and information about the national debt are available at www.fixthedebt.org.

The risk that a large scale sell-off of its securities would impair the ability of the United States to borrow easily in international markets and sustain an assertive foreign policy is outlined in Francis E. Warnock's, “How Dangerous is U.S. Government Debt?”, Council on Foreign Relations, June 2010.

Section IV

TO MAKE TREATIES, & TO REGULATE COMMERCE WITH FOREIGN NATIONS

“I have always given it as my decided opinion that no nation had a right to inter-meddle in the internal concerns of another... and that, if this country could, consistent with its engagements, maintain a strict neutrality and thereby preserve peace, it was bound to do so by motives of policy, interest, and every other consideration.”

George Washington | Letter to James Monroe, August 25, 1796

Since the end of World War II, unfortunately, our willingness to “meddle” in the internal affairs of other nations has been a basic flaw in our foreign policy. Motivated by desires to combat the spread of communism, provide access to markets for exports, and secure supplies of oil and other resources, the United States has toppled legitimate governments and made alliances with brutal dictators. In doing so, we have neglected our own values. We also have ignored one of the most basic lessons of history: few desires are stronger and more enduring than the desire of people to determine their own national destiny.

By ignoring this most basic lesson, we have created unintended consequences that in some cases have come back to haunt us. Consider, for example, the tragic example of Iran. What might the world look like today if the United States and Britain had not overthrown Muhammad Mossadegh, the prime minister of Iran, in a 1953 coup? Instead of allowing Iran to determine its own course under a leader who flirted with Communism and nationalized his country's oil industry, we toppled his regime and installed the Shah, a brutally repressive ruler despised by his own people. The Shah's overthrow in 1979 set in motion a chain of events that led to the Iran hostage crisis and brought Ayatollah Khomeini to power.

A second flaw underlying our foreign policy is our failure to recognize that our political values are not universal. The fact that people value national freedom as we do does not necessarily mean that they place the same value on political freedom or on freedom of conscience. In fact, many of the greatest societies in history, and many of the most powerful nations today, traditionally have not allowed freedom of speech or freedom of the press. And societies that do not recognize any separation between church and state will not necessarily value freedom of conscience.

Our foreign policy must recognize that the constant theme of history is not the struggle for freedom; it is the struggle for power. Throughout history we can find examples of societies that have willingly traded political freedoms for national security, economic gain, or both. Try as we might to make the world safe for democracy, we therefore will find that not every nation desires it.

A third flaw in American foreign policy is the failure to recognize that we cannot solve some of the most challenging international problems we face by acting alone. One hundred years ago, it took three weeks for a ship to cross the Atlantic bearing letters, gold, and weapons. Today it is possible to transfer data and money with the click of a button, and a missile launched from anywhere in the world can reach our shores in a matter of minutes. A rational and effective foreign policy cannot ignore these realities.

Acting alone, we cannot effectively prevent terrorist attacks against the United States or control the proliferation of nuclear, chemical, or biological weapons. We cannot slow the pace of global warming. We cannot stop the depletion of the world's ozone layer, the destruction of natural habitats by toxic chemicals and deforestation, the decline of ocean fisheries, or the spread of disease. Only by cooperating with other nations can we hope to achieve these goals.

LESSONS FROM TWO WARS IN IRAQ

The very different outcomes of the Persian Gulf War and the Iraq War illustrate the benefits of cooperation. Iraq triggered the Persian Gulf War by invading and occupying Kuwait in August 1990, with the apparent goals of acquiring Kuwait's oil resources, canceling a large debt owed by Iraq to Kuwait, and expanding Iraqi power in the region. On August 3, the United Nations Security Council called for Iraq to withdraw from Kuwait. Three days later, the Security Council imposed a worldwide ban on trade with Iraq. Iraq responded by formally annexing Kuwait. In November, the Security Council authorized the use of force against Iraq if it did not withdraw its forces from Kuwait by January 15.

On January 16, an allied coalition led by the United States launched a military offensive against Iraq, beginning with a massive air campaign followed by a full-scale ground invasion. By the end of February, the Iraqi resistance had collapsed, and President George H. W. Bush declared a cease-fire. The terms of the cease-fire required that Iraq recognize Kuwait's sovereignty, and that it divest itself of all weapons of mass destruction. The allies lost about 300 troops in the entire conflict.

In the aftermath of Iraq's defeat, Kurds in the north of the country and Shi'ites in the south rebelled against Saddam Hussein's regime. He suppressed the rebellion with great brutality. The allies responded by imposing a no-fly zone over the contested areas. Despite the weakened state of Iraq's military, the allied forces did not attempt to depose Saddam Hussein, nor did they attempt to destabilize the government of Iraq and build a new democratic nation in its place. Instead, the allies adhered to their original mandate in the Persian Gulf War: removing Iraq from Kuwait.

In 2002, the administration of President George W. Bush alleged that Iraq was continuing to manufacture weapons of mass destruction and was providing support to terrorist groups. In November, the United Nations Security Council demanded that Iraq readmit inspectors and comply with previous UN resolutions, but stopped short of authorizing the use of force. Iraq appeared to comply for a time, but early in 2003, President Bush and British Prime Minister Tony Blair alleged that Iraq was continuing to hinder inspections. In March 2003, President Bush declared that diplomacy had failed, and issued an ultimatum giving Saddam Hussein 48 hours to leave Iraq. The leaders of France, Germany, and other nations objected, arguing that inspections should continue in order to give Iraq more time to comply.

A coalition of the United States, Britain, and other nations nevertheless chose to invade Iraq on March 20, 2003. In less than a month, most areas in Iraq fell with very few allied casualties. After the fall of Hussein's regime, however, major cities erupted in a wave of looting and violence, which developed into a bloody civil war between Sunnis and Shi'ites in Iraq, and full-scale guerrilla warfare against allied forces. By 2007, over 3,000 United States troops had died in the conflict.

The Iraq War was an unmitigated disaster. The United States and its allies found no evidence of ongoing nuclear or chemical weapons programs. Moreover, our decision to disband the Iraqi army without providing adequate protection to Iraqi military bases, infrastructure, and its civilian population plunged the nation into chaos. The resulting conflict caused the death of at least 65,000 Iraqi civilians (some estimates run much higher), and ultimately created a vacuum of power that gave rise to terrorist groups far more brutal and dangerous than the government of Iraq under Saddam Hussein had been. Our willingness to intervene in Iraq's internal affairs, our belief in the universal desire for democracy, and our inclination to act on our own combined to produce the worst foreign policy blunder of a generation.

THE NEED FOR INTERNATIONAL COOPERATION

In fact, the most serious threats to the security of the United States do not arise from nations like Iraq acquiring weapons of mass destruction.

They arise from the transfer of nuclear technologies to stateless terrorist groups who would not be deterred from striking the United States by the threat of reprisal. Moreover, the risk of nuclear technology falling into the hands of terrorist groups may be more serious in nations friendly to the United States, like Pakistan, than in nations with governments hostile to the United States, such as Iraq or North Korea. The spread of nuclear weapons to terrorist groups is a prime example of a threat the United States cannot contain on its own. Only in cooperation with other nations, and with agencies like the International Atomic Energy Agency, can we hope to contain the threat of nuclear proliferation and reduce the likelihood of a terrorist attack on the United States.

In his book “Every Nation for Itself: What Happens When No One Leads the World,”¹ Ian Bremmer writes that, in a world where so many problems transcend national borders, the need for international cooperation is greater than ever, and continued international cooperation will not be possible without some degree of leadership by the United States. No other nation has the same combination of political, economic, and military power. English is still the most popular second language in the world. With the demise of Communism in the Soviet Union and in China, no other nations offer economic ideologies that compete with capitalism and entrepreneurship.

For all its flaws, our democracy has survived the collapse of many authoritarian regimes. If the United States is unable, due to increasing partisan discord and mounting debt, to continue playing a leadership role in the world, it is not likely that any other nation or group of nations will take its place.

NECESSARY DECISIONS

Maintaining a leadership role in the world does not require, and should not involve, political or military intervention in the affairs of other nations. It does require us to make key decisions in three areas that will bring long-term benefits to our nation and enable us to pursue a coherent and effective foreign policy. The first of these decisions is to reduce our burden of debt. For all the reasons outlined in Section III above, this step is necessary to rebuild our economic strength.

Second, we must renew our commitment to international trade. Arguments that trade agreements kill jobs are grossly oversimplified. International trade in particular, and all trade in general, kills some jobs while creating new ones in ongoing cycles. Efforts to protect specific kinds of jobs through protectionist trade policies are costly and, in the end, always futile. A better role for the federal government would be funding training programs that help workers who have lost their old jobs to find new ones.

As Bremmer points out, international trade is not a zero-sum game. Thoughtfully negotiated trade agreements can increase overall prosperity for all parties by creating net increases in jobs in each nation, and by reducing the costs that consumers pay for goods. Specialization, after all, is what drives people to trade goods and services in the first place, rather than trying to produce everything on their own.

The same political, economic, and cultural strengths that make the United States a great power also offer important advantages in competitive world markets. No nation has benefited more than the United States from the free flow of goods, services, capital, and information over international borders. If future international markets are characterized by tariffs and trade barriers, our competitive advantage will be lost. If future markets reward the power to invent, innovate, and sell, our economy will continue to prosper.

Finally, we must shape a new consensus about our role in the world. In the years following World War II, the United States created a new world order supported by our political, economic, and military commitments. The fact that our policies and priorities have changed over time does not mean that we can back away from these commitments overnight, or shift from one foreign policy to another in order to please domestic constituencies or win elections.

For example, when our foreign policy veers from international leadership and activism to calls for isolation, we leave a vacuum that creates doubt and confusion. Allies need to know how much responsibility to accept for their own security. Voters need to understand the extent of

our international commitments. Policies that are ambiguous or improvised will invite rivals to test our resolve. United States policymakers must formulate a coherent set of principles that define our role in the world, guide our actions, and provide the flexibility needed to adapt to unique new circumstances. We must find a consensus that can earn strong and enduring public support, and communicate it both to our allies and to our potential adversaries.

Then we must live up to our own ideals. Due to our prominence in world affairs, the United States will lead by example whether we intend to or not. We cannot promote human rights while violating the rights of so many citizens at home, torturing prisoners in violation of international law, or defending foreign dictators. We cannot champion democratic values in other nations when Congress is so paralyzed by partisan gridlock at home that it cannot pass a budget bill without threats of a government shutdown. Finally, we cannot expect other nations to cooperate on matters important to us when we continually disparage our trading partners, our military allies, and the international organizations that we ourselves established after World War II.

BASIC PRINCIPLES OF FOREIGN POLICY

First: United States foreign policy must protect the safety and promote the welfare of American citizens at home and abroad.

Second: We cannot impose our political values on other nations, but we can work to support the development of local democratic movements and institutions.

Third: We must maintain an exceptionally high threshold for military action of any kind.

Fourth: In the foreseeable future, terrorism, nuclear proliferation, and environmental damage pose more serious threats to the safety and welfare of our citizens than conventional warfare. These threats

can be effectively dealt with only in cooperation with other nations and with international organizations.

Fifth: International cooperation is not possible without some degree of continued economic, political, and military leadership by the United States. Our political leaders must help create a new consensus about the extent of our international commitments that earns enduring public support.

Sixth: Trade is critical to the strength of the United States economy and to the success of our foreign policy. It must be actively promoted through trade agreements, treaties, and participation in international economic organizations. At the same time, the federal government can offer financial aid and job training programs for U.S. workers who lose their jobs due to changes in trade policy.

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1. Bremmer, I. (2012). *Every Nation for Itself: What Happens When No One Leads the World*. New York, NY: Portfolio Penguin Group.
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Recommended Reading

In “Every Nation for Itself: What Happens When No One Leads the World,” author Ian Bremmer argues that in a world where so many problems transcend national borders, the need for leadership has never been greater. To the question, “Who will lead?” he answers, “No one – neither the once dominant G-7 nor the unworkable G-20.” Instead, he argues, we have entered the era of G-Zero, in which no single country or alliance of nations can meet the challenges of global leadership. His book examines the consequences of a G-Zero world for the global economy, climate change, terrorism, cyber attacks, and the security of food and water.

His subsequent book, “Superpower: Three Choices for America’s Role in the World,” makes arguments for and against different foreign policies described as independent America, moneyball (opportunistic) America, and indispensable America, and explains why policymakers and voters must make a choice.

Section V

TO PROVIDE FOR THE COMMON DEFENSE

“Each generation should be made to bear the burden of its own wars, instead of carrying them on at the expense of future generations.”

James Madison | Essay in the National Gazette, 1792

“Every citizen should be a soldier. This was the case with the Greeks and the Romans, and must be that of every free state.”

Thomas Jefferson | Letter to James Monroe, 1813

The United States spent more on military equipment and combat forces in 2014 than the next eight nations combined. In a 2011 Foreign Affairs article, Joseph M. Parent and Paul McDonald offer the following summary: “With its vast fleet of attack submarines and aircraft carriers, the United States controls the seas -- even those that are not its territorial waters and those outside its exclusive economic zone. Its fighter aircraft and unmanned aerial vehicles give it unrivaled air superiority. And its dominance of outer space and cyberspace is almost as impressive.”¹

The overwhelming power of our conventional military forces, and our ability to project that power to battlefields 7,000 miles away, was key to our success in the 1991 Persian Gulf War. Since that time, however, the

United States has engaged in a series of non-conventional military actions for longer than ever before in our history. Of the military actions in Kosovo, Afghanistan, Iraq, and Libya, only the first can be considered a clear success. In the new century, the most common types of conflicts so far have been terrorist threats and regional civil wars fueled by religious and ethnic hatreds – types of conflict not easily settled by conventional force, no matter how overwhelming.

Moreover, power depends on economic as well as military strength. Between 2000 and 2015, the United States share of global GDP fell from 21.2 to 16.7 percent, while China's share jumped from 10 to 15.6 percent. During that same period of time, our federal debt as a percentage of GNP more than doubled, from 32 to 74 percent, and state and local governments incurred significant debts as well. Power follows money, and, as detailed in Section III above, the United States is bleeding cash.

INTERNATIONAL MILITARY DEPLOYMENT

The combination of open-ended foreign policy commitments and undisciplined spending habits has overextended the United States military. The answer is not greater military commitments and more spending. Instead, it is time for the United States to reduce its global military footprint, scale back reliance on ever more expensive military weapons systems, and use the resulting savings to help restore our economic power. It also is time to reconsider our willingness to use military force in certain types of conflicts, and to re-examine our ideas of national service.

Our military forces currently have over 150,000 active-duty troops stationed outside the United States, primarily to deter aggression against our political and economic partners in Europe and Asia. There are, however, few imminent military threats to our allies in these regions. Russia continues to interfere in the affairs of its immediate neighbors, including Georgia and Ukraine, but poses no credible threat to the nations of Western Europe. The United States could safely reduce active duty forces in Europe without compromising its security. In Asia, Japan and South Korea are already carrying greater defense burdens than they were during the Cold War. Regional security can be sustained through bilateral agreements rather

than the open-ended commitments and forward deployments that marked the Cold War.

Reducing our military commitments in Europe and Asia would produce significant savings. A bipartisan task force report published by the Project on Defense Alternatives in 2010 estimated that demobilizing 50,000 active-duty soldiers in Europe and Asia alone could save as much as \$12 billion per year.² Further indirect savings are possible as well.

In the Middle East, note Parent and MacDonald, “The United States has an interest in ensuring the flow of cheap oil, yet armed interventions and forward deployments and armed interventions are hardly the best ways to achieve that goal.” Our presence in the Middle East has radicalized local populations and provided attractive targets for terrorists, but has not effectively denied safe haven to terrorist groups operating in the region. Our military mission in Afghanistan achieved only limited success in promoting good governance and stamping out corruption. Terrorist networks formerly based in Afghanistan have shifted operations to Pakistan and North Africa. The United States will not require large military bases to combat these networks.

EXPENSIVE WEAPONS SYSTEMS

Reducing our reliance on expensive military weapons systems will produce significant savings as well. In 2015, the United States Navy operated ten aircraft carriers plus another nine ships that would be classified as carriers if they served in any other navy. Two more carriers were under construction at an approximate cost of \$6 billion each. Few other nations in the world, including both China and Russia, have more than one aircraft carrier in their navies.

The F-35 Joint Strike Fighter has been in development since 2001, and has been plagued by hardware malfunctions, software glitches, and cost overruns all along the way. In 2016 it was three years behind schedule and \$200 billion over budget. Once the F-35 is declared ready for combat, it will be the most expensive weapons system in world history. Each plane will cost between \$148 million and \$337 million, depending on its capabilities. The General Accounting Office estimates that maintaining

and operating the F-35 program over the course of its lifetime will cost nearly \$1 trillion.

The helmets designed for use by F-35 pilots, at a cost of \$400,000 each, have developed their own set of problems. The helmets are so large that they restrict the ability of pilots to turn their heads in order to see enemy aircraft. Some maneuvers temporarily pin the helmet against the canopy, obstructing the displays and inhibiting the firing of weapons. They are prone to malfunction, and when they do, one pilot cannot simply borrow a helmet from another pilot because each helmet is calibrated to the eyes of an individual pilot in a process that takes two days.

There are no good reasons to invest our resources upgrading weapons systems that already surpass those of every possible rival. On the contrary, there are good reasons not to invest resources in this way. The quick pace of technological change means that weapons systems planned for delivery five years from now (let alone fifteen years) may be obsolete by the time they roll off the assembly lines. The most effective investments we can make in military research and development should ensure that new technologies can be produced quickly when the needs arise.

CLEARLY DEFINED MISSIONS

Our global military presence and our reliance on expensive weapons systems are not the work of a single president or political party. They developed over the course of several decades, based on open-ended foreign policy commitments intended to stop the spread of Communism. In his 1961 Inaugural Address, President John F. Kennedy declared “that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty.” Over the next fifty years, the United States built its military forces in that image.

If we begin to redefine the basic principles of our foreign policy, however, we can redefine the mission of our military forces as well. The foreign policy principles outlined in Section IV above call for the use of

military force only in limited circumstances. The military forces needed to combat terrorism are entirely different from the forces needed to stop the spread of Communism in Europe or Southeast Asia.

Furthermore, our experience in recent regional conflicts, including those in Afghanistan, Iraq, and Libya, have illustrated the risks of fighting in places where the government is too weak or corrupt to do the job itself, and where victory ultimately depends on controlling the politics of unstable nations.³ Our attempt to create democracy in Iraq, for example, unleashed social divisions that Saddam Hussein's brutal regime had long suppressed, allowing bitter political conflicts to explode and paralyze the political system. Iraq deteriorated not because our troops failed in combat, but because its new leadership failed to build an honest and responsive government.

Of all the lessons learned from American military actions since the Second World War, two stand out. First, military power is designed to inflict damage and destruction. It is not a useful tool for rebuilding. Second, it is very difficult to win a military conflict when our adversary cares more about the outcome than we do. There are many ways to apply political and economic force against an adversary without declaring war. Unless we are willing to fully commit our military forces to armed conflict, we should not take the first steps down that path.

NATIONAL SERVICE

Finally, as we redefine the mission of our military forces, we also must re-examine our ideas of national service. The generation that fought the Revolutionary War believed that, in a democracy, wars would be fought and paid for broadly by the citizens of that nation. This dual obligation served as a restraint on entering wars and as a continuing reminder of their costs.

The burden of war today, by contrast, is shouldered by four tenths of a percent of Americans and their families,⁴ disproportionately from small towns and rural areas.⁵ No United States citizen has been drafted into military service since 1972. Moreover, the cost of this generation's wars will be paid not by us, but by our children and our grandchildren. Over the course of eleven years, the United States fought two ground wars, in Afghanistan

and then in Iraq, without imposing any increase in federal income taxes designed to pay for them. We insist that we support our troops, but for most of us the cost of our support is limited to buying bumper stickers for our cars.

Universal conscription is not required to support the limited objectives of a rational foreign policy. Universal service, however, is an idea worth considering, especially in exchange for educational benefits. This idea is further explored in Section X, The Obligations of Citizenship.

BASIC PRINCIPLES OF DEFENSE POLICY

First: Power depends on both economic and military strength.

Second: We do not need, and cannot afford, to maintain forces capable of carrying out every conceivable mission.

- We must tailor our military forces to support specific foreign policy objectives rather than open-ended commitments.
- Forward troop deployments and expensive weapons systems that take years to develop are no longer needed to support current objectives.

Third: Where the outcome of a conflict depends on controlling the internal politics of unstable nations, the use of military force will be risky and largely ineffective.

Fourth: If a cause is worth fighting for, it is worth paying for, too. The cost of our conflicts should be paid by tax revenue, not borrowed funds.

Fifth: Some form of national service is the obligation of every United States citizen.

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Recommended Reading

United States military personnel are stationed in over 150 countries across the world. It is difficult to obtain a full picture of the number of troops serving overseas. According to the latest Department of Defense data on active duty, as of October 2015 there were 150,560 military personnel serving in foreign countries. But that number excludes many countries like Afghanistan, Iraq, Iran, Kuwait, and Syria. The Department of Defense does not specify the number of personnel serving in those and many other places due to host nation sensitivities to the presence of our troops.

Up-to-date information about military spending by different nations is available from the International Institute for Strategic Studies (IISS), and from the Stockholm International Peace Research Institute (SIPRI).

Joseph M. Parent and Paul MacDonald, "The Wisdom of Retrenchment: America Must Cut Back to Move Forward." Foreign Affairs 90, No. 6, November/December 2012: pp. 32-47, provides a well-reasoned and comprehensive set of recommendations for reducing our global military footprint and our spending on advanced weapons systems. Several of these recommendations are included in this Section.

The risks of attempting military interventions in unstable nations are outlined in Richard K. Betts, "Pick Your Battles: Ending America's Era of Permanent War." Foreign Affairs 93, No. 6, November/December 2014: pp. 15-24. Betts also highlights the limits of using airpower as an alternative to committing ground forces. First, it can tilt the balance between opposing forces, but it cannot frame lasting solutions. Second, the use of airpower in unfamiliar areas, based on unreliable information, can and has led to disastrous mistakes.

Section VI

TO ESTABLISH A UNIFORM RULE OF NATURALIZATION

“I had always hoped that this land might become a safe and agreeable asylum to the virtuous and persecuted part of mankind, to whatever nation they might belong.”

George Washington | to Francis Adrian Van der Kemp, 1788

As a nation of immigrants, we tend to take immigration for granted. The first great wave of immigration, between 1820 and 1880, saw the arrival of eight million immigrants to the United States. Most other nations have tightly controlled the flow of immigration to preserve their culture, ethnicity, or religion. Our willingness to accept new immigrants, along with our ability to assimilate millions of new citizens, has made the United States one of the most diverse nations in history.

From our earliest days as a nation, however, United States policies have shifted from encouraging immigration to condemning it, often within relatively short periods of time. The seventh complaint in the Declaration of Independence condemned the British monarchy for

“obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither.” Just twenty years later, Congress passed the Alien and Sedition Acts to restrict immigration and silence those who supported it.

Conflicting views of immigration persist to the present day. In fact, few issues on the American political agenda are more complicated or divisive. Immigration policy impacts our national security and international competitiveness. It is also a central concern touching the personal lives of millions of individuals and their families. Despite their critical importance to our security, our economy, and our people, our current immigration policies do not serve any of these interests well.

ADMINISTERING LEGAL IMMIGRATION

The Immigration and Naturalization Act governs both permanent immigration to the United States and the issuance of temporary visas. The limit on permanent immigrants is set at 675,000 per year, divided into four basic categories: family-based immigration, employment-based immigration, a diversity visa lottery for nations with low rates of immigration to the United States, and refugees who are unable to return to their home countries due to a well-founded fear of persecution. The last two categories are the smallest. The Diversity Immigrant Visa Program allows up to 50,000 immigrants per year.

The number of refugees admitted to the United States, by contrast, is determined on an annual basis. The president, after consultation with Congress, determines each year’s quota and designates certain countries and areas of the world from which it will be filled. In 2016 the quota was set at 85,000, to be filled as follows: Africa (25,000); Latin America and Caribbean (3,000); East Asia (13,000); Near East and South Asia (34,000); Europe and Central Asia (4,000); and an unallocated reserve of 6,000.

A. Family-Based Immigration

The largest category, 480,000, is for family-based immigration. This category allows U.S. citizens to sponsor their immediate relatives (spouses, parents, and unmarried minor children), and it allows both citizens and

lawful permanent residents to sponsor other family members (in limited categories) under a variety of different “preference allocations.”

There are limits on the number of family members admitted through each different preference allocation, but no limit on the number of immediate relatives. The Act contains a formula that adjusts the number of family members admitted to the United States each year against numbers admitted in prior years, and against a “floor” requirement that at least 226,000 visas be issued each year through the family preference system. As a result, the number of immigrants admitted under the family-based rules can exceed 480,000 in a given year.

Even so, many family members sponsored by citizens and legal permanent residents are left to wait years before receiving permission to immigrate to the United States. They are held back by the caps on each category of family preference allocation, and by separate caps that limit each country to no more than seven percent (approximately 25,600) of the total number of annual worldwide visas each year. The purpose of the per-country caps is to prevent high-demand nations from dominating others, but they have led to unreasonably long delays for applicants from nations such as Mexico, China, India, and the Philippines. For example, a citizen sponsoring an unmarried son or daughter from Mexico is likely to endure a wait of nearly 14 years, and a legal permanent resident from any country of origin sponsoring a spouse can expect to wait six years for that person to enter the United States. Not only are these waiting times inhumane, they also mean the loss of many productive working years before these immigrants gain entry to the United States.

B. Employment-Based Immigration

The second largest category for permanent immigrants is employment-based immigration. The number of employment-based visas is set at 140,000 per year, divided among five preference categories, each with its own numerical cap. The categories range from persons of extraordinary ability in arts, science, education, business, or athletics (40,000), to prospective business investors (10,000), to workers for unskilled labor that is not temporary or seasonal (5,000). The employment-based sys-

tem is subject to the same seven-percent cap on immigrants per country that applies to the family-based system.

The system of temporary work visas is intended to supplement permanent employment-based immigration. Unfortunately, it is just as complex as the permanent system, and just as inadequate in meeting employers' needs for skilled and unskilled workers. There are more than 20 types of visas for temporary non-immigrant workers. These include L visas for intracompany transfers, P visas for entertainers and athletes, R visas for religious workers, and a variety of H visas for highly skilled and lesser-skilled employment. All highly skilled immigrants on temporary work visas must be sponsored by a specific employer to fill a specific job offer. Two of the temporary visa categories, H-1B and H-2, are subject to annual numerical limits.

Of all the temporary work visa programs, the one that receives the most attention is the H-1B visa. This visa category is for professionals in specialty occupations that require at least a bachelor's degree or its equivalent. Typically, the sponsoring employer petitions for an initial period of three years, which can be extended to a maximum of six. Since 1990, Congress has limited the number of H-1B visas to 65,000 per year, with 20,000 additional visas reserved for foreign professionals who graduate with a master's or doctorate from a U.S. college or university. In fiscal year 2013, this limit was reached within 71 days after the visas were made available. In fiscal year 2014, it took just four days to reach the limit, and in 2015 it took only six. Moreover, in years when demand exceeds the cap, U.S. Citizenship and Immigration Services grants the visas using a random lottery process. An employer that sponsors more than one applicant during these years therefore has no say in which applications will be approved.

C. Immigration and Jobs

The limitations of the H-1B visa program illustrate a larger point about immigration and the economy. The numerical limits of the program ignore the reality of the marketplace. In boom times, when labor is in high demand, H-1B visa workers act as a supplemental work force. In years when the economy is not as strong (and especially in past years when the H-1B limit was set at 115,000 per year) quotas are filled more

slowly or not at all. Furthermore, not all the best and brightest people in the world are born in the United States. The H-1B visa program allows employers to identify people of unique skills and talents and bring them here to work. Employers sponsoring foreign workers for H-1B visas incur long waits and significant costs. There would be no reason for them to incur the loss of time and money if there were qualified U.S. citizens available to take the same jobs.

Periodic attempts to limit the H-1B program echo the argument that allowing higher levels of permanent and temporary immigration has a negative impact on unemployment. But employment growth is not a zero-sum game. The United States economy does not contain a fixed number of jobs for which native-born citizens and immigrant workers compete. For example, if the estimated 12 million undocumented workers now in the United States were somehow removed from the country, their absence would not create an equal number of job openings for native-born citizens, for two reasons. First, the United States produces many jobs each year in the service, retail, and leisure sectors that may not be attractive for native-born workers, but often provide a first step on the economic ladder for unskilled immigrants. Second, removing 12 million workers from the economy also would remove millions of consumers, taxpayers, and entrepreneurs. The overall number of jobs, and the overall output of our economy, would decline as a result.

Opposing higher levels of immigration based on employment concerns ignores the positive impact of immigrants in creating new businesses and new jobs. The 2011 list of top Fortune 500 companies included 90 businesses founded by immigrants. Together these companies generated \$1.7 trillion in annual revenues and employed 3.7 million workers worldwide.¹ Many of the most innovative and successful businesses in the United States today, including Intel, Google, and eBay, were founded and built by immigrants to this country.

Immigrants are especially important in science, technology, and engineering jobs critical to our economic competitiveness. Foreign students and immigrants make up more than half the scientific researchers in the United States. In 2006, they received 40 percent of science and engineer-

ing PhDs and 65 percent of computer science doctorates.² Immigrants produce nearly 25 percent of United States patents issued each year. Between 1995 and 2005, one in four engineering and technology companies established in the United States had an immigrant founder. Dating back to the very first Nobel Prize in 1906, 30 percent of all U.S. Nobel laureates have been foreign-born. In some decades the percentages were even higher: 39 percent in the 1950s, and 35 percent in the 1980s. These percentages greatly exceed the proportion of foreign-born persons in the population.

D. Immigration and Competitiveness

An open immigration policy is one of the primary reasons the United States has been able to achieve its position of global leadership. Continuing to attract the most highly skilled immigrants from around the world is critical to the competitiveness of our economy and to our ability to remain the world's leader in innovation. Some scholars, noting the economic contributions of high-skilled immigrants, recommend more nuanced immigration policies in order to continue reaping these benefits.³ From an economic point of view, denying immigration to workers who can contribute to our nation's economic growth is simply self-defeating.

Smart immigration policies also support our continued military strength. The United States became a military superpower based largely on our economic power and technological capabilities, which have given our armed forces the most advanced weaponry in the world. To stay ahead of other nations on a global scale, the United States must continue to attract and motivate the world's best and brightest individuals regardless of their ethnic or religious backgrounds. Moreover, immigrants possess language and cultural skills that are critical to solving the global conflicts of the 21st century, including the fight against terrorism. In the long struggle against extremist ideologies, we cannot afford to lose our leadership role in science and technology, nor can we close our borders to people from around the world who want to live and work in the United States.

DISCOURAGING ILLEGAL IMMIGRATION

Legal immigration can enhance national security; illegal immigration can create a national security threat. The security risk of allowing a large, unauthorized population to live in the shadows is not acceptable. Effective immigration policies require the federal government to know who is entering, leaving, and living in the United States to the greatest extent possible at all times.

Between passage of the Immigration Reform and Control Act in 1986 and the fiscal year ending in 2012, the federal government spent nearly \$187 billion on immigration enforcement. In the fiscal year ending in September 2013, \$18 billion in federal spending on immigration enforcement programs exceeded the combined budgets of the FBI, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Secret Service, and the Drug Enforcement Agency.⁴ Nevertheless, between 1986 and 2013 the number of unauthorized immigrants living in the United States tripled in size to an estimated 12 million people. This increase did not occur because \$205 billion was not enough to get the job done. It occurred because our immigration laws have consistently failed to match our economic demand for workers, and because penalties for employing illegal immigrants passed as part of the 1986 law were not consistently and effectively enforced on employers.

In some respects, stronger enforcement measures along the Mexican border worked so well that they made certain problems worse. For generations, with little or no control at the border, Mexican workers would cross with the seasons to find jobs in the United States. When their seasonal work ended, they would return to Mexico. New border enforcement measures in the 1990s began to change that pattern. As crossing the border became increasingly difficult and dangerous, more and more illegal migrants chose to stay in the United States. Over time they brought their families across the border as well, settled into communities, and sent their children to school.

Even so, the fact that hundreds of thousands of illegal immigrants come to the United States and find jobs each year is a clear indicator that the legal immigration system does not respond to the actual demand

for workers; in essence, there is no legal channel for hiring the worker with “essential” skills regardless of educational preparation. One of the reasons illegal immigration is so attractive, both to migrants and to employers, is that it responds quickly to market pressures. The lengthy waits and substantial expense to hire foreign workers through legal channels have discouraged many employers from using them, except in the case of the most highly skilled workers. Developing new employment programs with higher quotas and greater flexibility for employers is the only mechanism that will stem the flow of illegal employment-based immigration and allow government agencies to accurately monitor legal immigration. Two task force reports, one by the Council on Foreign Relations (CFR)⁵ and another by the Migration Policy Institute,⁶ describe the mismatch between market forces and the American immigration system, and recommend a number of improvements to our laws and regulations.

A. Hiring Enforcement

In addition to better matching economic demands for workers, any program aimed at reducing illegal employment-based immigration must include tough and consistent enforcement measures. Effective enforcement requires two components: a workable and reliable system for issuing visas, and stringent penalties against employers who hire undocumented workers.

To permit employers to check reliably on the immigration status of potential hires, the CFR Task Force proposes that anyone entering the United States under a temporary or provisional work visa could be issued their visa in the form of a biometric, tamperproof identification card. All visas could include digitized fingerprints and a photograph, and could be placed in a database to be read by border patrol officers at the visa holder’s port of entry. Use of this same database could be mandatory for all employers. All employers who verify new hires against the electronic database could gain immunity from prosecution. Those who fail to comply would be subject to severe penalties, beginning with administrative fines and progressing to civil and criminal charges.

Gaining control over employment-based immigration in this manner – by creating reliable worker identification systems and imposing severe penalties on employers who fail to use them – places border enforcement in the proper perspective. The critical role of border enforcement is not keeping out immigrant workers. It is keeping out terrorists, criminals, and others who would harm the United States by their entry, and doing so in a way that does not damage legitimate cross-border commerce and movement of people.

B. Border Enforcement

Public attention is largely focused on crossings of unprotected borders, but the biggest security challenges are found at legal ports of entry. Before the 2001 terrorist attack, there were more than 500 million inspections of individuals crossing United States land borders or arriving at airports each year. Waiting until each of these travelers arrives at a port of entry to determine their security risk is simply not possible. Since 2001, the United States government has launched a concerted effort to ensure that terrorists can be identified and stopped on or before reaching our borders. These initiatives include the US-VISIT system, which requires that most travelers to the United States be fingerprinted and photographed upon arrival at the entry port. They also include the APIS program, administered by U.S. Customs and Border Protection, which requires advance information on all passengers entering the United States by air, rail, bus, and vessel. (It is important to note that the US-VISIT system does not apply to most temporary visitors from Mexico and Canada entering the United States via our land borders. It is a hole in the logic of this system to exclude these visitors.)

Border enforcement between points of entry poses an even greater logistical challenge because of the scale of the terrain to be monitored: 1,989 miles of land border with Mexico, 5,525 miles of land border with Canada, and 95,000 miles of maritime border along our shorelines. At both of our land borders, we must recognize that border enforcement cannot be entirely unilateral. United States initiatives must be supplemented by close cooperation with Canadian and Mexican authorities. We also have to recognize that it is simply impossible to hire enough border patrol officers to guard every mile

of our land and maritime borders. The most promising alternatives include deploying cameras, sensors, and aerial vehicles to detect unauthorized entries into the United States, and sharing information about criminal and terror suspects with state and local law enforcement agencies.

EARNED LEGALIZATION

The last and possibly most difficult issue is what to do about the millions of people already living illegally in the United States. A practical starting point is not whether we should wipe the record clean and treat illegal migrants as though they had arrived here legally, but whether the country should provide a path to citizenship allowing them to earn the right to remain here. Public opinion polls show that roughly two-thirds of Americans favor finding a way for those who live illegally in the United States to gain lawful status, provided they meet certain conditions for legalization.

As an example of this approach, legislation introduced by Senators John McCain and Edward Kennedy in 2005 would have required applicants to (i) show a history of employment in the United States, (ii) prove that they had paid taxes, (iii) speak or be in the process of studying to speak English, (iv) pass criminal and security background checks, and (v) pay fines along with their application fee. It also would have established a six-year probationary period before immigrants could apply for a green card. Central to any approach to earned legalization is that it require those seeking legalization to show a history of contribution to the United States through work and taxes, a commitment to learning English and integrating into society, and a willingness to pay some restitution.

THE NEED FOR COMPREHENSIVE REFORM

No nation can afford to have an immigration system that either ignores or merely ratifies facts on the ground. That, however, is precisely what United States immigration policies have been doing for many years. The result is a challenge to the basic rule of law and a hit-or-miss relationship between our immigration policies and economic, security, and social priorities that are vital to our nation. Since its enactment in 1965, the Immigration and Nationality Act has been amended numerous times

in response to specific changes and pressures. What is needed now is not another round of marginal changes, but a full and comprehensive overhaul of our immigration laws.

The years of legislative inaction on immigration laws have only made the problem worse. In November 2015, for example, over 4.4 million people who had been approved for family-based visas were waiting for their quota numbers to come up to be allowed entry into the United States. Enacting any sort of earned legalization program could make these backlogs even longer. In response, Congress could lift all quotas on family-based immigration, but that would push annual immigration numbers beyond the capacity of U.S. Citizenship and Immigration Services to effectively control the admissions process. Alternatively, Congress could place new restrictions on the number of family members who can be sponsored by citizens and legal permanent residents. Either way, years of delay have made the problems more pressing and the solutions more complicated.

Similarly, endless debates about the need to build additional fencing along the Mexican border create unrealistic expectations for national security, and actually deflect attention from issues of equal or greater importance. Border enforcement plays an important role in discouraging illegal immigration, but we cannot rely on border enforcement measures alone to do so. Any realistic effort toward effective immigration reform also must increase the supply of legal workers by raising quotas, and decrease the demand for illegal workers by strengthening enforcement measures against employers.

As for national security, the world's tallest fence along the Mexican border will not secure the much longer Canadian border, or 95,000 miles of shoreline, from entry by people who intend us harm. Our time and money would be much better spent tracking the activities of potential terrorists inside the United States and around the world.

BASIC PRINCIPLES OF IMMIGRATION POLICY

First: Our heritage of welcoming new immigrants to the United States has provided our nation with immeasurable benefits. Closing our borders to new immigrants will damage our economic competitiveness, national security efforts, and the well-being of citizens who are separated from their families.

Second: The system for controlling legal immigration must operate with less complexity, and respond to labor needs more accurately, in order to enhance economic competitiveness and reduce the demand for illegal immigration by less-skilled workers.

Third: The system for deterring illegal immigration must provide foreign nationals seeking to enter the country with reliable and tamperproof documents, and impose stringent penalties on employers who hire undocumented workers.

Fourth: Congress must create a fair and humane plan to allow the millions of foreign nationals illegally living in the United States to earn the right to remain here legally, provided they contribute to the United States through work and taxes and commit to other conditions for legalization.

Fifth: Immigration enforcement and counterterrorism are very different functions of government. For either to be effective, both must be conducted separately.

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1. Partnership for a New American Economy (2011). The “New American” Fortune 500. Partnership for a New American Economy. Retrieved from <http://www.newamericaneconomy.org/sites/all/themes/pnae/img/new-american-fortune-500-june-2011.pdf>
 2. Hunt, J., & Gauthier-Loiselle, M. (2010). How Much Does Immigration Boost Innovation? *American Economic Journal: Macroeconomics*, 2 (2), 31-56.

3. Wadhwa, V., Saxenian, A., Rissing, B. A., & Gereffi, G. (2008). Skilled Immigration and Economic Growth. *Applied Research in Economic Development*, 5 (1), 6-14.
 4. Migration Policy Institute (2013). Immigration Enforcement in the United States: The Rise of a Formidable Machinery. Retrieved from <http://www.migrationpolicy.org/research/immigration-enforcement-united-states-rise-formidable-machinery>
 5. Bush, J., & McLarty, T. (2009). US Immigration Policy (Independent Task Force Report, No. 63). New York, NY: Council on Foreign Relations.
 6. Abraham, S., & Hamilton, L. (2006). Immigration and America's Future: A New Chapter (Independent Task Force on Immigration and America's Future). Migration Policy Institute.
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Recommended Reading

Basic information about current immigration laws and the category quotas that apply to family-based, employment-based, and other types of immigration can be found on the website of the Immigration Policy Center.

"U.S. Immigration Policy," Independent Task Force Report No. 63, co-chaired by Jeb Bush and Thomas L. McLarty III, Council on Foreign Relations, 2009, offers a detailed study of immigration and the United States' national interests, especially economic competitiveness, and the need for comprehensive reform of our immigration policies. An earlier report by the Migration Policy Institute, equally thorough, provides detailed recommendations for overhaul of the current visa system: "Immigration and America's Future: A New Chapter," Report of the Independent Task Force on Immigration and America's Future, co-chaired by Spencer Abraham and Lee H. Hamilton, Migration Policy Institute, 2006.

Good sources of information about the economic impact of immigrants are found in U.S. Immigration Policy, pp. 13-20. Wadhwa et al., "Skilled Immigration and Economic Growth," *Applied Research in Economic Development*, Vol. 5, No.1, May 2008, which reports on the number of engineering and technology firms established by immigrants between 1995 and 2005. Jennifer Hunt and Marjolaine Gauthier-Loiselle, "How Much Does Immigration Boost Innovation?," *American Economic Journal: Macroeconomics*, April 2010, Vol. 2, No. 2, documents the number of patents issued to immigrants working in the United States.

A recent, thorough, and impartial study of the costs and benefits of immigration is “The Economic and Fiscal Consequences of Immigration,” a 509-page report issued by the National Academy of Sciences in draft form in 2016. Because the costs and benefits of immigration are not shared equally among different groups, including competing workers, complementary workers, consumers, business owners, and investors, lobbying groups on both sides of the immigration debate have used the study to support their claims.

The estimate of \$185 billion spent on border enforcement between 1986 and 2013 is found in Doris Meissner, Donald M. Kerwin, Muzaffar Chishti, and Claire Bergeron, “Immigration Enforcement in the United States: The Rise of a Formidable Machinery,” Migration Policy Institute, 2013.

A comprehensive history of measures taken to secure the borders since 2001, with particular attention to the confusion between immigration enforcement and counterterrorism efforts, is Edward Alden, “The Closing of the American Border: Terrorism, Immigration, and Security Since 9/11,” 2008.

Section VII

FREEDOM OF RELIGION

“It does me no injury for my neighbor to say there are twenty gods or no God.”

Thomas Jefferson | Notes on the State of Virginia, 1782

“For happily the government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support.”

George Washington | Letter to the Hebrew Congregation of Newport, Rhode Island, 1790

Article VI of the Constitution requires that members of all three branches of government, both federal and state, swear an oath to support the Constitution, but provides that “no religious Test shall ever be required as a Qualification to any office or public Trust under the United States,” and does not require taking the oath on a Bible. The First Amendment to the Constitution states, in part, that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” The First Amendment initially did not apply to the states and therefore did not prohibit them from maintaining established churches, but every state eliminated them over time. Massachusetts was the last to do so in 1833.

Jon Meacham, in an extensive exploration of how the Founding Fathers viewed religion and public life, writes that the authors of the Constitution did not believe that faith stood in opposition to freedom. They believed instead that God created men free, and that any attempts by government to compel religious belief violated an individual's God-given liberty of mind and conscience. The Declaration of Independence reflects this belief when it refers to the "Creator" and "Nature's God" as the source of our inalienable rights – among them the right to freely choose one's own religion, or to choose no religion at all. The belief that no government can take away what God has given is a cornerstone of human rights in the United States.

The authors of the Constitution also did not believe that religious beliefs have no place in public life. As Meacham notes, the "wall of separation" they created is designed to separate church from state, not religion from politics. Religious beliefs can and will influence the political beliefs of individual citizens, and will influence their votes as well. They also will influence the behavior of our leaders. George Washington improvised "so help me, God" after taking the first presidential oath and then kissed the Bible on which he had sworn it. The only public statement Franklin Roosevelt made on D-Day in 1944 was a reading that he adapted from the Episcopal Book of Common Prayer.

Belief in God is central to our nation's experience. The demand that the public sphere of our lives exclude all references to God is not realistic, and it does not respect the faith of our fellow citizens. There are religious zealots among us, and there are political and cultural zealots as well. But the fact remains that our Constitution created the first secular government in history, and for the broad center of our nation, the tradition has held. As a result, faith still remains a matter of choice rather than coercion.

Nevertheless, some of the most divisive social issues of our day, including abortion, reproductive rights, same-sex marriage, and stem cell research, are religious controversies at heart. The pro-life vs. pro-choice dispute, for example, involves several complex moral questions. When

does life begin: at conception, when the body begins to form, or when the unborn child acquires a soul? Once life begins, under what circumstances is it permissible to have an abortion: in cases of rape or incest, when the pregnancy endangers the life or well-being of the mother, or when the child carries a mental or physical defect that will cause terrible suffering or an early death?

Different religions (and different branches within religions) offer a wide range of answers to these questions. The First Amendment prohibits Congress from imposing the beliefs of one faith on citizens with other religious beliefs. The argument that the United States is a Christian nation based on Christian values may have broad popular appeal, but it has no basis in the Constitution. The Constitution prohibits the establishment of any religion, and the word “Christian” does not appear in its text. Yet the motives of many citizens who seek to regulate choice regarding contraception and abortion are clearly religious in nature.

Another divisive issue is the controversy over prayer in public meetings and in public schools. Prayers to the God of any particular faith are out of place in either setting. References to God, or a plea for God’s guidance or blessing, are not. Unifying references to God leave each of us free to imagine God in whatever form we wish, or to imagine no God at all. The Declaration of Independence refers to the “Creator” and “Nature’s God” in just this way. When a President says, “So help me, God” upon taking the oath of office, or “God Bless America” at the conclusion of a public address, each of us is free to define that God in whatever terms we choose.

In practice, separation of church and state means that each of us can freely choose a religious denomination to guide our lives as private individuals, and that we can collectively adopt a system of civil law to govern our behavior as public citizens. It is important to note that the “wall of separation” between church and state protects them both. On one side, the beliefs and practices of all religious denominations are protected against government interference. On the other, the governing institutions of our nation are insulated from the influence or control of any particular religion.

In this way, the First Amendment guarantees that no one religion is singled out for special help or particular harm. Ingeniously, the government created by our Constitution promotes religious belief by leaving it alone.

BASIC PRINCIPLES OF RELIGIOUS FREEDOM

First: The Constitution protects all religions against interference by the federal government.

Second: The Constitution prohibits the Federal government from imposing the beliefs of one religion on citizens of a different faith, or on those with no religious beliefs at all.

Third: Each of us must respect public expressions of private faith, as long as those expressions do not link particular religious beliefs with government authority.

Fourth: Our personal liberties include the right to decide who to marry and when to have children. Laws governing marriage, birth control, and abortion must reflect the will of the American people, not the teachings of particular religious faiths.

Fifth: In public meetings and public schools, prayers to the God of any particular faith are out of place. References to God, or a request for God's blessing, are not.

Recommended Reading

The basic observations in this Section on the relationship between faith and freedom, and on the place of religious beliefs in public life, are drawn from Jon Meacham, “American Gospel: God, the Founding Fathers, and the Making of a Nation.” Meacham carefully traces the ways in which the authors of the Constitution worked to assign religion its proper place in civil society, and the impact of religious belief on subsequent generations of leaders.

Section VIII

THE RIGHT TO BEAR ARMS

“A well regulated militia, composed of the body of the people, being the best security of a free state, the right of the people to keep and bear arms shall not be infringed, but no one religiously scrupulous of bearing arms, shall be compelled to render military service in person.”

Constitution of the United States, Bill of Rights, Amendment 2
as originally passed by the House of Representatives, 1789

“A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.”

Constitution of the United States, Bill of Rights, Amendment 2, 1789

The authors of the Constitution intended it to replace the Articles of Confederacy, which had governed the United States since the Revolutionary War, and to shift power from the states to a new and more effective federal government. Anti-Federalists opposed the shift in power away from the states. The first ten amendments to the Constitution, known as the Bill of Rights, expressly limited the powers granted by the Constitution to the federal government.

Opponents of the new constitution were concerned that, among other things, the new federal government would establish a standing army of professional soldiers and ultimately disarm the thirteen state militias, writes Michael Waldman in “The Second Amendment: A Biography.”¹

The militias, composed of part-time citizen soldiers, enlisted every white male between the ages of 16 and 60. Each member of the militia was required to own a musket or other weapon.

As state militias gradually faded over time, individual states and municipalities passed laws regulating everything from the carrying of guns to the storage of gunpowder. Federal courts routinely upheld these regulations. For more than two hundred years after the adoption of the Second Amendment, writes Former Supreme Court Justice John Paul Stevens, federal judges uniformly understood that the right it protected was limited in two ways.²

First, it was a collective right to keep and bear arms for military purposes. Accordingly, in *United States v. Miller*, decided in 1939, the Supreme Court unanimously upheld the right of Congress to prohibit possession of a sawed-off shotgun because that sort of weapon had no reasonable relationship to the preservation and efficiency of a ‘well-regulated Militia.’ Second, the right to keep and bear arms was protected against regulation by the federal government, but not against regulation by state and local governments. Under this reading, the Second Amendment, like many other amendments in the Bill of Rights, was intended to limit the power of the federal government by reserving powers of the states.

With its 2008 decision in *District of Columbia v. Heller*, the Supreme Court began to change these limitations. The plaintiff in *Heller* challenged the constitutionality of a stringent Washington, D.C. ban on handguns. In its ruling, the Court said the Second Amendment established an individual right, as opposed to a collective right, for all citizens to possess firearms. It carved out the *Miller* case as an exception to this right by stating that there is no legitimate need for law-abiding citizens to possess sawed-off shotguns. However, the Court did not address how Second Amendment limits on federal power to regulate the possession of firearms could apply to state or local governments.

The Supreme Court answered that question in a subsequent case, *McDonald v. City of Chicago*, decided in 2010. Again the Court inval-

idated a local ban on handguns, but in this case claimed that the power of the City of Chicago to ban ownership of handguns by private citizens was limited by the due process clause of the Fourteenth Amendment. In other words, Second Amendment limits on federal power were “incorporated” into the rights guaranteed by the Fourteenth Amendment, and therefore apply not only to the federal government, but to state and local governments as well.

THE CHANGING MISSION OF THE NRA

Waldman notes that in today’s political climate, it is surprising to learn that for two hundred years before 2008, federal courts did not interpret the Constitution to protect the rights of individual citizens to own and carry firearms. Instead, they left individual state and local governments free to regulate the ownership and possession of firearms as they saw fit.

The fact that it is so surprising is due to the work of the National Rifle Association (NRA). Established after the Civil War by a group of Union officers disappointed by the performance of their troops, the NRA’s early mission was to sponsor firearm safety education, marksmanship training, and shooting for recreation. In later years, the NRA promoted hunting and sportsmanship. When Congress prepared to enact the first federal gun control law in 1934, restricting the sale of machine guns favored by bank robbers, the NRA testified in support of the legislation.

The role of the NRA changed dramatically in 1977, when a group of political activists voted out the organization’s leadership and changed the focus of the NRA to the promotion of gun rights. In addition to political activities, the NRA funded legal and scholarly research intended to prove that the traditional view of the Second Amendment, upheld by federal courts for over two hundred years, was just plain wrong.

In the forty years between 1977 and the Heller decision, NRA advocacy already had begun to impact federal policies and legislation. So powerful was NRA lobbying that in 1996, Congress prohibited federal agencies, including the Centers for Disease Control and the National Institutes of Health, from spending federal funds on research

that could be used to “advocate or promote gun control,” including collection of basic data that might influence federal policies regarding gun violence. Years later, in 2003, Congress passed legislation prohibiting the Bureau of Alcohol, Tobacco, and Firearms (ATF) from using an electronic database to record gun sales. As a result, ATF agents searching for guns used in criminal activities had to rely on record systems maintained by pencil and paper.

CHANGES IN PUBLIC OPINION

NRA advocacy influenced public opinion as well. A 1959 Gallup poll found that 60 percent of respondents favored banning handguns. That percentage dropped to 41 percent by 1975, and to 24 percent by 2012. By 2008, 73 percent of respondents believed the Second Amendment guaranteed the right of citizens to own guns outside their participation in a militia. These gains in public opinion came even as some indicators of gun ownership started to decline. Between 1977 and 2012, the percentage of households with one or more guns dropped by 36 percent.

Furthermore, public opinion regarding gun rights divides sharply between groups who live with high rates of gun homicide and groups who do not. Some of the sharpest divides are along racial lines. During the period from 2008 to 2010, there were an average of 151 gun homicides per million with black victims each year, but only 15 per million with white victims.³ Looking at all 50 states one by one, the divide is sharper still. Some states, including Idaho, Wyoming, and Utah, reported fewer than 10 gun homicides per million whites each year. In Missouri, however, the annual rate was 308 per million blacks. Exposure to gun violence shows clearly in polling results. In an August 2016 poll by the Pew Research Center, 61 percent of white respondents said it was more important “to protect the right of Americans to own guns” than to “control gun ownership.” Among black and Hispanic respondents, that number was just 30 percent.⁴

FEDERAL AND STATE ROLES

As a result of the Supreme Court decisions in *Heller* and *McDonald*, cities like Chicago and Washington, D.C. cannot impose strict bans on gun ownership as a means to combat violence by street gangs and

criminals. People residing in high-crime urban areas will continue to suffer the consequences of gun violence, while those residing in many rural areas will not. Still, the Supreme Court in *Heller* did not overrule the *Miller* decision. On the contrary, in the *Heller* decision, the Court read the *Miller* case to say that the Second Amendment protects the ownership only of those weapons “typically possessed by law-abiding citizens for lawful purposes,” including self-defense. Sawed-off shotguns did not meet this test when the Court decided *Miller* in 1939, and would not have met it when the Court decided *Heller* in 2008. Both national and state lawmakers therefore retain their right to restrict ownership of weapons other than rifles and handguns.

Furthermore, the decision in *Heller* protected the possession of handguns for use in self-defense in the home. It specifically did not protect other types of uses and conduct, including the right to carry concealed weapons, the ownership of firearms by felons and the mentally ill, the possession of firearms in sensitive places such as school and government buildings, and the ability to sell firearms without conditions or qualifications. Accordingly, even under the Supreme Court’s expanded view of the Second Amendment since 2008, federal and state governments can impose universal background checks, track the sale of firearms, and prohibit the sale of automatic weapons without violating any constitutionally protected rights.

In sum, regulating the sale and possession of firearms is not, by definition, infringing a right protected by the Constitution. It is possible to find a balance between the desire of individuals to own firearms and the need for society as a whole to know that people who own guns are accountable for their use and control. It is also possible to balance the role of the federal government with the rights of the states to regulate firearms as each sees fit.

BASIC PRINCIPLES FOR PRESERVING LAWFUL GUN OWNERSHIP

First: The Constitution protects the right of most citizens to own firearms typically used for law-abiding purposes, including hunting, recreational shooting, and self-defense.

Second: The Constitution permits federal and state regulation of gun ownership that does not infringe this basic right.

Third: To be effective, certain types of regulation must be the role of the federal government. These include:

- Universal background checks to prevent felons and mentally ill people from purchasing firearms;
- Prohibiting the sale of firearms other than those typically used for hunting, shooting, and self-defense, such as assault rifles and automatic weapons; and
- Tracking the sale of all firearms.

Fourth: Other decisions are best left to the individual states, including decisions to:

- Permit or prohibit carrying concealed weapons, or carrying weapons in public places; and
- Require training, licensing, or waiting periods to purchase a firearm.

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1. Waldman, M. (2015). *The Second Amendment: A Biography*. New York, NY: Simon and Schuster.
 2. Stevens, J. P. (2014). The Five Extra Words That Can Fix the Second Amendment. *The Washington Post*. Retrieved from https://www.washingtonpost.com/opinions/the-five-extra-words-that-can-fix-the-second-amendment/2014/04/11/f8a19578-b8fa-11e3-96ae-f2c36d2b1245_story.html?utm_term=.329eca8ba00e
 3. Lexington (2013). America's Gun Divide. *The Economist*. Retrieved from <https://www.economist.com/lexingtons-notebook/2013/03/29/americas-gun-divide>

4. Pew Research Center (2016). Public Views About Guns. Retrieved from <http://www.people-press.org/2016/08/26/public-views-about-guns/#public-views-about-guns#race>
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Recommended Reading

The Library of Congress website provides a clear overview of major Supreme Court cases interpreting the Second Amendment, along with a biography of books and law review articles on the subject. See www.loc.gov.

The Pew Research Center conducts polls about gun ownership and public opinion regarding gun rights, background checks, and the role of the National Rifle Association (NRA). The August 2016 opinion poll regarding gun control can be found at <http://www.people-press.org/2016/08/26/gun-rights-vs-gun-control/#total>. Racial differences in the rates of gun homicide and in opinions regarding gun control are also highlighted in “America’s Gun Divide,” *The Economist*, March 29, 2013.

Data regarding the effectiveness of background checks, which apply to only 60 percent of gun sales, is from the National Institute of Justice, “Guns in America: National Survey on Private Ownership and Use of Firearms,” Research in Brief, May 1997, NCJ 165476. Data regarding the incidence of gun violence in the United States is published in Planty, Michael, and Truman, Jennifer, “Firearm Violence 1993-2011,” Special Report by the U.S. Department of Justice Bureau of Justice Statistics, May 2013, NCJ 241730.

A recent, thorough history of court cases interpreting the Second Amendment is Waldman, Michael, “The Second Amendment: A Biography,” 2014. The author published an essay outlining his research in “How the NRA Rewrote the Second Amendment,” *Politico Magazine*, May 19, 2014.

Former Supreme Court Justice John Paul Stevens gave a personal reading of Second Amendment case law in “Five Extra Words that Can Fix the Second Amendment,” *The Washington Post*, April 11, 2014. In his essay, Justice Stevens explains that the Supreme Court rulings in *Heller* and *McDonald* do not stand in the way of laws prohibiting the sale of weapons used in mass killings. “Congress’s failure to enact laws that would expand the use of background checks and limit the availability of automatic weapons cannot be justified by reference to the Second Amendment or to anything that the Supreme Court has said about that amendment.”

Section IX

THE OBLIGATIONS OF LEADERSHIP

“If men were angels, no government would be necessary. If angels were to govern men, neither internal nor external controls would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”

James Madison | Federalist Paper No. 51. (1788)

Most of the issues we expect our political leaders to address are not matters so divisive that compromise is unthinkable. Instead, they are the simple daily work of legislating: responsibly managing our budgets and finances; keeping our utility and transportation networks in good repair; and making sure that our cars, banks, medicines, and drinking water are safe. How is it possible, then, that in performing these routine and necessary functions, so many of our representatives vote almost exclusively along party lines?

As Mickey Edwards points out in his book “The Parties vs. The People,” in over 650 votes cast by the Senate between 2010 and 2012, 44 senators voted with their parties over 90 percent of the time. Twenty-four of

them, nearly one quarter of the Senate, adhered to party lines in over 95 percent of their votes. These voting patterns are not anomalies, but the result of trends in place for the last 30 years. From 1979 to 2010, the number of Senators voting across party lines dropped by 63 percent. In the House of Representatives the decline has been even more dramatic, with the number of centrist Representatives declining 84 percent over the same period of time.¹

The Constitution requires that representatives live in the states and districts in which they run for office so the people they serve can help shape their views. When we elect people to represent us, we therefore expect them to do what their intelligence, their conscience, and their constituents require of them. Representatives who cast nearly all their votes along party lines behave more like members of competing political clubs than trustees of our collective future. They place loyalty to their party above loyalty to the Constitution and to their constituents.

Edwards argues that it is not the existence of political parties that has led us to this point. Instead, it is the excessive loyalty that members of Congress exhibit to their parties, and the excessive power we have given parties over our electoral and legislative processes, that has led us to a stalemate in which our elected officials consistently fail to address the most pressing and important issues facing our nation. Evidence of failed leadership is everywhere. Divided government, fueled by ideological conflicts between Democrats and Republicans, taints the process by which we cast our votes and select our candidates. It impairs the ability of elected representatives to enact legislation and act as leaders once they take office, and prevents Congress from appropriating funds to run government agencies and appointing executives to lead them. The Bipartisan Policy Center has made sweeping recommendations on how to strengthen our electoral and legislative processes, several of which are discussed below.²

VOTING, ELECTIONS, AND LEADERSHIP

The most basic requirement of a democracy is that voters choose their candidates. In the United States today, most candidates choose their voters. In 37 out of 50 states today, state legislatures have the power to

draw lines for Congressional legislative districts. The majority party in each legislature can draw these lines in any fashion it likes as long as it follows three basic rules: the districts must be congruous, must contain roughly the same numbers of voters, and must not obviously discriminate against minorities. The process of shaping Congressional districts for partisan advantage even has a name – gerrymandering – coined in 1812 to describe a district designed by then-Governor Elbridge Gerry of Massachusetts that looked like a salamander.

Some consequences of this process are predictable. Discrimination against minorities may be real but not “obvious,” creating fewer districts likely to elect minority candidates. Turnout may decline as citizens come to realize their votes make little difference. Other consequences are less predictable. In competitive districts, Congressional candidates must appeal to a broad cross-section of voters to prevail in the general election. But in districts that are so tilted toward Democrats or Republicans that the primary winner is guaranteed victory in the general election, there is no incentive to appeal to a broad base of voters. Candidates hoping to win the primary election must align themselves instead with the ideological and partisan voters who dominate party primaries. Once in office, these representatives are not free to seek middle ground on political issues. Those who do seek compromise are vulnerable to primary challenges from candidates with views even more extreme than their own.

A second basic requirement of a democracy is that voters choose from a variety of different candidates for office. In the United States today, political parties control access to the ballot. By the time most voters go to the polls in November, they find they have only two serious choices, one Democrat and one Republican, who have run the gauntlet of primaries in which only registered party members can vote. Participation in these primaries has fallen over time, with average turnout in the last four non-presidential primaries hovering around 20 percent of registered voters. In general, primary voters tend to be more polarized than general election voters – though the source of their differences may be changing over time, with the more traditional divisions between liberal and conservative voters giving way to newer splits, such as divisions between establishment and anti-establishment voters. Large increases in campaign

spending and in the influence of partisan media have further strengthened the power of party activists to select their nominees for office.

As a result, the primary system as it operates today often produces candidates whose views are so polarized that moderate and independent voters are left with no meaningful choices on Election Day; citizens going to the polls have fewer choices when they vote than when they make almost any other decision of importance in their lives. As noted above, candidates too may find their choices are severely limited once in office. Representatives elected from the most polarized districts, where Democrats or Republicans draw lines to choose the electorate and party faithful dominate the primaries, will have no leeway to make political compromises. Other representatives, who ran for office on pledges to vote in predetermined ways regarding tax increases, entitlements, gun ownership, or other issues, face an even more serious obstacle: they surrendered their votes in advance. As Edwards points out, these representatives enter office with divided loyalties, having violated their oath to uphold the Constitution before they even took it.

A third basic requirement of effective democracy is that representatives, once in office, put in the time and effort necessary to do their jobs. Members of Congress today are under constant pressure to raise funds, not only for their own campaigns but for their parties' campaign organizations as well. Most members of Congress travel home every weekend to meet with constituents and funders. They typically arrive in Washington on Tuesday for votes scheduled to start that evening and leave after votes end on Thursday afternoon, meaning they have only one full day a week in Washington devoted to their jobs. In 2016, the House of Representatives was scheduled to be in session for 111 days – an average of 2.3 days per week. Moreover, the House and Senate often are not even in session at the same time.

This schedule does not provide members of Congress nearly enough time to deliberate serious policy issues or perform important oversight functions. It also does not provide any opportunities for members of Congress, especially members of different parties, to get to know one another. Learning something about another person's background, values, and

personal life makes it more likely for people with opposing political views to find possible areas of agreement. In other words, it is much harder to demonize a person you actually know. The lack of time devoted to legislation and oversight and the trend toward less collegiality in Washington have led to proposals for establishing concurrent sessions of the House and Senate for three five-day workweeks per month, with one week off for state and district work periods.

ENACTING LEGISLATION

How does a bill become a law? The textbook version of the process is straightforward. The legislative process begins in congressional committees. Once a bill is introduced in Congress it is assigned to the appropriate committee and taken up for consideration. Committee members (who, by virtue of their service on the committee, have gained expertise in that area of public policy) hear testimony from a range of witnesses presenting arguments for and against the legislation. After hearing testimony, committee members deliberate the legislation and make informed decisions. If they deem the legislation worthwhile, they will advance it toward enactment by forwarding it to the full House or Senate for consideration.

As Congress functions now, however, each of these decisions along the way ultimately rests with representatives of the majority party on the committee. Bills assigned to committees may be taken up or simply ignored. Committees may hear testimony from a wide range of witnesses, or hear solely from advocates favored by the majority party. Worthwhile legislation may be forwarded to the full House or Senate for consideration, or it may simply be set aside. In theory, committees afford their members the chance to apply their expertise to deliberate and advance the best solutions to important national problems. In practice, they exist to promote the agenda of the party with the temporary majority in Congress. Committees once provided venues to formulate bipartisan compromise. Today, committee hearings serve as arenas for televised partisan debate.

Most importantly, in both the House and the Senate today, party leaders exercise virtual control over the assignment of representatives to

committees. Members are assigned to choice committees based on loyal voting records. The same bias affects the appointment of committee chairs. In the past, representatives earned committee chair positions based on seniority. Today, they are more likely to be assigned based on party loyalty.

APPROPRIATIONS AND APPOINTMENTS

The last time all 12 appropriations bills were enacted by October 1, the start of the federal government's fiscal year, was in 1996. Since 2009, not a single one of the regular appropriation bills has been enacted by the first of October, forcing the federal government to rely on a series of short-term resolutions each year. Agencies of the federal government are left to guess from month to month how much money they can spend in order to keep functioning.

The same agencies often run for months or years without anyone to lead them. Unlike many other nations, where a professional bureaucracy holds most of the permanent positions in government, the United States provides opportunities for people outside government to serve temporarily in the highest positions of leadership. As a general rule, political appointees staff the top four levels of federal departments and agencies. These include the secretaries of various Cabinet departments, their deputy secretaries, and numerous undersecretaries and assistant secretaries. Other positions require Senate confirmation as well, including ambassadors, U.S. attorneys, and U.S. marshals. In all, more than 1,200 presidential appointments require Senate confirmation.

One year after President Reagan took office, 86 percent of his executive appointments were confirmed and in place. Thirty years later, at the same point in President Obama's term of office, only 64 percent of his nominations were approved. Delays in the confirmation process often result from political battles having nothing to do with the qualifications or philosophy of the nominees. These delays directly impact the ability of federal agencies to function because no one speaks for them with the full authority of the administration.

Effective self-governance requires compromise. It requires dedication to the daily work of governing rather than single-minded pursuit of political advantage. It requires members of Congress, and of state legislatures as well, to put the welfare of our citizens ahead of their chances to elect more Democrats and more Republicans.

BASIC PRINCIPLES FOR PROMOTING ACCOUNTABLE LEADERSHIP

First: Representatives must do what their intelligence, their conscience, and their constituents require of them rather than following the dictates of competing political clubs.

Second: Political parties must not be allowed to draw lines for congressional and state legislative districts.

- The power to draw lines for electoral districts must reside with non-partisan districting commissions made up of professional staff and/or volunteer citizens.
- The commissions must draw district lines based on objective criteria and procedures that are open and transparent, and that allow for public comment.

Third: Political parties must not control access to the ballot.

- Closed partisan primaries can be replaced by a variety of alternatives, including, for example, open integrated primaries in which every candidate for office appears on the same ballot, every registered voter is allowed to vote, and the two frontrunners compete against each other in the general election, even if both candidates are from the same party, or if neither is from the two major parties.
- Election commissions can deter frivolous candidates by continuing to require a minimum number of petition signatures.

Fourth: Political parties must not control the functions of committees in Congress and state legislatures.

- Majority and minority party members must share responsibilities for committee functions. For example, a member of the majority

party may chair a committee, and a member of the minority party can serve as vice-chair with full authority to bring bills forward and invite witnesses to testify.

- Committee assignments must be based on objective considerations such as seniority, or on a lottery system, rather than party loyalty.
- Committee staff members must be appointed based on their professional qualifications rather than party affiliation.
- Members of Congress must be in Washington for enough days each month to effectively perform both their legislative and oversight functions.

Compared to public policy debates, discussing the fine points of legislative and electoral rules may seem abstract and even dull. In fact, however, it will not be possible to elect independent and accountable leaders until partisan rules no longer control the processes for drawing electoral districts, determining the selection of candidates for office, enacting legislation, and confirming appointments.

Furthermore, these five principles alone will not be sufficient to reduce the power of political parties and restore independent leadership. Many more changes will be needed, including measures to limit the role of money and political action committees in elections, disclose the sources of all political contributions, and improve the responsiveness and accountability of Congress and of state legislatures. Acting on these principles is, nevertheless, a necessary first step in restoring political parties to their role as a means to govern, not an end.

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1. Edwards, M. (2012). *The Parties Versus the People: How to Turn Republicans and Democrats into Americans*. New Haven, CT: Yale University Press.
 2. Commission on Political Reform (2014). *Governing in a Polarized America: A Bipartisan Blueprint to Strengthen our Democracy*. Bipartisan Policy Center. Retrieved from <https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2019/03/BPC20CPR-Governing-in-a-Polarized-America.pdf>

Recommended Reading

“Governing in a Polarized America: A Bipartisan Blueprint to Strengthen our Democracy,” Bipartisan Policy Center, June 24, 2014, identifies over 60 reforms designed to restore trust in the electoral system, improve the processes used by Congress to draft legislation and govern its internal operations, and encourage citizens to more actively engage in civic life. The Bipartisan Policy Center was founded in 2007 by former Senate Majority Leaders Howard Baker, Tom Daschle, Bob Dole, and George Mitchell. Its website contains detailed policy reports focused on health, energy, national security, national debt, housing, immigration, and governance.

In “The Parties Versus the People: How to Turn Republicans and Democrats into Americans,” 2012, former Congressman Mickey Edwards proposes similar reforms to the electoral system and to the governance systems used by Congress to form committees, consider proposed bills and amendments, and schedule its work week. The metaphor of political parties as competing clubs is from p. xv of Edwards’ book: “Too often our elected leaders seem to think of themselves not as trustees of America’s future but as members of a political club whose principal obligation is to defeat other Americans who do not share an allegiance to the same club.”

Data obtained from www.voteview.com, a nonpartisan website that tracks political polarization, shows a 63 percent decline in the number of Senators willing to vote across party lines during the last three decades. The erosion of the political center is even more dramatic in the House, where the number of centrist members dropped 84 percent during the same period. The divide has been growing for decades as Democrats and Republicans have become less willing to compromise, and as moderates from both parties have either dropped out or grown increasingly lonely.

Section X

THE OBLIGATIONS OF CITIZENSHIP

“We may define a republic... as a government that derives all its powers directly or indirectly from the great body of the people, and is administered by Persons holding their offices during pleasure, for a limited period, or during good behavior. It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it.”

James Madison | Federalist Paper No. 39, 1788

As citizens, each of us is aware of our basic rights under the Constitution. We can vote and run for public office. We are free to worship as we choose. We are not subject to illegal search and seizure, and we have the right to a fair trial by a jury of our peers. We are free to choose our own work and pursue our own interests under equal protection of the law.

Each of these rights carries corresponding responsibilities. Freedom to vote and run for office requires that we stay informed of issues affecting our community and nation, and that we participate in the democratic process. Freedom to worship as we choose requires that we respect the rights, beliefs, and opinions of others in their religious practice. The right to a fair trial by a jury of our peers requires that we serve on a jury when called

upon. Enjoying equal protection under the law requires us to obey the law ourselves. Finally, each of us has the responsibility to support and defend the Constitution itself, meaning, among other things, defending our nation through military or civilian service if required.

ACTIVE CITIZENSHIP

The rights granted by the Constitution to citizens create inherent responsibilities; one cannot endure without the other. The same is true of our form of government: a representative democracy cannot sustain itself without active citizenship. In Jefferson's words, "The natural order of things is for liberty to yield and government to gain ground." To preserve liberty, government must do more than facilitate political competition among different interest groups. It must allow and even encourage its citizens to pursue the common good by their active participation. Citizens, in turn, cannot expect the benefits of freedom and limited government and then turn to new laws and regulations as the answer to every problem.

Citizens have multiple ways to help address the problems we face as a nation. Each of us can participate in the democratic process by voting, advocating for causes we believe in, volunteering in political campaigns, and running for office ourselves, if not at the national level then in our towns, villages, counties, and states. These freedoms, however, come with the responsibility to stay informed of the issues affecting our communities and our nation. We live in an age of information and big data. But staying truly informed – looking at an issue from different sides, and considering multiple points of view before making a decision – requires more time and effort than many people today are willing to give.

Ironically, today's network of instantaneous, around-the-clock news coverage makes the forces of polarization stronger than ever. We might expect that more active news coverage would help bring people together by promoting more accuracy and shedding more light on the issues. Instead, incessant media coverage runs every issue through a prism, separating facts and analysis into different streams of data targeted at different types of news consumers. Consumers, in turn,

gravitate to the media outlets that reinforce, rather than challenge, the views they already hold.

Living in segregated echo chambers is having predictable effects. A poll commissioned in 2013 demonstrates how voters respond to cues provided by political parties. Respondents were presented with the following statement: “To improve education, Democrats have proposed reducing class sizes in our schools and making sure teachers teach the basics, and Republicans have proposed increasing teacher pay while making it easier to fire bad teachers.” Seventy-five percent of Democrats agreed with the Democratic proposal, compared to only 13 percent of Republicans. But when the same proposal to reduce class size and emphasize the basics was described as a Republican initiative, the tables turned: only 12 percent of Democrats supported it, compared to 70 percent of Republicans. The poll found similar results with the proposal to increase teacher pay and fire bad teachers. Most poll respondents supported only the proposal attributed to their own party.

The power of suggestion carries over to voting patterns as well. Although most voters are loyal Democrats or Republicans, their policy views are not as consistent as their voting records. Even the most loyal Democrats and Republicans are likely to disagree with their parties on one third of the issues outlined in their party platforms, but they still support their party’s candidates on Election Day.

Active participation in the democratic process requires more than thinking and voting along party lines. It requires that we hold ourselves to the same standards that we would hold our leaders: we must do what our intelligence and conscience require of us, rather than allowing ourselves to be polarized by self-serving political clubs.

THE ROLE OF COMMUNITY SERVICE

In addition to increasing our political awareness, each of us can use our talents to help solve problems through community service. Alan Khazei, founder of City Year, writes that “Our greatest natural resource as a country is the diversity, talent, and commitment of the American people.”¹ What most other nations accomplish through cen-

tral government or leadership by elite groups, the people of the United States most often have accomplished through voluntary associations. Writing in 1840, Alexis de Tocqueville noted that:

*“The Americans make associations to give entertainments, to found seminaries, to build inns, to construct churches, to diffuse books, to send missionaries... in this manner they found hospitals, prisons, and schools. If it is proposed to inculcate some truth or to foster some feeling by the encouragement of a great example, they form a society. Wherever at the head of some new undertaking you see the government in France, or a man of rank in England, in the United States you will be sure to find an association.”*²

The habit of volunteering for the common good has endured to this day. In 2009, the year after the subprime mortgage crisis plunged the country into a deep recession, over 63 million people in the United States volunteered to help in their communities. Through church groups and community service organizations, volunteers engaged in raising funds; preparing, distributing, and serving food; providing labor and transportation; and tutoring or teaching. Altogether, volunteers in 2009 provided over eight billion hours of service worth an estimated value of \$169 billion.³

For over 80 years, the power of service has been recognized in national programs as well. The beginning of the national and community service movement came during the Great Depression with the creation of the Civilian Conservation Corps, which employed three million people over the next ten years to conserve public lands and resources and build the nation’s infrastructure. Thirty years later, the Peace Corps gave United States citizens the opportunity to serve in other countries around the world, learn about their cultures, and promote a better understanding of the United States.

Since that time, presidents of both parties have contributed to the national and community service movement. President Johnson created Volunteers in Service to America (VISTA) to combat poverty. President Nixon created the Senior Corps programs, designed to encourage citizens over the age of 55 to contribute their job skills and expertise to community proj-

ects. President Clinton created the AmeriCorps program, the domestic equivalent of the Peace Corps, to match people with public service opportunities in non-profit organizations like Teach for America, City Year, and Habitat for Humanity, paying them a stipend for service commitments of one or two years. President George W. Bush created the USA Freedom Corps, expanding the number of Peace Corps, AmeriCorps, and Senior Corps positions, and creating a new Citizen Corps for disaster preparation and response.

A NATIONAL SERVICE PROGRAM

Even in times of austerity, national and community service programs endure because they have proven value. National service can help meet critical national and community needs. Millions of hours of public service each year can help provide safe environments and learning opportunities for children in after-school programs; transform vacant lots into community gardens and playgrounds; repair roads and bridges; clean polluted lakes, rivers, and mining sites; and replant our forests. National service can help instill a sense of civic duty for all citizens, promoting an ethic of responsibility and community in each new generation as it comes of age. It can provide opportunities to learn teaching, construction, engineering, conservation, and other skills that young people can use in later employment. Finally, a commitment to national service, whether military or civilian, can help bridge racial and class divides by uniting people from different backgrounds around common purposes and common causes.

Public service also can provide young people of all backgrounds with new ways to advance themselves. Military volunteers receive benefits such as tuition assistance as compensation for their service. AmeriCorps volunteers can receive cash education awards and, in some cases, cancellation of their federal student aid loans. We could develop our national service system further, so that every citizen commits to at least one year of service, military or civilian, between the ages of 18 and 22. After completion of their service, each person could receive a service benefit to be used for college education, vocational training, or investing in a business.

To minimize disruption to the economy and give each program time to develop, this system might be phased in over a period of several years, meaning that it would be voluntary at first and become mandatory over a period of time. Benefits could be provided on a pay-as-you-go basis through a new civilian GI Bill, an idea floated by Khazei and others, offering a benefit equal to one year's tuition, books, and fees at a state university for each year of service. Other funding models are possible, too. For example, the government could provide benefits through a new "service bond" program that would provide every child in the United States with a bond that would grow tax-free until the child redeems it by completing a period of military or civilian service.⁴

Apart from the political and social benefits, the economic benefits of a national service program could be immense. Measured by its return on investment, the GI Bill was one of the most successful government programs in our history. For every dollar paid by the government, the return was almost eight dollars. It enabled millions of veterans to attend college, enter the job market, and make better lives for themselves and their families.

A program of national service could provide every young adult in the United States the opportunity for a better working life. It also could inspire each new generation of citizens to help address the problems of poverty, racial and ethnic discrimination, failing schools, and environmental damage.

BASIC PRINCIPLES FOR PROMOTING RESPONSIBLE CITIZENSHIP

First: A representative democracy cannot endure without active participation by its citizens.

Second: Active participation requires staying informed about issues that affect our communities and our nation. It requires looking at issues from different sides, and considering multiple points of view before making decisions.

Third: Active participation requires voting based on the dictates of intelligence and conscience, not on obedience to competing political clubs.

Fourth: Active participation requires a lifelong commitment to community and national service, in which, as a starting point:

- All citizens, and all people eligible to become citizens, will complete at least one year of national service between the ages of 18 and 24.
- After completion of their service, each person will receive service benefits that can be used for college, vocational training, or investment in a business.

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1. Khazei, A. (2010). *Big Citizenship: How Pragmatic Idealism Can Bring Out the Best in America*. New York, NY: Public Affairs.
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Recommended Reading

Governing in a Polarized America (see page 106) cites the 2013 poll demonstrating the influence of party affiliation on voter opinion. The results of the “National Survey on Political Polarization” were reported by the Bipartisan Policy Center and in USA Today on March 6, 2013, and are available on the USA Today website in the following link <http://usat.ly/WtxQje>. Governing in a Polarized America also contains a concise summary of national community service programs at pp. 72-75.

Data regarding volunteer activities in the United States is published by the Corporation for National and Community Service, Office of Research and Policy

Development. 2009 data is reported in “Volunteering in America 2010: National, State, and City Information,” Washington, DC, June 2010.

Alan Khazei, “Big Citizenship: How Pragmatic Idealism Can Bring Out the Best in America,” 2010, is a very personal reflection on the value and benefits of public service. Khazei tells the story of co-founding the non-profit organization City Year in 1987, helping restore funding for the AmeriCorps Program, and founding Be The Change, Inc., which campaigns for social change on a national level. Khazei’s book and *Governing in a Polarized America* contain ideas for educational, vocational, and other benefits in exchange for a year of national service. Khazei mentions a service bond as one possible benefit, citing “A Call to National Service,” *American Interest Magazine*, Vol. 3, No. 3, January-February 2008.

CONCLUSION

“Facts are stubborn things, and whatever may be our wishes, our inclinations, or the dictates of our passion, they cannot alter the state of facts and evidence.”

John Adams | Argument in Defense of the Soldiers in the Boston Massacre Trials, December 1770

The system of government created in the Constitution, with its divisions of power and system of checks and balances, is designed to protect the liberty of its citizens from the oppressive power of government. In its modern form, the federal government can set standards to ensure transparency, fairness, and equal opportunity for citizens. It can use competition and choice as a basis for solving economic problems, and it can intervene when market forces alone will not deliver the best results. But our government was not designed to guarantee, nor can it deliver, equal outcomes for everyone. Government alone cannot create jobs, help children reach their fullest potential, or end cycles of poverty.

Instead, the system of government created by our Constitution depends on the active participation of citizens. It requires the recognition that government alone cannot solve all of our political, economic, and social problems. Creating a more perfect union requires individual and collective action. It requires us to rely on ourselves, and to rely on each other.

IN A NATION OF 330 MILLION PEOPLE POLARIZED BY PARTISAN CONFLICT, HOW DO WE BEGIN?

We begin by informing ourselves about the pressing issues that confront our nation – beginning with the issues discussed in this book. Informing ourselves requires more than just following the news, especially when the news is fed to us by algorithms programmed to deliver information and opinions we already want to believe. Informing ourselves means:

- Seeking out information from a variety of credible sources, including reputable news organizations and the websites of state and federal agencies;
- Listening to a variety of different opinions, including opinions opposed to our own;
- Throwing away the postcards we receive from political candidates, and critically reading the content on their websites instead;
- Confirming the accuracy of statements made by candidates, elected officials, and others in public office on fact-checking websites like politifact.com and factcheck.org.

Informing ourselves requires placing trust in institutions like the media and government at a time when, unfortunately, many people no longer believe in them. In a 2013 poll, 42 percent of respondents said they do not trust the news media, including 12 percent who said the media is not trustworthy at all.¹ In a poll conducted in October 2016, shortly before the national elections, four in ten respondents said they distrust basic economic data reported by federal agencies, with a quarter saying they don't trust it at all.²

There is a vital difference between skepticism of media and government, which is healthy in any democratic society, and a deep-seated distrust of our most basic institutions and sources of authority. Certainly some degree of bias slips into even the best news reporting; reporters must choose which facts to include and which to leave out. Similarly, economics is not an exact science like physics or chemistry, and there are different ways to interpret the same data. But distrust in key pillars of our society has been fed for years by politicians and pundits who discredit the integrity of public information and present themselves as the only credible sources of truth. When distrust reaches these levels, there is no longer any check on the distortions, falsehoods, and baseless conspiracy theories that increasingly dominate the internet and social media. And in the end, the same people who sow distrust in others can find themselves victims of their own success, because their actions have provided others with a road map to tear them down too.

In sum, informing ourselves means thinking about the information available to us and forming our own opinions with the same care we devote to other important issues. Most of us would think it negligent to make a major medical decision without research, thought, and possibly a second opinion. In other words, solving a complex problem requires more than just common sense: it requires knowledge and a hard look at the evidence. The political decisions we make can be just as difficult and deserve just as much thought and care, yet we often make them without any research or deliberation. Analyzing the impact of immigration and international trade on job growth, for example, raises complex questions that cannot be answered by simple common sense or analyzed in a tweet.

We begin by respecting the views and opinions of other people, and trying to understand the basis of their concerns. Each of us sees the world through many different lenses. As Jonathan Haidt explains in his book “The Righteous Mind,” those of us who view human nature as inherently flawed believe that people need external structures and constraints in order to cooperate and thrive. These constraints include institutions, customs, traditions, patriotism, and religious belief. For people who hold

this view of human nature, eroding the authority of institutions exposes us to increasing social disorder. By contrast, those of us who view human nature as inherently good will believe that people can reach their highest potential with fewer arbitrary rules and constraints.³

Haidt's idea is that our views of human nature influence our views of our place in society. Some see society as a collection of mostly autonomous individuals, satisfying our wants and needs as each of us sees fit. People who view society in this way place greater value on individual rights, liberty, and justice, ideally allowing people to coexist peacefully without interfering too much in each other's lives. Other people identify themselves less as individuals and more as members of larger entities, such as their family, church, community, region, or nation. People who view society in this way will place greater value on duty, hierarchy, respect, reputation, and patriotism. To them, the idea that people can pursue their individual goals in the absence of larger connections threatens to weaken institutions critical to the success of society as a whole.

Differing views of human nature and the place of individuals in society can lead to radically different opinions on political issues. Are welfare programs and feminism positive forces that liberate women from their traditional dependence on men? Or are they negative movements that increase rates of single motherhood and weaken the traditional social structures that compel men to support their own children? Our answers to these questions depend primarily on our views of human nature and the place of individuals in society. People who view society as a collection of autonomous individuals are more likely to hold the first view, while those who believe the pursuit of individual goals can weaken our institutions more likely will adhere to the second.

Because these views are based on our intuitive beliefs and personal experiences, our political differences cannot be reasoned away. Reasoning, writes Haidt, can take us to almost any conclusion we want. When we want to believe something, we ask "Can I believe it?" The answer to this question is almost always yes. When we don't want to believe something, we ask "Must I believe it?" The answer to this question is almost always no. Faced with the near impossibility of swaying other

people's opinions by rational argument, we often end up discrediting the opinions and demonizing the people who hold them. In this way our basic moral views, says Haidt, bind us to people who share them, and blind us to the merits of people who don't: "It binds us into ideological teams that fight each other as if the fate of the world depended on our side winning each battle. It blinds us to the fact that each team is composed of good people who have something important to say."

If we truly want to understand another person or group of people, Haidt explains, we must look beyond their rational arguments to the moral values behind them. Someone concerned about caring for the less fortunate or bringing freedom to people who are oppressed will not be swayed by arguments based on respect for authority. Similarly, someone who believes in the value of traditions and institutions to promote the overall welfare of society may not be willing to consider reforms that benefit one small group of people at the expense of the whole. Between these different points of view there is no one right answer. On the contrary, our political life will be healthier whenever we can find ways to disagree more constructively, and to frame solutions to problems in ways that acknowledge more than one set of moral values.

We begin by helping to solve problems in our own communities through public service. As noted in Section X above, a representative democracy cannot sustain itself without the active participation of its citizens. The system of government created by our Constitution can promote equal opportunities for all citizens, but it cannot guarantee equal outcomes. It can prohibit discrimination by government and business, but it cannot guarantee a society free of racial, ethnic, and religious conflict. The government of the United States, the wealthiest nation in history, has not been able to resolve enduring problems of poverty and discrimination on its own.

Addressing these and other problems facing our nation today will require individual citizens to bring their will, resources, and imagination to bear on the problems closest to their spheres of ability and understanding. It will require future generations to complete at least

one year of public service, learning in the process to commit to causes larger than themselves. Most importantly, it will require us to lower our expectations of government and increase our expectations of each other.

We begin by participating – constructively – in the political process. Each of us can participate in political life by voting, advocating for causes we believe in, volunteering on political campaigns, working in civilian government service, and running for office ourselves. The way we conduct ourselves in these efforts is as important as what we choose to do. If we behave like members of competing political clubs, we are not living up to our civic obligation. We are putting party loyalty ahead of public service.

Constructive participation in politics means trying to understand the basis of other people's concerns, and trying to address their concerns when framing solutions to problems. It means talking about policies rather than politics, and focusing on long-term progress toward shared goals rather than short-term political advantage. It means recognizing that there are a multitude of American dreams, that new ones are born each day, and that attaining them means moving forward together rather than longing for idealized times in the past. It means acknowledging that each of us is responsible for our own choices, and that our choices matter. Finally, it means approaching problems with the knowledge that none of us has all of the answers, and each of us has much to learn.

We can no longer afford to sacrifice the national interest to partisan conflict. If we continue on this path, we risk exhausting our economic resources and wasting our political inheritance. As a nation, we have been exceptional in our ability to recreate ourselves over time. We can, once again, do better for ourselves and for each other.

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 3. Haidt, J. (2012). *The Righteous Mind: Why Good People are Divided by Politics and Religion*. New York, NY: Vintage.
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Recommended Reading

A thorough and thoughtful work on the moral foundations of political and religious beliefs is found in Haidt, Jonathan, “*The Righteous Mind: Why Good People are Divided by Politics and Religion*,” Vintage Books, 2012. Among Haidt’s basic insights are that differing political views arise more from intuition than reason, and that appeals to reason alone therefore cannot prevent us from dividing into opposing and hostile groups.

ABOUT THE AUTHOR

Concerned that partisan gridlock was holding our nation back, Howard Konar began writing *Common Ground: An Alternative to Partisan Politics* in 2014. In place of postures and positions, the book sought to identify basic principles on which majorities of voters across the political spectrum already agree, and to promote policy-based problem solving as a way to decrease political polarization.

Three years later, Konar founded Common Ground Solutions, a nonprofit, nonpartisan organization dedicated to putting the ideas of *Common Ground* into practice. Common Ground Solutions combined civic education with ongoing opportunities for voters to connect with their elected representatives and other political decision makers. One Common Ground initiative, the Citizen Panel program, surveyed Congressional district voters on subjects such as immigration, health care, and political reform, and then brought voters together with their member of Congress to discuss the results.

Today, Common Ground Solutions has been renamed Civic Genius. Through a suite of civic education materials and deliberative democracy programming, Civic Genius continues to pursue the mission of the book while expanding its reach to new audiences.

Howard Konar has worked as a law partner and real estate developer in his hometown of Rochester, New York for over 40 years. His community work includes serving as a trustee of Monroe Community College and as a board member with organizations advancing education, workforce development, and affordable housing.

COMMON GROUND

An Alternative to
PARTISAN POLITICS

Many Americans are frustrated with our politics. For too long we have fought about issues that divide us without recognizing the values and beliefs many of us still hold in common.

The loudest voices in state and national politics are often the most extreme. Instead of expressing our hopes for a better future, they prey on fear and anger in a winner-take-all approach to wielding power rather than creating solutions.

It's time to move past the anger, division, and blame, and find ways to start solving problems again together. Creating a more perfect union demands individual and collective action. It requires us to rely on ourselves, and to rely on each other.

If you would like to be more involved in political life but don't know where to start, this book can help. In place of the usual postures and promises, it identifies a set of principles on which voters across a wide political spectrum can agree, and which can guide our representatives to make better decisions. It then examines whether the federal government has power to make these decisions, or whether that power resides with each state.

Common Ground: An Alternative to Partisan Politics can help you advocate for causes you believe in and identify state and national candidates – regardless of party – who will focus on solving problems rather than competing for power. Together, we can change our politics for the better.

