

Why it Matters

IHC - 2021

We the People
insure domestic Tranquility, provide for the common Defence,
and our Posterity, do ordain and establish this Constitution.

Article I.
Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.
Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.
No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.
Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and those of African Descent, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Legislature of the United States, and within each subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty thousand Persons; but each State shall have at least one Representative, and until such Enumeration, the Number of Representatives shall be increased or decreased by the Legislature of each State until the whole Number shall be equal to three times the whole Number of free Persons, including those bound to Service for a Term of Years, and those of African Descent, and three fifths of all other Persons, but not exceeding one Representative for every thirty thousand Persons; and until such Enumeration, the Number of Representatives shall be increased or decreased by the Legislature of each State until the whole Number shall be equal to three times the whole Number of free Persons, including those bound to Service for a Term of Years, and those of African Descent, and three fifths of all other Persons.

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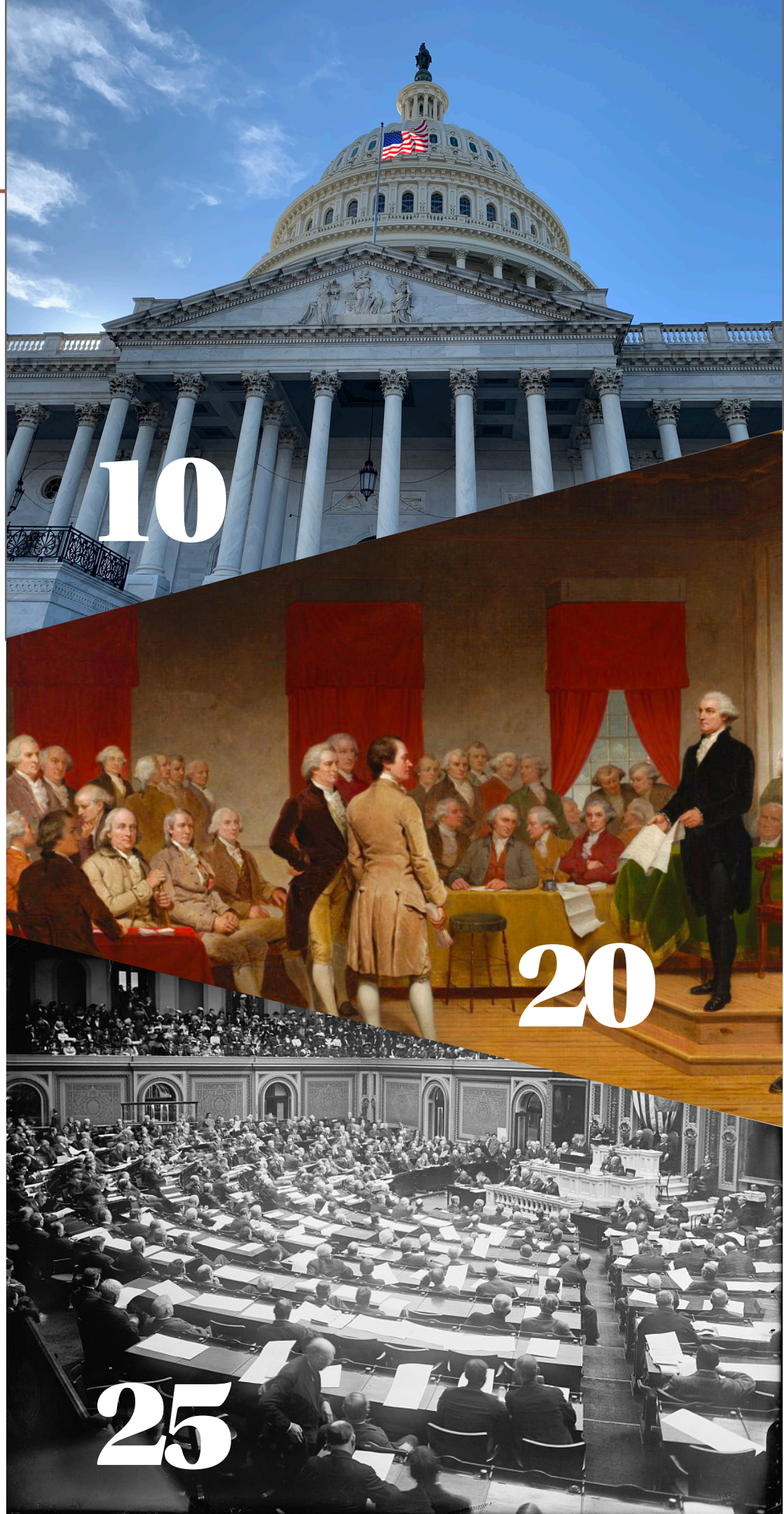
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INTRODUCTION

BY DAVID GRAY ADLER



Why it Matters: Promoting Civic and Electoral Participation

In 1787, the framers of the Constitution submitted to the citizenry for its consideration and ratification, the most democratic governing plan the world had ever seen. The Preamble waded hip-deep into the centuries-old debate about the role and purpose of government and boldly declared the American perspective, grounded in the radical, democratic idea that “We the People” through ratification, “do ordain and establish this Constitution.” That lofty statement, alone, warranted a salute for it represented the successful culmination of a historic effort, launched by dissenters in 17th Century England, to place in the hands of the sovereign people the ultimate legal and political authority of the re-configured nation. James Wilson, second only to James Madison as an architect of the Constitution, declared at the opening of the Pennsylvania ratifying convention that the proposed Constitution was “purely democratical.”

The founders’ plan thus invited civic and electoral participation in the formation of a constitutional democracy. The key point, as Alexander Hamilton emphasized in the very first paragraph of Federalist No. 1, was that ordinary citizens were asked “to deliberate on a new Constitution” by an “election” that would create a worldwide precedent. As Hamilton wrote in the last paragraph of the last Federalist essay, No. 85, “The establishment of a Constitution, in time of profound peace, by the voluntary consent of a whole people, is a prodigy.”

All of this is not to suggest that the Constitution was as “democratical” as it could have been, or should have been, but only to say it was groundbreaking for its emphasis on the right of the people to engage in deliberation on a crucial, foundational question: Shall the Constitution be ratified or not? Stringent and

crude societal limitations, anchored in the pervasive racism and sexism at that juncture, precluded the sort of an expansive democracy favored by most Americans in our time, but if we engage in the practice of historicism and insist on judging late 18th Century values by conventional standards in 2021, we might find ourselves stuck in an intellectual cul-de-sac, asking a question with a circular answer: At what point, if any, did America become a democracy?

For Madison and fellow delegates at the Constitutional Convention, as for the rest of the world, the concept of a deliberative forum for the American people to consider whether to approve a Constitution to be the law of the land of *their* country, represented a breathtaking step in placing flesh on the premise and promise of the Declaration of Independence that people enjoy an “inalienable right” to “consent” to government, rather than having government imposed upon them.

The fact that the means for civic and electoral participation in the life of the republic were embedded in the architecture of the Constitution speaks to their fundamental importance in a democracy and addresses the general theme—“Why it Matters”—of the essays presented in this volume, an initiative administered by the Federation of State Humanities Councils and funded by the Andrew W. Mellon Foundation. This grand theme could not be more prescient. In these trying times, when President Joe Biden declares to the nation, and the world, that “we’ve got to prove that democracy works,” it is critical for Americans everywhere to participate in community, state and national roundtable conversations about the means necessary to renew and strengthen our democracy.

We the People

of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I.

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.
No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States, which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and including Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at least one Representative; and until such Enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina six, and Georgia three.

When Vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.
The House of Representatives shall choose their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years, and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Clases. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Days of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall choose their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments: When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of Honor, Trust or Profit under the United States; but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday of December, unless they shall by Law appoint a different Day.

Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business, but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any Question shall, at the Desire of one fifth of that House, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three Days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same, and for any Speech or Debate in either House; they shall not be questioned on any other Place.

No Senator or Representative shall, during the Term for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such Term; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as to other Parts of any Bill. All Bills which shall have passed both Houses, shall, before it becomes a Law, be presented to the President of the United States.

INTRODUCTION CONTINUED

President Biden's trumpet call is equal in importance to the national appeals in the face of urgency declared by previous presidents, if not more so. The implications of the loss of our democracy are stunning: no democracy, no freedoms; no democracy, no rights and liberties. The recent, and pervasive, internal challenges and threats to American Democracy, combined with the rise of autocracy abroad, have focused the world's attention on the United States and its efforts to counter the stresses and strains that have undermined our nation's traction, and redress the imbalances and inequities that would scuttle aspirations to become, at long last, what Jonathan Winthrop described as a "City on a Hill."

What began in the United States as an experiment in republicanism remains an experiment. Our nation is deeply divided, more so than at any time since the Civil War. Hyper-partisanship has hobbled discussions about the great policy issues that confront us: climate change, racism, sexism, voter suppression, immigration, poverty, health care and education, among others. Beyond all this, we, as a nation, must harken back to the guiding spirit of Age of Reason, the Enlightenment principles that the founders embraced, and which they believed essential to the success of the nascent republic. Who would question the need to infuse our public discourse with a commitment to the employment of facts, evidence, truth, reason and science as simple means, and essential tools, to elevating national conversations that probe the general welfare of the American people and the future of our country?

An informed participation in roundtable conversations is but one of many ways open to citizens to participate in the civic life of our nation and to advance the health of our democracy. Voting, to be sure, is critical, for it represents a foundational means for influencing the direction of our future. The denial of voting rights should be met with stiff resistance, wherever it occurs,

since the denial of a right to one American is an assault on the rights of all Americans. Other means of participation include exercising the right of free speech to critiquing and criticizing programs, policies and laws; asserting the right of freedom of assembly through peaceful marches and protests; becoming active in a political party and organizations that reflect your views, values and concerns; writing governmental representatives and letters to the editor and, of course, running for office. At all events, we may say, with Justice Louis Brandeis, that "public discussion is a political duty," necessary to ensuring self-government. Participation in the civic and electoral life our country, if democracy is meant to survive, may be unavoidable. In his masterpiece, "All the King's Men," Robert Penn Warren captured Americans' civic responsibility: "[And] soon now we shall go out of the house and go into the convulsion of the world, out of history, into history and the awful responsibility of Time."

The challenges to reinvigorating our democracy are numerous and substantial. The essays in this volume, written by prominent scholars from across the nation, represent an initial effort to discuss the role and importance of civic and electoral participation, and "Why it Matters." The essays call attention to issues, topics, ideals, practices, methods and institutions that Idahoans, and Americans everywhere, should contemplate in pursuit of a more vigorous and sustainable democracy. We invite you to scrutinize, question and challenge the essays—their reasoning and conclusions-- in the spirit of the grand experiment in democracy launched some 250 years ago.

Conversations at America's Dinner Table

BY GINA M BENNETT, MARSHALL B BENNETT AND SIBLINGS

In 2008 I authored my first *National Security Mom* book which argued that America's national security is no different really than the security of a family. At the time, I was the mom of five young children with twenty years of service as a counterterrorism analyst in the Intelligence Community. I believed, as I do today, that all the wisdom we rely upon to secure our families is precisely the wisdom necessary to guide America's national security.

Securing our families is about more than just home safety because life is filled with danger and unpredictability. The coronavirus pandemic certainly showed us that. We can't prevent our children from suffering heartbreak or discouragement when they lose their jobs. So the reality is that a secure family is not so much about safety of the house or preventing accidents and illness, but about the love, patience, and unconditional support and respect family members show each other. The same is true for a nation's security. We remain secure as long as the integrity of our governance, the idea of America, and our adherence to the Constitution remains intact. We may suffer violence, polarization, and division, but we keep America secure by remaining Americans dedicated to our democracy.

As my children have matured into their own, they are as different from each other as they are alike. They do not agree with each other on many things, from politics to music. But they love and support each other unconditionally. Sometimes we have to ratchet the passions back and encourage a calm and respectful conversation at the end of the day. I try to frame those conversations by starting with an open-ended question that invites and values the participation of each of my kids. Inevitably, despite intense differences of opinions and feelings, my children offer respect and empathy toward one another. It is truly amazing and heartwarming every time it happens.

But can the same be said for America? My family wanted to share a few questions to prompt calm and respectful conversations around America's dinner table. These are not easy questions and they may cause a great deal of discomfort. But if we want to secure our democracy, we must preserve its integrity by practicing mutually respectful debate—starting in our own homes.

“What does the Bill of Rights mean to you?”

Going around my table, we found that we generally agreed that the Bill of Rights is a promise to all Americans, for all time. The promises in these first ten amendments to the Constitution, unlike the Articles that say what the Government should do and can do, enumerate exactly what the government will NOT do. I have one son who is focused on the Second Amendment, his sister is intent on protecting the First, and another son who was animated about the Fourth. Ultimately it led us to believe that we wanted to fight for the insolubility of the entirety of the Bill of Rights and thought there should be a public service campaign to re-engage Americans from both sides of the political aisle to do that. Here is a snippet from our dining table.

“The most sacred guaranteed rights to individuals in the Constitution. The rights the government pledges to never violate. I don't understand why some of these rights are passionately defended by one side of the political equation and others are defended by the opposite side. As a gun owner, competitive shooter, firearms instructor, and active participant in the firearm sales industry, I see the various legitimate use of guns on a daily basis. American gun owners simply want to be left alone. We participate in society like everyone else, we have friends and families, we go to churches, mosques, synagogues.

We are just like everyone else and want to protect ourselves and our loved ones, and believe in our responsibility to do so.

Lawful gun owners across the country are witnessing politicians pushing for stricter gun control laws when they know little to nothing about the firearms or accessories in question. That means over 4.2 million Americans could be turned into felons overnight with the adoption of ill-informed legislation. Why not cut to the chase and ask what everyone is thinking, should we repeal the second amendment? This was a right guaranteed at the very start of America, like the right to free speech. If we repeal one Amendment, what's to stop the Government from repealing others?”

“What are you willing to risk in the pursuit of the “common defense” and “general welfare” of America?”

The Preamble to the Constitution establishes a set of aspirations: justice, domestic tranquility, common defense, general welfare, and liberty to guide our behavior. The Constitution, however, does not spell out when to prioritize domestic tranquility at the expense of providing for the common defense. Nor does it say when to promote the general welfare without infringing on the blessings of liberty. Our founders wished for us to have it all: individual rights *and* strong community bonds; prosperity in the short *and* long-term; a passion for science and enlightenment *bound* by a respect for the limits of government on God-given rights; a commitment to justice *and* compassion for the inequities that should invoke mercy; a respect for what is known *balanced* by the humility to accept the limits of our knowledge; and an endless courage to right wrongs *while* restraining ourselves from

Bill of Rights

First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Second Amendment

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.

Third Amendment

No soldier shall, in time of peace be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Sixth Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

Seventh Amendment

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Eighth Amendment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Ninth Amendment

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Tenth Amendment

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.

revenge and overreaction.

This is why we are divided. For every policy decision facing America, members of both parties are choosing which side of these tensions to prioritize as they seek an answer. We are divided by the very thing that unites us, the Constitution. But we can choose to place our loyalty to the Constitution above our different interpretations of it. Below is a small part of my family's exchange to encourage your dinner conversation.

"I don't want to risk anything. I want the military to be strong enough to defend America from invasion. I also want people to not be sick anymore. I want to go back to school and see my friends and have a normal life. I know the military costs a lot of money and I don't know how much it costs to prevent or stop a pandemic, but I'd spend a lot more money on making sure we are not *invaded* by another pandemic."

"As America becomes more racially and ethnically diverse, how do we describe ourselves to ourselves?"

For over two hundred years, many Americans have identified with the founding father's legacy. For those who are passionate about that legacy, it is everything: a deep fondness for Revolutionary history, a dedication to individual rights, and a belief that patriotism stems from respect for those who sacrificed their sacred honor so many years ago so that we may live free. I grew up with this history as a descendent of Revolutionary War soldiers from one side of my family.

But while part of my family was involved in this founding story of our country, another long-distant branch of my family tree experienced a very different America. They arrived as slaves. The advantage of DNA testing is uncovering the truth of one's history. Many Americans believe they are descendants

of European immigrants whose tales of handwork upon moving to America inspire pride and respect, like my own. But many may also find, like me, that in reality they are more of a great American craft blend.

If we continue to identify ourselves in ways that place “American” second, we need to find a way for Americans who identify with the founders’ history to describe themselves with pride. We shouldn’t cast them all as white supremacists, nor should we force them into the arms of extremist and conspiratorial groups. At our dinner table, this topic provoked some real angst.

“I don’t know what to call myself without getting into trouble. I am a white, straight male, Christian, conservative American. It hurts that I am automatically assumed to be a racist, Trump-loving Proud Boy. I’m not those things. And I get that I am complaining about being typecast and stereotyped because of my color, gender, etc., which is what all minorities have been fighting since the beginning of our country. When does it stop?”

I think movements like Black Lives Matter, Gay Pride, and Me Too are all awesome examples of American political activism. As demographic changes make white Americans a minority, how do we represent ourselves without being seen as white supremacists or Nazis? So how do I belong? How can I be proud of my heritage without being vilified for it? How can I be happy to be who I am and not feel like I have to hide it?”

“What is the difference between equality and equity and why does it matter?”

The founders’ legacy was indelibly etched into every single institution of the US Government by virtue of their authoring the US Constitution—our supreme body of law. Moreover, the institutional culture defining the common practices of the Executive, the Legislative, and the Judicial Branches — those traditions and defaults that exist outside of

the law — are deeply rooted in the traditions and thinking of the founders’ world view at the time. And that worldview derived from the American and European Enlightenment movement.

The Enlightenment is not a hot topic in our school history books. Yet, the principles of natural rights law, conservatism, republicanism, scientific progress, liberalism, and deism permeate our democracy. They are the underpinnings of a great achievement—the breaking of the tyranny of monarchs through a faith in self-government.

This Enlightenment culture is so subtle that it is hard for those included in it to see it as anything other than the “default.” But for those who were not part of it, it is not the default. There is nothing more threatening to your existence than having your experience invalidated century after century. As a woman in the national security field, I am acutely aware of that feeling: of being dismissed because what I feel, think, and believe does not align with the “default” male experience.

We can be proud of our nation’s history and still acknowledge that the self-government the founders created excluded more Americans than it included. Half the population was left out from the start: women. Another vast number were slaves. Moreover, most of even the white males of European origin were not allowed to vote in early America.

At our dinner table we discussed the contradiction inherent in the Constitution—a document designed to establish freedom from tyranny but applied in a way that excluded most Americans from experiencing it. Here is a fragment of what was a very interesting debate in my family.

“We can’t go back and fix hundreds of years of laws and practices that made it hard and even illegal for some people to reach positions of power. To make things equal now, we would have to take power away from some of the people who now have it. But that’s not fair either.”

A sibling responded with, “If everyone would just treat each other the same, we wouldn’t have this problem. If



we were really blind to race, gender, and all the other things that people are discriminated over, the people who rise to positions of influence and power would be the people who deserve to, right?”

Another sibling responded, “Human nature doesn’t work that way. And besides, you can’t just flip a switch and make everyone ‘blind’ to those things.”

My children want to know how we can ensure equality without addressing the long legacy of inequity. I don’t have an answer for them. What is even more complicated is that the demographic changes in America are shifting majorities to minorities and vice versa. I tell them that power and influence, whether in government, business, or any other field, is like



Going around my table, we found that we generally agreed that the Bill of Rights is a promise to all Americans, for all time.

pie.

If the only pie I ever served at our dinner table was apple, most of my kids would love that. But if over time I start to include a few slices of blueberry and pecan, some of my kids who never liked apple would be very happy. But the ones who loved apple pie would not. Is it right to continue to devalue the preferences of my children who like blueberry and pecan pie just because my other kids were used to being served plenty of apple pie?

Power and influence will continue to be a source of competition because of the scarcity of it, just as my children will never agree on one dessert. But freedom is not pie. Freedom is an infinite resource in America, as long as we respect each other's right to it.

It is time for America to talk about these hard topics. We have sugar-coated the tough issues and reduced them to media sound bites long enough. We should have these conversations in the way we would want them to at our dinner tables—with respect and patience, not with yelling, name-calling, and violence.

Gina M Bennett is author of two National Security Mom books, articles, and the subject of several documentaries and media interviews for her 30-year career in counterterrorism. This article reflects the views of herself, Marshall, and her family and does not reflect the opinion or views of any US Government organization or agency.



Fact, Opinion, and Truth in the Study of History

BY RON HATZENBUEHLER

“I’m truly honored to be here at the very first White House Conference on American History. So important. Our mission is to defend the legacy of America’s founding, the virtue of America’s heroes, and the nobility of the American character. We must clear away the twisted web of lies in our schools and classrooms and teach our children the magnificent truth about our country. We want our sons and daughters to know that they are the citizens of the most exceptional nation in the history of the world.”

President Donald Trump, Speech at the National Archives, September 17, 2020

One of my favorite courses that I taught for many years at Idaho State University was a sophomore-level required course for history majors entitled, “The Science and Art of History.” Not only did I enjoy working with students early in their academic careers but also because teaching the course gave me the opportunity to delve deeply into how historians practice their craft. One of the formative books that I encountered back in the 1980s—R. F. Atkinson’s *Knowledge and Explanation in History: An Introduction to the Philosophy of History* (Cornell University Press, 1978)—has deeply influenced my thinking, then and now.

Briefly summarized, Atkinson’s book demonstrates that history—like the sciences—is an empirically based discipline because it rests on human learning through the senses (especially observations). We experience the world around us, and our minds organize what we see/experience to develop understanding. First-hand observers start the process by recording what they experienced, and later observers verify these historical observations as **facts** by testing their validity through specific, repeated observations both at the time they occurred and later. For example, it is a **fact** that the Declaration of Independence contains the phrase, “all men are created equal.” That statement appears in Thomas Jefferson’s “Rough draught” of the document; Benjamin Franklin and John Adams edited sections of Jefferson’s first draft but left that specific wording untouched; members of the Second Continental Congress excised other parts of Jefferson’s text

but not that avowal; and following debates, the participants signed the manuscript containing the affirmation. Further, all of the extant copies of the Declaration contain the slogan, and later generations witness its inclusion by viewing the original document in its hermetically sealed case at the National Archives.

Atkinson also makes the important point that a **fact** must be verified using standard methods of observation and measurement; e.g., there is a great deal of difference between saying that it is “a long way” from Pocatello to Moscow (Idaho) versus basing the distance on the mileage in the chosen route. One of my favorite examples in this context concerns the length of the Harvard Bridge connecting Cambridge and Boston. In 1958, members of a fraternity at the Massachusetts Institute of Technology calculated that the bridge was 364.4 Smoots long, based upon the height (5’ 7”) of pledge Oliver Smoot (see <http://www.celebrateboston.com/strange/smoots-bridge.htm>). Although their observations established the length of the bridge, “The Smoot” never became a standard measure of distance.

Returning to the example provided by the Declaration of Independence, it is important to historians that there is an official record that verifies what occurred in Philadelphia in the summer of 1776. The same test applies to contemporary meetings of the House of Representatives, a city council, or any other group that keeps minutes of its meetings that its members certify. Therefore, the statement in a recent textbook for high school students that “the Virginia House of Burgesses struck the first official blow against the Stamp

Act with the Virginia Resolves” is empirically verifiable—and, therefore, a **fact** (see <https://www.ushistory.org/declaration/related/vsa65.html>). Another factual statement in the same textbook states, “Early in 1768, [Samuel] Adams and Boston attorney James Otis Jr. convinced the Massachusetts assembly to circulate a letter they had written to other colonies. It restated the illegality of taxation without representation in Parliament and invited the support of other colonies” (see http://avalon.law.yale.edu/18th_century/mass_circ_let_1768.asp). Historians refer to these sources as **primary**, because they accurately reflect what happened at a particular time and place and, therefore, allow the reader to re-enter, as it were, the past.

Unfortunately for historians, however, a factually-based record cannot be established for everything that occurred in the past because first-hand observers did not record what they experienced, records of those occurrences have been lost over time, or substantial disagreements exist about what happened. For example, it is a **fact** that an armed conflict occurred between British troops and American colonists at Lexington, Massachusetts, on April 19, 1775, but no factual basis can be established regarding which side fired the first shots. Similarly, returning for a moment to the Declaration of Independence, Jefferson’s writings are silent regarding why he crafted his famous phrase the way he did, what he understood to be its meaning, or how he reconciled its statement of equality at birth with the **fact** that at the time he wrote it he was a slaveholder. Because of these paucities in history, Atkinson observes that scientists have a distinct advantage over historians because

they can replicate an experiment in their laboratories and re-observe the results.

Another advantage that scientists enjoy over historians is that to a large degree they control what they expect to observe and thereby limit the possibilities of the outcome of their experiments. Therefore, in the “results” section of their reports, scientists provide detail regarding what happened with an objectivity and specificity that historians can only envy. Put differently, historians begin their investigations with the factual record, but they also understand that “what happened” to a large degree, in Atkinson’s words, “remains dubious or questionable.”

As a consequence, historians often disagree about what happened, and these disagreements can be disconcerting to non-historians, especially to

anyone who remembers being told in their history classes to “look it up in the book” and who had their knowledge measured with multiple choice tests that purported to be “objective.” (I am reminded here, parenthetically, of Peppermint Patty’s comment in “Peanuts” in an October 1977 strip that she was going to fail her multiple choice test. “I’m not good at making all these decisions,” she says. “It’s like giving a starving man a menu” [see <https://www.gocomics.com/peanuts/1977/10/17>].)

Also, because not everything that happened can be verified empirically,

historians offer their views on, again in Atkinson’s words, “matters not yet decisively settled one way or another.” **Opinions**, therefore, are statements of personally held beliefs or are based upon a subjectively selected (i.e., not standardized) system of selection or measurement. Examples of opinions from the same textbook referred to earlier describe British Prime Minister George Grenville as a person who “excelled at doing the wrong thing—repeatedly” or Virginia’s royal governor, who upon learning of French forts in the colony’s backcountry in 1763, “sent

an ambitious, twenty-two-year old militia officer, Major George Washington, to warn the French to leave.”

Historians’ opinions may stem from **facts** but must be classified as **secondary**

sources because they may not accurately reflect what happened. However dedicated a historian may be to objectivity, statements may be based on values that the historian holds or on personal experiences. Historians refer to this approach to the past as **presentism**, meaning that past events are interpreted in terms of present-day attitudes or concerns, and it is impossible totally to divorce oneself from what is happening today, especially with respect to the topics that a historian chooses to study. Professional historians learn the importance of **framing** their evidence to distinguish between primary and

secondary sources by using phrases such as “according to historian Eric Foner.” Textbooks, however, typically omit such framing clauses because publishers view them as tangential to the subject or think that students are not sufficiently sophisticated to appreciate nuances or complications in the historical record (see, for example, <https://kappanonline.org/history-textbook-lies-wineburg/>).

Finally, an especially confusing topic related to fact and opinion in history concerns historical truth. Here, novelists or others who engage in what Atkinson refers to as “imaginative literature” have an advantage over historians because they can offer “truth-likeness or truth to life,” especially regarding human motivations (e.g., what an historical figure may or may not have been thinking at the time). Or, as Pulitzer Prize-winning historical novelist Michael Shaara tells the reader at the start of *The Killer Angels*, “I have not consciously changed any fact...[; however, the] interpretation of character is my own.” Concerning President Trump’s statement that begins this essay, it is his **opinion** that US history should teach students particular **truths** about their nation’s past, but I think that it is more important for students, parents, and citizens to learn to discriminate between a **fact** and an **opinion** than to memorize truths about US history.

... a fact must be verified using standard methods of observation and measurement ...



Earning M.A. and Ph.D. degrees in history at Kent State University, Ron Hatzenbuehler taught at Idaho State University from 1972 until his retirement in 2013 (emeritus professor, 2014). His books include: *Congress Declares War: Rhetoric, Leadership and Partisanship in the Early Republic* (1983 [with Robert L. Ivie]); *‘I Tremble for My Country’: Thomas Jefferson and the Virginia Gentry* (2006) and *Jefferson, Lincoln, and the Unfinished Work of the Nation* (2016). In 1994, he was honored as ISU’s Distinguished Teacher, and in 2008 he received the Outstanding Achievement in the Humanities Award, given annually by the Idaho Humanities Council. He lives in Pocatello, Idaho, with his wife Linda.

Unworthy to Electorally Participate: Voter Suppression as a Tool of Institutional Racism

BY SHERICE NELSON

The foundation of American democracy was set forth in the Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” This First Principle of American freedom, recited by school children across the country, is grounded in the context of the Social Contract doctrine, which declares that human beings, as a matter of birthright, enjoy a set of fundamental rights that no government may deny.

Social Contract theorists—Thomas Hobbes, John Locke, Jean-Jacque Rousseau and Immanuel Kant—posit the existence of a State of Nature into which people are born and enjoy Natural Rights, which are granted by the Creator or otherwise inhere in the universe. For various reasons, including the emergence of violence and exploitation, people choose to leave this once idyllic world for the opportunity to create Civil Society and establish a government that reflects their views and values. The vehicle for this transition is the Social Contract, an agreement among the people—signers of the Contract—or between the people and the government, depending on which political theorist is under discussion, to live by the terms and spirit of the Contract, which will provide for security, happiness and liberty. The rationale for leaving the State of Nature for Civil Society is thus clear to all.

The French theorist, Rousseau, asserts in his work on the Social Contract doctrine that everyone will be free because of the forfeiture of the same number of rights, as they transitioned from the State of Nature to civil society. This equivalent sacrifice, in

turn, imposes the same duties on all citizens. Yet, for many Blacks in America who were first classified as property as a result of the law of slavery, and thus denied the “unalienable” or natural rights conferred on human beings, there was no opportunity to forfeit rights since they could not surrender what they had not been granted. In other words, Blacks who were subjected to the institution of slavery were thus denied access to the Social Contract and all of its principles, virtues and benefits, including fundamental rights.

What were the implications for Black Americans of the exclusion from the Social Contract? This denial of the fundamental rights and protection afforded by the Social Contract implied for Black Americans at the founding of our nation a second-class status,

or worse. The award-winning philosopher and Jamaican scholar, Charles Mills, has observed in his book, *The Racial Contract* (1997), that the Social Contract theorists understood it to regulate relations only among whites. In relation to “non-whites,” these theorists helped to create a “racial contract” which, in both formal and informal ways, permitted whites to oppress and exploit non-whites and, in the process, violate their own moral ideals in dealing with non-whites. Thus, the mythology of white supremacy has warped the social contract, so important to American democracy and freedom. As a consequence, non-whites, including Blacks in America, function within the context of what Mills has described as a “racial contract.” This gave birth to the four prongs of racism that are institutional:



Supporters of the Mississippi Freedom Democratic Party outside the 1964 Democratic National Convention in Atlantic City, NJ. Credit: Library of Congress

within institutions and systems of power; structural: among institutions and across society; interpersonal: which occurs between individuals, and internalized: which occurs inside individuals.

This “racial contract” is built on “pigmentocracy,” which is the concept of a social hierarchy built to coalesce power among those who possess lighter skin tones. Therefore, the idea of racial superiority, according to Professor Mills, is a political system based upon a contract that declares whites are superior due to their skin tone alone; such superiority allows for domination and oppression of those who do not share lighter skin tones. The concept of white superiority that asserts moral authority and worthiness in “whiteness,” puzzled Abraham Lincoln. In a speech in Peoria, Illinois, on July 1, 1854, the former Congressman took dead aim at the bizarre reasoning, which is worth quoting at length.

“You say A. is white and B. is black. It is color, then; the lighter having the right to enslave the darker? Take care. By this rule, you are to be slave to the first man you meet, with a fairer skin than your own.”

“You do not mean color exactly? You mean the whites are intellectually the superiors of the blacks, and, therefore have the right to enslave them? Take care again. By this rule, you are to be slave to the first man you meet, with an intellect superior to your own.”

“But, say you, it is a question of interest; and if you can make it your interest, you have the right to enslave another. Very well. And if he can make it his interest, he has the right to enslave you.”

America has tried to atone for this original sin of deeming others unworthy of their unalienable Rights. Our best examples of atonement can be first seen, constitutionally, with the Reconstruction Amendments: the 13th, 14th, and 15th--making Blacks free from slavery unless crime had been committed; making Blacks citizens of the United States; and allowing Blacks to actualize that citizenship through the right to vote. This constitutional foundation was necessary if America was to live up to her creed, and legislation was needed to protect and expound on such a foundation. We have seen multiple Civil Rights Acts of 1866, 1870, 1871, 1875, 1957, 1960, 1964, 1965, 1968, 1970, 1975, 1982, 1987,

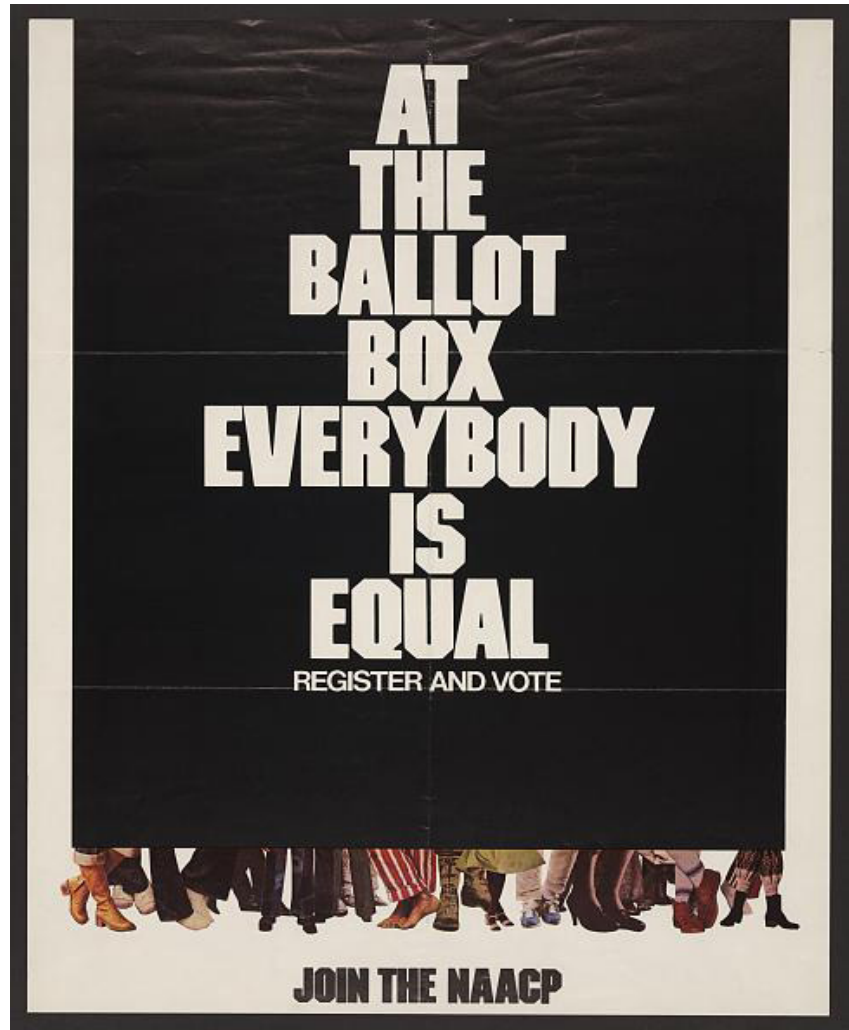
1988, 1991, and 2006. This is our evidence that America is struggling with atonement that has seen both progress and regression through legislation historically represented here.

Access to full American citizenship is intrinsically linked to one’s ability to vote. Because “the people” are sovereign in a democracy, the way to exert such sovereignty is through exercise of the franchise. Historically, America has struggled with the idea that non-white males are worthy of such a sovereign right. Racial superiority demands that this fundamental right is reserved for the worthy, and that white men shall deem who is worthy. It is this historical struggle in which we find ourselves engaged, where the country is asking the question: What is democracy, really, and how can all electorally participate?

The question has left us challenging legislation used to ensure and protect full

electoral participation. The Supreme Court’s ruling in 2013 in *Shelby v. Holder*, gutted the protections necessary for full electoral participation by striking down section 5 of the Civil Rights Act of 1965. This section required states with a history of racial discrimination to obtain federal preclearance before changing voting laws. The case also struck down section 4(b), which established a coverage formula that stipulated which states and districts were subject to preclearance. The Supreme Court was clear that such provisions needed to be updated by Congress, which has resulted in an unsuccessful Civil Rights bill in each legislative session since the decision.

The Brennan Center for Justice has provided expert briefs that detail the consequences of the *Shelby* decision. They find that twenty states overall have new restrictions on registration and voting. Unsurprisingly,



Credit: Library of Congress

many of the states such as Alabama, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Texas, would have fallen under section 5 of the Civil Rights Act of 1965. Further examination shows that these states have passed legislation that undoubtedly makes it more difficult for those persons of color to vote with a target on Black communities. Once again, we are watching those with the most power in our pigmentocracy decide who is worthy of electoral participation. This worthiness has been objectified through voter identification laws or precinct reduction. It is here that the concerns about non-existent voter fraud and resource contraction at the state level are used to justify legislative remedy. Yet those of us who understand the fundamental struggle of and for American democracy understand we are in a cycle of contraction still influenced by our original sin.

Voter suppression is the denial of one's constitutional rights, of course, but also an abridgment of unalienable rights. How, we may ask, is one to have liberty if she is unable to vote? Liberty just like life, and happiness were assigned to the worthy, and at the founding of our nation white male landowners were the only ones worthy. The apprehension felt by those with hierarchical privilege is connected to the browning of the country. Preliminary data from the 2020 Census states that out of the 3,006 counties in the country, 103 have populations that are 50% Black, which includes the District of Columbia. A majority of these counties are in the southern states of Alabama, Arkansas, Georgia, Louisiana,

Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. Not one of these counties is North of the Mason-Dixon Line with Prince George's County, Maryland being the closest to the line.

This geographical review is imperative for anyone who studies American democracy to see and understand how institutional racism is at the heart of voter suppression. Voter suppression is not aligned with the ideals of American democracy. Yet, it has persisted because of the assertion of the unworthiness of Blacks established in our founding. Hope for Black Americans may be glimpsed in the words of Lincoln, who once told us:

"We are not enemies, but friends. We must not be enemies. Through passion may have strained, it must not break our bonds of affection. The mystic chords of memory will swell when again touched, as surely they will be, by the better angels of our nature."

The better angels of our nature, and the nature of our democracy, persist against state legislatures that continue to deem non-whites unworthy in a variety of ways, but certainly in the case of voting rights. The "mystic chords of memory" that swell within us are our shared humanity. This is the bond that cannot be forever broken, that our Creator has made us, giving all of us a thread of commonality. This thread is larger than states' rights in comparison to federal authority. It is larger than land boundaries and commerce. It is embodied in the last statements made by Dr. Martin Luther King that, "I am a MAN," which was lived out by the life of the Honorable Rep. John Lewis, who was always prepared for "good trouble." This chord is embodied in efforts where we harken a country back to the ideals of its founding and where we show a global community that while fallible, the great experiment of the United States still persists over 200 years later. And, most importantly, that "We the People" collectively are human and sovereign.



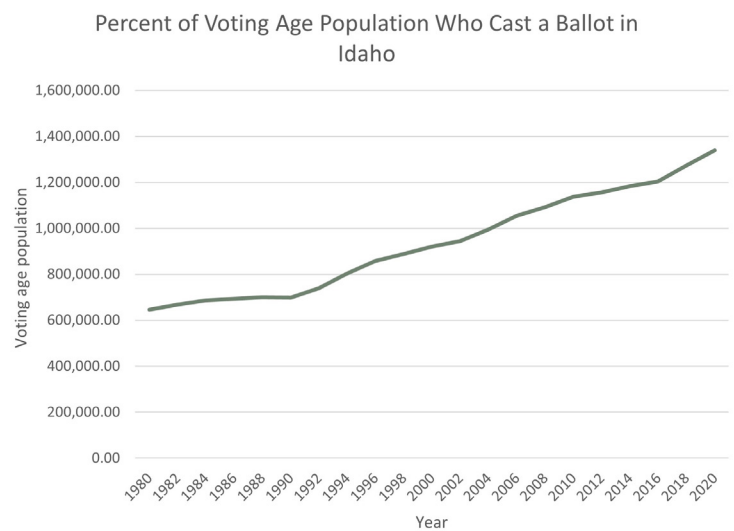
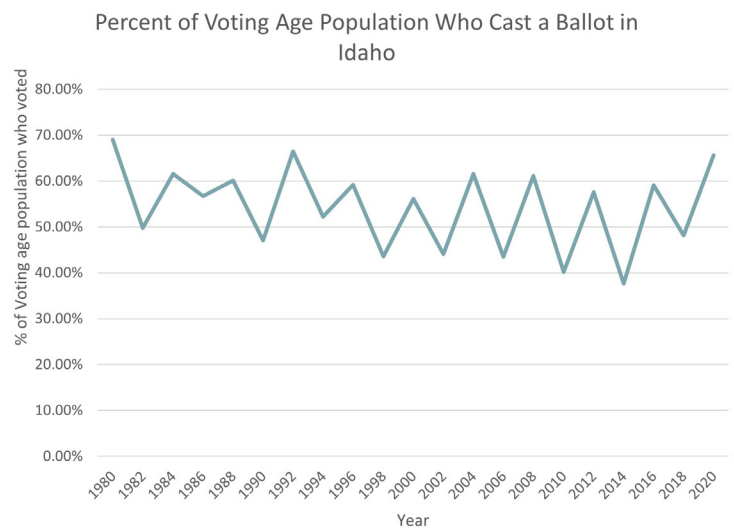
Dr. Sherice Janaye Nelson is a speaker, author, researcher, consultant, and an Assistant Professor at Southern University and A&M College. Her study of Black Americans encompasses the economic and political behaviors that affect a modern day democracy. Dr. Nelson is a Black Diaspora expert who focuses on the political, social, and economic effects of racism. Her co-authored piece, "Insulated Blackness: Cause for Fracture in Black Political Identity" was recently published in the journal, *Politics, Groups, and Identities*. Her new book, *The Congressional Black Caucus: Fifty Years of Fighting for Equality*, reviews the legislative accomplishments of the Caucus in a racialized governmental structure. The work will be released Fall 2021. She received her PhD from Howard University in political science, specializing in Black Politics, International Relations, and American Government. She is the founder of "Dr. Janaye Executes," a strategic consulting firm design to help its clients answer the question how to implement and operate in a evolving diverse world using research to promote action. She is also the Executive Director of the Black Leadership Roundtable, a nonprofit organization concerned with getting Black leaders around the table again to talk with one another. Dr. Nelson is also an executive board member for the Center for Racial Justice at Dillard University.

Voter suppression is the denial of one's constitutional rights, of course, but also an abridgment of unalienable rights.

Voters in Idaho



Student Winter BreeAnne, part of the We the Future campaign, 2020.
Credit: Library of Congress



BY CAROLINE HELDMAN

gender and democracy

Persistent gender inequality threatens American Democracy. While most women gained the right to vote with passage of the 19th Amendment in 1920, and Black women gained voting rights with the 1965 Voting Rights Act, voting rights do not translate into the state being equally responsive to women's interests and concerns. In this essay, I argue that women's second-class citizenship undermines democracy because our concerns and interests simply matter less.

The United States is a patriarchal culture, meaning that men hold most of the economic, political, and social power, and women are mostly excluded from power. Women are 51% of the US population but only 31% of state legislators, 27% of Congress, 18% of state governors, 11% of film directors in Hollywood, 7% of Fortune 500 CEOs, and 0% of presidents. The gaps here are even larger for Black, Asian, Native American, Latinx, and other women of color who experience intersecting racism and sexism.

Women's power has advanced somewhat in the 245 years since Abigail Adams implored her husband to "remember the ladies" (he did not), but at our current glacial pace of progress, it will take 208 years for women to achieve parity. I find it more instructive to start with the idea that, in a fair and just world, representation in positions of power in a society would look comparable to the make-up of that society. Stated another way, why have we structured our society to vastly over-represent men in positions of social, economic, and political power?

Representation matters when it comes to democratic rule because those with the power make the rules. There are two major types of representation: descriptive and substantive. Descriptive representation is a measure of the extent to which decision-makers look like the group they are representing, for example, the percentage of women in positions of power noted above. Substantive representation is the extent to which leaders advocate on behalf of a specific group, for example, passing equal pay legislation that benefits women in the workforce. Decades of research indicate that descriptive representation is tied to substantive representation. People who belong to a specific identity group are more likely to advocate for processes and policies that benefit that group. This means that women's sizeable under-representation in positions of power in

corporations, politics, media and educational institutions, among others, translates into institutions, practices and policies that devalue their interests.

A prime example of women's second-class experience of democracy is the failure of the state to effectively address sexual violence. We live in a country in which sexual violence against women is commonplace, excused and even eroticized in pop culture, and not treated as a serious crime in our legal system. Girls and women experience the world differently than men because we face a threat of sexual violence that is normalized in a culture of sexual assault. The state could interrupt the culture, but because it mostly affects second-class citizens, this pressing issue is not a national priority.

Rape is appallingly common in the United States. Some women experience higher rates than others, with 34% of Native American/Alaska Native, 19% of Black, 18% of white, 12% of Latinx, and 7% of Asian/Pacific Islander women sexually assaulted at some point in their lives. About 11% of men engage in sexual assault during their lifetime. Sexual violence against women is an epidemic in the United States, and while the #MeToo Movement has raised awareness of the extent of this problem, it is still not a national priority for the government. An astonishing number of girls and women are sexually assaulted in the US, and the disproportionately male leaders we elect have not prioritized our safety.

Entertainment media plays a role in perpetuating the culture of sexual violence, too. Sexual violence is eroticized in popular culture through The Sexy Corpse trope that shows up frequently in cop shows, through the regular practice of mixing of sex and violence, and through pornography, 88% of which contains verbal and physical violence against women. (With 43% of men and 9% of women watching porn on a regular basis, we must consider this genre when we talk about pop culture.) Beyond depictions of violence, popular culture is rife with sexual objectification, which reduces women from sexual subjects (who act) to sexual objects (which are acted upon). Sexual objectification is dehumanizing, and dehumanization is often the first step in enacting violence against a group. Men hold 97% of clout positions in media so a lack of descriptive representation for women in this industry also translates into a lack of substantive representation.

Our "justice" system plays an outsized role in maintaining a culture of sexual violence by failing to establish laws and practices that prevent sexual violence. An American is raped every 73 seconds (mostly women) but fewer than 1% of rapists (mostly men) will ever see a day inside a jail cell. These statistics tell the whole story: the justice system does not work to prevent sexual violence or hold rapists accountable. We can talk about law enforcement officers who lack training on effectively responding to sexual violence reports, prosecutors



Idaho's "I Voted" sticker created to commemorate the 100th Anniversary of Women's Suffrage, 2019. The design was created by Samantha Robson, a student at Kuna High School.

whose careers are based on their win/loss record which discourages advancing rape cases, rules of evidence which work against establishing truth in rape cases, and juries that are steeped in rape myths. But the ultimate cause of not addressing sexual violence is the fact that this is something that mostly happens to women, and women simply hold less value in the eyes of the state.

This one example of a culture of sexual violence shows that political societal, and legal institutions are implicated in maintaining women's second-class citizenship in American Democracy. We are second class citizens because the leaders we elect and the rules they establish to govern us do not provide for our basic safety. As a culture, we accept sexual violence as inevitable and accept the state's lack of a concerted response as normal and implicitly acceptable. At an individual level, many women internalize sexual violence as a personal problem instead of state-sanctioned violence in a patriarchy in which our safety and bodily integrity simply matter less. Women's value vis-à-vis men is less in the eyes of the state because the state has a strong patriarchal bias.

The basic pillars of democracy are political equality (the idea that everyone has an equal voice in governance), political liberty (the right to express oneself freely when it comes to choosing policy and elected leaders), and popular sovereignty (the principle that the government derives its authority from the sustained consent of the people— that "the people" are the ultimate source of all political power). Living in a culture of sexual violence is just one of many ways women's experience in our democracy is limited. Women's status as second-class citizens (which is further diminished by marginalized race, sexuality, ability, age, class, and other identity intersections) inherently limits political equality and liberty. Additionally, when 51% of the population is descriptively and substantively missing from positions of power, this also limits the popular sovereignty that is vital for a functioning democracy.

What would it take to make women first-class citizens in our democracy? First, women would be reflected equally in positions of social, economic, and political power. We cannot achieve a functioning democracy with such a lopsided power distribution. Second, we would address the experiences of women that fundamentally mark us as second-class citizens; namely, disproportionate rates of sexual violence and domestic violence, lower wages for the same work, lower compensation for the care economy (because the work is primarily performed by women), and the devaluation of parenting and homemaking (because the work is primarily performed by women). These are symptoms of a larger problem with gender roles and norms that track boys and girls into sex-segregated lives. The third and most fundamental change would be to recognize gender categories as an outdated way of organizing society. Its primary function in contemporary society is to maintain patriarchal power dynamics that sort citizens into first- and second-class slots that fundamentally threaten democracy.

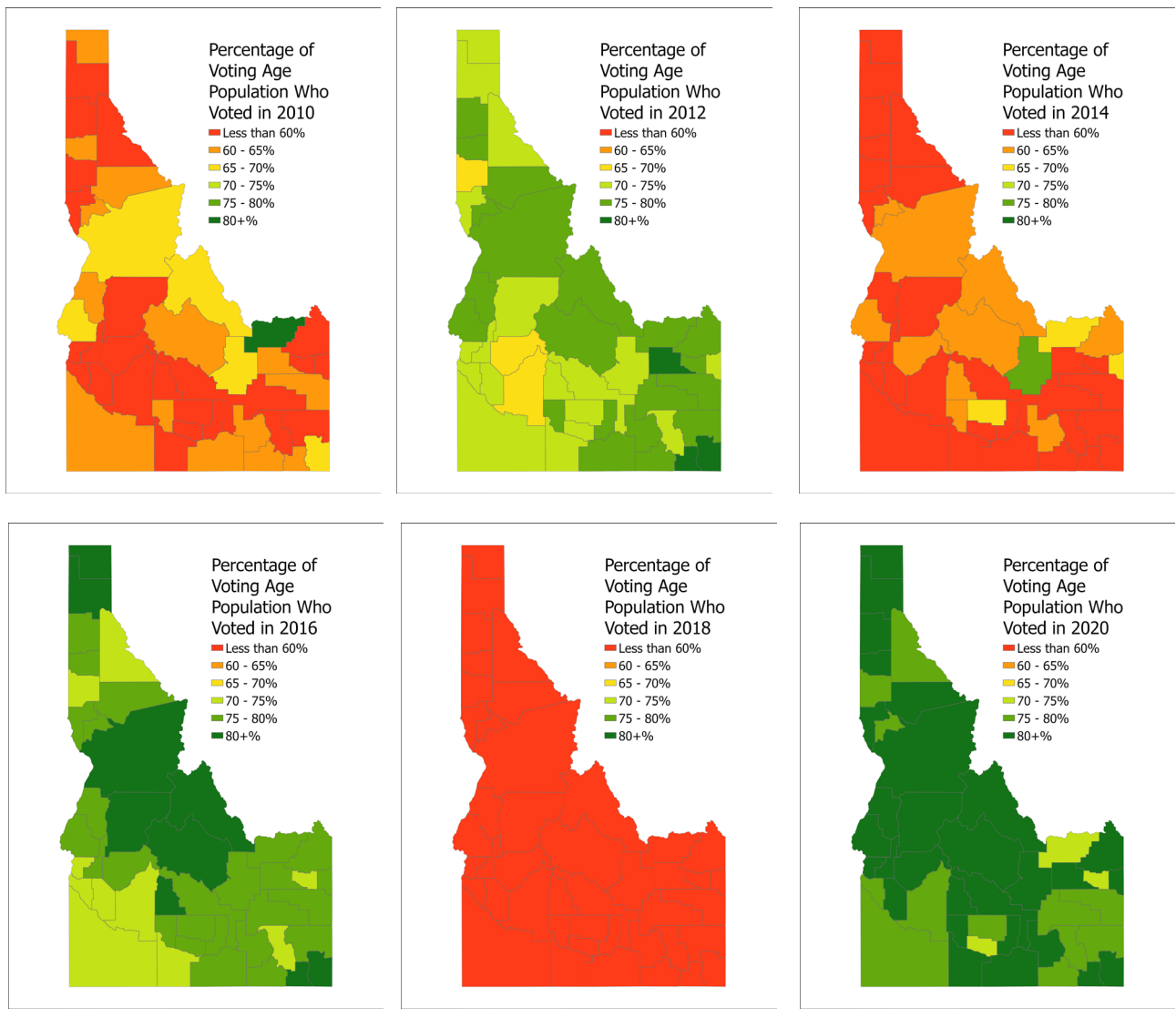


Gracie Marie Pfof was the first woman to represent Idaho in the United States Congress, serving five terms as a Democrat in the House of Representatives. Pfof represented the state's 1st district from 1953 to 1963. Credit: Boise State Special Collections Archives.



Dr. Heldman is Chair of the Critical Theory and Social Justice at Occidental College in Los Angeles and Vice President of Research and Insights at the Geena Davis Institute for Gender in Media. Her research specializes in media, the presidency, and systems of power (racism, classism, sexism, ableism, ageism, and sizeism) and their intersections. Dr. Heldman has published six books, including *Protest Politics in the Marketplace: Consumer Activism in the Corporate Age* (Cornell University Press, 2017), *Women, Power, and Politics: The Fight for Gender Equality in the United States* (Oxford University Press, 2017), and *Madame President? Gender & Politics on the Road to the White House* (Lynne Rienner, 2020).

Voters in Idaho



The data in the maps represents the percentage of the voting-age population who actually voted via some mechanism within each county. The data is standardized as a percentage to make the comparison between counties with different populations on a level field, along with a standard scale for the data. You can see there is a cyclical trend of higher turnout for presidential election years, with dips during off years. Data was collected from the Secretary of State's Election Division, and further information is available at sos.idaho.gov. Maps created by Doug Exton.

Presidential Leadership in Unifying America:

The Call of Character*

BY LARA BROWN

“... to restore the soul and to secure the future of America — requires more than words. It requires that most elusive of things in a democracy: Unity.”

– President Joe R. Biden, Inaugural Address, January 20, 2021

Elusive? Yes. Impossible? No. But what is needed to unify America is something that has been lacking in one respect or another for more than four decades: presidential leadership. More specifically, leadership that is grounded not in a president’s personal authenticity or his popular celebrity, but in his previous political experience and life-long cultivated character.

To say this, though, is to say a lot. For this assertion about leadership is replete with theoretical underpinnings and empirical observations from America’s history. This essay seeks to unspool these logical threads and offer some perspective on the present political moment, “this winter of peril and possibility,” as Biden aptly described it.

To begin, it is helpful to recall that the presidency is the pinnacle of American politics: the place for politicians who aspire to make history and become known as statesman. In this way, Biden is rather unexceptional. Having made his first run at the White House in 1988, he has long had his sights set on becoming the president of the United States. Further, it shouldn’t come as a surprise that Donald Trump also wanted to be president. For in whatever ways he differs from both his successor and his many predecessors, he, like them, he has always been inordinately ambitious and highly opportunistic.

The more interesting question then is how was it that a sizable number of Americans in 2016 believed Trump, without any political experience, would make a good president? While voters embraced presidential candidates in the 20th Century that had not held national political office, including Jimmy Carter in 1976, Ronald Reagan in 1980, Bill Clinton in 1988, and George W. Bush in 2000, those successful candidates had been popular governors. For

that matter, Dwight D. Eisenhower had never held an elective office of any sort, but voters could sum up his military experience and leadership in World War II in one word—excellence—and reasonably conclude that he might be a fine president. But prior to the presidency, Trump was a real estate mogul with a highly rated television show and no political experience. A celebrity since the early 1980s, he was known to have extravagant tastes, rather a scandalous personal life and a shady business history. An almost clichéd version of a New York titan, Trump relished being bold, brash and bellicose.

The simple answer is that Americans either don’t seem to care about a president’s character or don’t believe that character, as Plutarch observed, is reflected in one’s actions or decisions. The more serious answer is that the meaning of character has profoundly shifted over time, and has resulted in leadership becoming largely reduced to and/or conflated with an individual’s personal expression rather than one’s purposeful action for the benefit of society.

Stepping back, it is also worth noting that like a crystal, the connotations of the word *character* are at once transparent and multifaceted. The word may be used to denote moral inclinations or imply ethical integrity. It may be offered as the excuse for one’s odd or eccentric behavior. It may be substituted for the word *role* in conversations about a work of fiction. It may even refer to the unique appeal of an object. Despite these shifting meanings, each usage implies that while character is comprised of an innate manner, it is also shaped by time and experience.

In these ways, character exists on multiple levels: as a disposition, a set of expectations, and an intentional persona. Related to brand, character persists as more than a superficial mark or identifying

logo. It may best be understood as a socially constructed, yet privately contrived reputation that fits well with one's innate temperament. Hence, the performative aspect of character is ever-present. For as Shakespeare astutely surmised, "All the world's a stage."

For most of history, most believed individuals should look to become the character --brave, earnest, patient, caring-- that society idealized for their role --solider, farmer, pastor, nurse--even if that meant that one was different in public than he or she was in private. The idea was that one trusted the character an individual sought to be, not just who he or she was because one knew that every individual was invested in keeping up his or her appearance and sustaining a favorable reputation within his or her community.

Presidents were not exceptions to this rule. They were bound to the high expectations Americans had for the lofty office. Presidents were expected to be wise and virtuous leaders—statesmen—who rose above the partisan fray to protect the polity and promote the national interest.

Consequently, three types of political characters have been seen as suited to the role of president: (1) experienced Washington insiders, (2) outsiders (state officials) who were seen as rising stars, or (3) war heroes who were considered celebrities. All had some political or military experience, though many modern presidents look like amateurs when they compared to their predecessors.

For instance, prior to running for president, Franklin D. Roosevelt had run for, was appointed to, was nominated for, or had served in five separate positions (state senator, assistant secretary of the Navy, vice presidential nominee, governor of New York) and had served a total of 14 years in political office. George W. Bush had run for two positions (U.S. representative and governor of Texas) and served in one (governor of Texas) for a total of six years. America's founders (George Washington, John Adams, Thomas Jefferson, James Madison, and James Monroe) were the most experienced generation of politicians to have served in the presidency.

Still, the citizenry seemed to understand that most politicians—however likeable—had a two-faced nature. This helps explain why American presidents prior to Theodore Roosevelt, as historian Richard Ellis notably

described, denied their real ambition, emphasized their public duty, and complained of the burdens of serving in elective office. Society demanded this performance.

For the only men (yes, only men) who were thought worthy of the office were those who attempted this elaborate artifice. And most worked hard to demonstrate the goodness of their characters, even when they had skeletons in their closets or "darker sides" to their natures.

While some past presidents were better at masking their moral failings than others, as politicians, most understood how to satisfactorily vary their persona, so as to appropriately meet the public's expectations of presidential leadership. Ever-calculating the impact of their words and deeds, most sought to act in ways that would engender positive judgments about their characters; thereby increasing the opportunities for their leadership. For they understood that broader public approval translated into political capital or negotiating leverage.

Most were also aware that at every moment, there exist three general approaches to evincing leadership. A president may confront a situation or take a risk, which he

hopes will showcase his *courage* (strength and audacity). Alternatively, he may pose specific questions or seek more information, which he believes will demonstrate his *curiosity* (discernment and sagacity) and provide him with the time to delay further actions. He may also come forth with a joke, listen sympathetically or gesture in a way that comforts another, which he hopes will demonstrate his *compassion* (warmth and humanity) and ingratiate him to his audience. Though not exhaustive, these *leadership approaches* (courage, curiosity and compassion) capture a wide range of presidential actions much as *fight, flight* or *freeze* describe survival tendencies.

Few presidents have had either the situational awareness or the political deftness to be highly proficient in each approach (maybe only Lincoln). Most favored one or two approaches during their presidencies, as well as over their lives as political leaders. Still, whichever approach they preferred, most knew that the character of their leadership was something of a performance. They knew that acting the role of a president was part of what it meant to be *the* president.

For their part, with the help of talk show



Washington as Statesman at the Constitutional Convention, 1856. Oil on canvas by Junius Brutus Stearns. Credit: Virginia Museum of Fine Arts.

Still, the citizenry seemed to understand that most politicians—however likeable—had a two-faced nature.

hosts and reality television shows, Americans have come to prefer characters who are flawed yet authentic to those who were seemingly ideal, but contrived. The purportedly ordinary and unscripted people (non-actors) are hailed for their honest performances that expose raw truths about humanity's baser nature. Even today, an individual who publicly admits to being an authentically awful person is often afforded greater trust than an individual whose public reputation appears too good to be true.

For as Johnny Depp's character, Captain Jack Sparrow quipped in *Pirates of the Caribbean*: "Me? I'm dishonest, and a dishonest man you can always trust to be dishonest. Honestly. It's the honest ones you want to watch out for, because you can never predict when they're going to do something incredibly...stupid." Or dishonest.

The public gleaned similar lessons in the ten years between 1964 and 1974 during the presidencies of Lyndon Johnson and Richard Nixon. For while the public's disillusionment with politics is a larger story, the respective misrepresentations of Johnson and Nixon with regard to the Vietnam War and Watergate scandal shocked the public and scarred the body politic. Many times over multiple years, Americans witnessed—mostly on television—the two-faced performative character of presidential leadership. These deceptions proved too much. Since then the public has mostly distrusted Washington insiders, or more pejoratively, "career politicians."

A certain outsider cache was ushered in with Jimmy Carter's election. Since 1976 and before Biden, only one Washington insider has won the White House: George H.W. Bush. Along with favoring outsiders, the public began preferring political newcomers over experienced politicians because they were seen as less likely to have become corrupted by the "rigged" system.

The problem, though, is that amateur outsiders do not possess the political know-how to fix Washington. Often, they make things worse with ill-conceived reforms that unleash a raft of unintended consequences, which then further erodes trust. But the illusion that an amateur outsider can save the day has persisted—and morphed further to include non-politicians such as business executives Ross Perot, Herman Cain, Carly Fiorina and

Andrew Yang, among others.

Thirty-two years after Carter, Barack Obama's 2008 election launched the age of the celebrity. A newly elected U.S. senator and rising party star, Obama's charisma, oratory, and personal story not only prevailed over two candidates with more political experience (Senator Hillary Clinton in the primary and Senator John McCain in the general election), but also transformed the staid world of political marketing into an exercise in celebrity branding. The boy-band enthusiasm of his supporters, the rock-star-like rallies, the coveted "O" gear and limited production artwork, Obama's campaign was far cooler than presidential politics had ever been.

While the country has elected Biden, an experienced Washington insider known for his compassionate leadership and patient bipartisanship, it is difficult to know whether this age of the celebrity outsider has finally run its course or is only taking a temporary pause.

Award-winning columnist Fintan O'Toole's recent essay in *The Guardian* on Biden, suggests that we may yet have some way to go, even if Biden can provide an adequate vehicle to get there. He wrote:

"There are, in effect, two Bidens: the politician and the person. The second is more interesting than the first. The paradox is that the more personal his presidency is, the more politically potent it can become... Biden the Irish pol is a revenant from a dead era. His skills as an operator, a fixer, a problem-solver, are finely honed – but they are redundant. He is a horse whisperer who has to deal with mad dogs... There is no reasonable, civilised [sic] Republican opposition with which he can compromise. There can be no such thing as a unilateral declaration of amity and concord... For Biden to pretend that he can restore a pre-Trump normality would be disastrous. Trump and the Republican base he still owns will simply exploit conciliation to make Biden look weak and foolish. In that sense, the political Biden is

not the man who can change America. It is that other, richer persona, the private self, shadowed by time and loss and a sense of tragedy, that must come into its own. His supporters understood this in November – they voted for him in unprecedented numbers, less because of what he said he would do and more because of who he is: a man of sorrow acquainted with grief.”

Although O’Toole is accurate in describing the “two Bidens,” he seems to be underestimating the importance of Biden’s political experience in knowing how to employ his “sorrowful,” yet deeply resilient and doggedly hopeful character. Frankly, the “first” Biden is the more important of the two for the purposes of presidential leadership and rescuing the “soul of America.” For without the “Irish pol,” the “second” Biden could only be seen as a “leader” for being authentic and open about his grief. Said another way, it is precisely Biden’s demonstrated commitment to purposeful action to benefit society—over four decades of political service—that offers Americans the possibility of presidential leadership. Whether Biden is able to fully realize his opportunity is uncertain. O’Toole may prove prescience in his expectations that the Republicans will not find any interest in rebuilding American democracy.

Still, the possibility endures that Trump’s leadership style will serve as a catalyst to a more profound public reassessment of what it takes to be president. In reaction to the character of Trump’s presidency, Americans may decide to gravitate back towards some of the past’s higher standards, favoring candidates with more political experience and service-oriented characters.

For it is only through presidents who are as demonstrably concerned with the public welfare as they are with their own personal success that the nation has unified and overcome trying times. On this score, Biden shares far more with Abraham Lincoln and Franklin Roosevelt—career politicians who won and lost (and had great personal suffering) before they won the White House—than he does with Trump.

Like Lincoln and Roosevelt, Biden’s character is marked by constancy of purpose



and compassion for others. These character traits combined with humility and resiliency engender trust. Biden’s many political experiences are also likely to help him deliver on his promises, and if he becomes perceived as a competent and trusted leader by the majority of the public, his presidency will help unify Americans.

During one short C-SPAN video, the character of Biden’s leadership was on full display. The video was shot early on the morning of Friday, February 12, 2021. President Joe and Dr. Jill Biden went out to the North Lawn to walk their dogs and observe the Valentine’s Day decorations they had erected. Over the few minutes they were out there, interacting with reporters, Biden (a) explained that they put up “hearts” at the White House to recognize Valentine’s Day and to show sympathy with those who lost loved ones to the coronavirus; (b) shared that Valentine’s Day has long been special to him and that he “loves Jill” more than she “loves him;” (c) explained that he got a new dog, Major, because his first dog, Champ, is slowing down and he was told a young dog would help Champ stay young; and (d) decided to give his coffee, which he had yet to take a sip of, to a reporter who was clearly

cold since he and Jill were headed back inside the White House.

Not long after the exchange, this video made the rounds on political Twitter. Even though Biden’s actions were not overtly policy-oriented, his political leadership shone through. His years of experience helped inform his unscripted conversation. For instance, he knew that by acknowledging the loss of life associated with the pandemic and showing empathy for the survivors, he was reminding all in Washington how many Americans need a COVID-19 relief proposal to make it through Congress. He knew that he did not need to discuss the bill—that it would have inappropriate in that moment to talk policy. He only wanted to offer sympathy and let survivors know that he understood—felt—their grief.

In sharing about his relationship with Jill, he conveyed to the public that he is fine with loving “them” (the public) more than they love him. He did not need their adoration. He was also letting the country know, that like Champ, he is surrounding himself with some young “dogs” who will help him find the energy to accomplish the work he has committed to, and that he’ll happily give up his “coffee,” if it

makes another's life a bit easier.

Whether Biden was aware of all of the metaphors and implied messages in his words that day is not something that can be known, but what is evident is that his actions exuded the commitment and compassion that he has said he will bring to the work of the presidency. Having observed first-hand the first 100 days of the last six past presidents, Biden seems likely to know not only how to act, but also how to avoid some of his predecessors' political mistakes.

It appears safe to bet on the durability of Biden's decency. The question is whether that quiet, durable decency will be a sufficient salve to heal the deep partisan divides and bridge our uncivil discourse. The part of the country that likes Trump, likes that he is a "fighter." Only time will tell whether Biden can convince his political opponents to take off their gloves and unify around a "lover, not a fighter."

* Portions of this essay have been adapted from my recent book, *Amateur Hour: Presidential Character and the Question of Leadership* (Routledge, 2020).



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The Electoral College and American Democracy

BY LORI COX HAN

During the second impeachment trial of Donald J. Trump, the term “but for” became a prominent description employed by those connecting the former president’s words and actions to the events at the U.S. Capitol on January 6, 2021. The legal use of “but for” relates to the necessary cause, that, without a particular result, would not have occurred—in this case, “but for” Trump, the violent insurrection would not have occurred. Applying that term to the broader context of the Trump years, one could easily surmise that, but for the Electoral College, Trump would not have been elected president in the 2016 election. Of course, the same can be said for John Quincy Adams (1824), Rutherford B. Hayes (1876), Benjamin Harrison (1888) and George W. Bush (2000). Those presidents lost the popular vote, but won the Electoral College vote, and were thus seated in the White House. In five presidential elections, the preference of American voters has been supplanted by the outcome of the Electoral College vote. This result, denounced by critics as undemocratic, has fanned the flames of the movement to abolish the Electoral College and to replace it with the popular vote.

In 2016, Trump won the Electoral College with 304 electors to Hillary Clinton’s 227 (seven “faithless electors” cast their vote for someone other than the two candidates), even though Clinton won the popular vote by nearly 3 million ballots. This was the second time in less than two decades that the popular vote winner lost the Electoral College, thus losing the election (in 2000, George W. Bush won the Electoral College 271-266 over Al Gore, but lost the popular vote by roughly half a million ballots). Those elections, like

the previous three in which the winner of the popular vote--the “Gold Medalist”-- was displaced by the “Silver Medalist,” helped to move into the national political spotlight what had been mostly an academic debate about abolishing the Electoral College.

The explanation behind the somewhat complex decision of the Constitutional Convention to create the Electoral College, as opposed to the direct popular vote, for selecting the U.S. President, was attributable, in part, to delegates’ concerns that American voters would not have sufficient knowledge about the qualifications and credentials of candidates to make an informed decision. Rather than embracing a system that placed this critical decision in the hands of voters who would be, so to speak, casting about in the dark, the framers of the Constitution, created the Electoral College which, they hoped would place the selection in the hands of electors who either knew the candidates themselves, or otherwise possessed a reliable fund of knowledge about them.

Advocates for eliminating the Electoral College argue that it is no longer necessary since voters now have all the information needed to make an informed decision. In addition, scholars have often made the case that the Electoral College is dangerous since the election a president who is not the choice of the people, might cast a shadow of illegitimacy over the president and provoke a constitutional crisis. At the very least, the outcomes in 2000 and 2016 called into question the legitimacy of Bush and Trump. Other arguments against the Electoral College include the fact that some states benefit unduly from the system; that different states use different methods for selecting electors, and there is no guarantee that electors will abide by the popular vote in all states; and because of the winner-take-all

system in most states, some popular votes are nullified.

Political scientists have been debating the merits of the Electoral College and its role within presidential campaigns for decades, dating back to at least the 1950s. For example, in *How Democratic is the American Constitution?*, Robert A. Dahl argues that the Electoral College, along with the U.S. Senate, are the most undemocratic features within the U.S. Constitution. Dahl argues that the best remedy would be to amend the Constitution and replace the Electoral College with a popular vote election, relying on a run-off if a candidate failed to receive more than 50 percent of the vote. Short of that solution, Dahl argues that each of the states (along with the District of Columbia) should allocate their electors proportionally. Currently, all but two states rely on a winner-take-all system of awarding electoral votes, which means that if a candidate wins the popular vote in a state, then he or she wins all the electoral votes. Only Maine and Nebraska rely on a partial proportional system, where the candidate who wins each congressional district wins that electoral vote, while the candidate who wins the popular vote in the state wins the two votes represented by the state's two U.S. senators.

The Electoral College does have its defenders, however, who argue that it is an integral component of federalism in recognizing the important role of the states as political units by guaranteeing that the president will be represented by a geographically broad constituency. The Electoral College combines the elements of popular democracy with representative democracy and can expand the sense that the president has a mandate to lead the country if a sizable margin of victory is secured through both the popular and Electoral College vote. However, such an achievement is not a guarantee that a president can govern in a way that brings with it sweeping policy changes (think Richard Nixon's victory in 1972—60 percent of the popular vote and all but 18 electoral votes, though he resigned from office less than two years later due to Watergate). In addition, the Electoral College enables minority groups to wield power through significant blocs of electoral votes in a state,



U.S. Congress counting the votes of the Electoral College, 1913. Harris & Ewing, photographers. Credit: Library of Congress

and it discourages voter fraud. The latter point is particularly salient in the wake of Trump's refusal to acknowledge his loss in the 2020 election, given his attempt to pressure the Georgia secretary of state to "find 11,780 votes, which is one more than we have" just days before Congress met to certify the Electoral College results. (Trump lost Georgia, and that state alone would not have been enough to overturn the Electoral College results).

Regardless of one's opinion on the Electoral College (and scholars cover a broad spectrum of that including arguments to keep it, trash it, or reform it), there is no denying the strategic importance that it represents for presidential candidates. When it comes to targeting voters, campaigns focus most heavily on so-called swing states where presumably either major party candidate can win; these states receive more attention in the form of campaign stops by the candidate and their surrogates, as well as voter registration and get-out-the-vote efforts. The news media also focus more heavily on swing states since the outcome is unknown until election night (or several days later, as we saw in 2020), thus providing a more dramatic storyline. Correspondingly, voter participation in these states can also be higher than in non-competitive states since so much attention is focused on voter mobilization efforts. While experts vary on their definition, the number of swing states in recent campaigns has normally been in the range of 10 to 12. In effect, the

Electoral College encourages presidential candidates to reject the idea of running in all 50 states, since it makes no sense to waste campaign resources in states with only a few electoral votes, or large states where the candidate has no chance of winning.

Clearly, there are compelling arguments to get rid of the Electoral College, or to at least reform it, but perhaps a more pressing question remains—is doing so even realistic? To date, little progress has been made to eliminate or amend the Electoral College. Polling in recent years shows that Americans are split on the issue. In September 2020, for example, a Gallup poll showed that 61 percent of respondents favored eliminating or amending the Electoral College while 38 percent of respondents favored keeping the system as is. In response to a similar question in a December 2020 *USA Today*/Suffolk University poll, 49 percent of respondents said they favored eliminating the Electoral College while 47 percent of respondents favored keeping the current system. Other polls dating back 10 years provide similar mixed results, with some showing a slight advantage among voters for not eliminating or amending the Electoral College. Issues of question variance and sampling aside, the data suggest that an overwhelming majority for major constitutional change does not exist among voters. This is significant given that a constitutional amendment would be

necessary to eliminate the Electoral College, which would first require a two-thirds vote in the House and Senate to send the amendment to the states, and then three-fourths of the states would need to approve the proposed amendment for ratification.

It is difficult to imagine a two-thirds vote being achieved in either chamber on minor policy matters right now, but certainly not on something as politically charged as changing the process of electing a president (especially given that many members themselves have presidential aspirations, and their vote might take on a more selfish, as opposed to national and/or constitutional, preference). It is similarly difficult to imagine that, even if an amendment to eliminate or drastically change the Electoral College made it to the states for consideration that more than a few, if even that many, would vote to ratify. Too many disincentives exist—for the largest states, like California or Texas (with 55 and 38 electoral votes, respectively), why give up having the loudest voice among the states? Considering the least populous states, like Alaska or Wyoming (which have only three electoral votes each), why give up what little influence, however minor, they have in selecting the president? And finally, why would swing states, like Florida, Michigan, Wisconsin, or Nevada, to name a few, want to give up their crucial role in selecting the president? Not only would those states lose influence in deciding the election, but consider the revenue lost if presidential candidates and the attendant large groups of advisors, staff, volunteers, and reporters stopped traveling to each of those states in the months leading up to Election Night, not to mention advertising revenues for regional, state, and local media outlets.

Several states are considering altering their selection of electors like the process used in Maine and Nebraska, thus eliminating the winner-take-all system. However, some of the same disincentive arguments can be raised as to why this is not a logical or likely outcome, especially in large states. For example, while California voted overwhelmingly for Clinton in 2016, and many lawmakers railed against the Electoral College that elected Trump, Democrats in

Sacramento would be arguing against their party's best interests if they chose to follow the same process as Nebraska or Maine. In addition, as of February 2021, California was one of 15 states (along with Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington) plus the District of Columbia that has joined the National Popular Vote Interstate Compact, a voluntary agreement to award all their respective electoral votes to the popular vote winner (all were won by Clinton in 2016). Not only has momentum for this initiative stalled a bit with Joe Biden's victory in 2020 (given that he won both the Electoral College and the popular vote), but some scholars also argue that the compact would require congressional approval, or, a constitutional amendment for it to be valid. The bottom line is that some of these initiatives are based on partisan, as opposed to, constitutional and/or democratic (small "d") motivations.

While this debate will likely endure, the loudest cries for reform often get quieter when a president wins both the Electoral College and the popular vote. Yet, the existence of the Electoral College remains controversial as many flaws exist, and with shifting demographics across the nation, it remains likely that a future president will also take office after losing the popular vote. Despite that, a pragmatic view of the issue suggests that eliminating or amending this aspect of the presidential selection process remains a long shot at best. The Electoral College was put in place by the framers of the Constitution to guard against the popular will having a disproportionate say in selecting a president, and the framers also gave us an incredibly high bar in amending the Constitution. In a perfect world, there would be overwhelming support to change what many call an archaic process in selecting a president in favor of a more democratic system that focuses on the national vote over that of states. But in reality, partisan motivations more often than not win out over constitutional ideals, leaving us with a less-than-perfect mechanism for presidential selection. In other words, for the foreseeable future, the Electoral College is more than likely here to stay.



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A Republic, Madam, If You Can Keep It.

DAVID GRAY ADLER

The serious challenges to American Democracy have generated searching concerns amidst exposure of its deep-seated vulnerabilities, and led some to wonder if our nation is facing a “Machiavellian Moment,” the moment in which a republic is confronted by its own mortality. President Joe Biden was not exaggerating when he said at a press conference in March: “We’ve got to prove that democracy works.”

The stiff headwinds buffeting the republic are no secret: pervasive race and gender discrimination; a steady assault against democratic norms and constitutional principles over the past four years; the decline in our public discourse of reliance on, and respect for, facts, truths, evidence and science; voter suppression laws; a public health pandemic inadequately addressed by the federal government that has devastated families, and an economy which, while serving the interests of the wealthy, has revealed tens of millions of Americans who are a paycheck removed from bankruptcy and homelessness. Surveys reveal a national perception of crisis and urgency. At bottom, some question the ability of our democracy to meet the needs of the people.

Deep concern and even despair about the effectiveness of democracy, are not new; nor are they endemic to the United States, but the fact that previous generations have expressed doubts and qualms makes the anxiety in our time no less important, real or prescient. “Democracy in order to live must become a positive force in the daily lives of its people. It must make men and women whose devotion it seeks, feel that it really cares for the security of every

individual,” President Franklin D. Roosevelt observed, in 1938, as fascism encircled the globe and became a demonstrable threat to peace, human rights and the rule of law. “Democracy will save itself with the average man and woman by proving itself worth saving.”

Not since World War II, when American Democracy confronted fascist powers and the Cold War period, when it endured the threat of communism, has it faced such a stern test—at home and abroad. The domestic challenges to democracy are compounded, as President Biden has said, by a broader indeed, global obstacle, “a battle between the utility of democracies in the 21st centuries and autocracies.”

The defense—indeed, reinvigoration--of democracy requires a nationwide commitment to the Constitution, civic education, gender equality and equal protection of the law. Renewal of democracy can be spurred, moreover, through the creation of a constitutional culture derived from a constitutional consciousness and a constitutional conscience. Nothing is more central to this renewal than a citizenry appreciative of the virtues and values of American Constitutionalism and committed to promotion of the general welfare and the common good. A page of history will remind citizens of the starting point for this course of action.

The founders lit the way for democratic government, as Roosevelt urged, to be a “positive force” in the “daily lives” of Americans. The framers of the Constitution understood the historic significance of the ambitious experiment in which they were engaged. As

Alexander Hamilton explained in *Federalist No. 1*, the great question confronting the United States was whether it was possible to establish a republican form of government grounded on reflection and choice, or whether the people were to be forever condemned to rule by force and accident. While the founders could not look to history for assurance of success, which partly explained the anxiety they harbored about the prospects of their own experiment, they drew a bead on a mechanism that inspired cautious optimism: the right of the people to be engaged in “choices” that directed the course of the nascent republic.

Hamilton, again in the first *Federalist* essay, reminded citizens that “you are called upon to deliberate on a new Constitution,” and by “election” exercise your sovereignty to demonstrate “voluntary” consent to the “establishment of a Constitution” which, to the world, is a “prodigy.” These considerations lent credence and a real-life feeling to the invention of a republic that would be governed through reasoned discussion, debate and choices. No liberty was more fundamental to the exercise of choice than that of choosing to ratify the Constitution. The founders justly boasted of this historic accomplishment. James Wilson, second in importance to James Madison as an architect of the Constitution, declared that the people may change the Constitution “whenever and however they please.” This transformational authority elevated the magisterial words of Thomas Jefferson in the Declaration of Independence—the inalienable right to “government by consent of the people”—to an exercise in the “daily lives of the people.”

The success of the founders’ experiment hinged on new governing structures and institutions—separation of powers, checks and balances, federalism and judicial review among them. Equally important was the requirement of a new dynamic between governors and the governed, a new configuration of the relationship between governmental representatives and the citizenry. Leaders, it was clear, would be held accountable to constitutional provisions and the people. The citizenry, in turn, was expected to be informed and engaged, willing to serve as “Madisonian Monitors,” in exercising vigilance to assure governmental adherence to

constitutional standards.

The exercise of power was inherent in the very proposition of government. But the duty of citizens to defend the republic, as Benjamin Franklin reminded the nation—“a republic, madam, if you can keep it”—represented a new model in the world of law and political science. This new conception of self-governance—of, by and for the people—exalted the role of citizens. It represented a dramatic departure from the Old World of Europe and the introduction of a New World, one replete with rights and liberties independent of the whims and passions of those who ruled. As Supreme Court Justice Louis Brandeis declared, “the only title in our democracy superior to that of president is the title citizen.”

The exalted role of the citizenry, then and now, lies in the understanding that democracy is not a self-executing form of government. All governmental power flows from the people, a proposition that is intermittently reinforced on election day but, in reality, can a constant presence—if the people are willing to be highly-engaged, participatory citizens.

Motivation and incentive for citizens to be fully engaged in the life of the republic is manifested in the implications of neglect and indifference to the actions of government: no republic, no rights; no republic, no liberties. Madison and his fellow framers reasonably assumed that the potential loss of freedom and liberty, he explained in *Federalist No. 51*, would ensure “a reliance on the people” to carefully scrutinize the exercise of the governmental

No liberty was more fundamental to the exercise of choice than that of choosing to ratify the Constitution.

power.

But how did citizens know what to do and how to do it? The founders’ conception of citizenship, and its responsibilities, was influenced by a long line of philosophers and statesmen, including ancient thinkers whose writings carried great weight. Aristotle, the great 5th Century B.C. Athenian champion of democracy, explained in his classic work, *The Politics*, that to be an Athenian implied a cultural obligation to participate in the politics and life of the city. Athenians internalized this felt tradition, which encouraged engagement in discussions and debates about the vital issues of their time, and only a very few sought refuge outside civic life. A deep belief that the interests of the citizenry were inextricably linked to the interest of the Polis, confirmed unity in the pursuit of the common good and the general welfare.

Citizen participation in democracy can thus be rationalized in various ways, but two main themes emerge. First, an altruistic conception is derived from the nature of self-government and citizenship itself. Because the advantages of being a citizen as opposed to a subject are numerous and obvious—enjoyment of rights and liberties and participation in the governmental process, to name but a few—the argument for contributing to the community good is overwhelming. Citizens can participate in many ways, ranging from writing letters to the editor of a newspaper, and one’s congressional representatives, to joining a political party to running for public office. At a minimum, engaging in public discussions to voice one’s views and concerns is the least that citizens can do in return for the benefits that they have as a result of citizenship. Second, if nothing else, motivation for engagement in the life of the nation can be glimpsed in the understanding that one’s self-interests are often bound up in the community’s interests, and thus both can be advanced. In this way, enlightened self-interest facilitates fulfillment of one’s private ambitions. In this case, a citizen’s private ambitions depend in large measure on the success of American democracy.

Citizen participation in the civic discussions of our time can be its own reward. What do citizens need to do in order

to advance democracy? The Constitution enumerates rights and liberties that can be asserted to promote democratic principles. Freedom of speech and assembly, written into the Constitution by the founders, who were history's greatest dissenters, are principal ways in which citizens can raise concerns, voice their views and demand information from governmental departments and agencies which may be withholding it. Assertion of the constitutional right of freedom of speech can be critical to the health and maintenance of our constitutional democracy. As the founders knew, free speech can be exercised to critique and criticize programs and policies and thus expose weaknesses and propose remedies. In this sense, free speech is a powerful tool for enhancing the quality of our nation.

Since the citizenry's ability to serve as "Madisonian Monitors" is compromised by governmental secrecy, it is necessary to

demand timely and accurate information critical to participation in politics. Citizens should demand governmental transparency as a general rule in order to appraise the desirability, effectiveness and legality of officials acts and policies. The penchant of government officials to withhold information, less for genuine reasons of national security, and more to protect themselves from scrutiny is a thrice-told story, and only persistent demands from the public for release of information can temper the practice of secrecy.

American citizens, it is familiar, have a right and duty to hold government accountable to the law and the people. In *Federalist No. 51*, Madison stated that the greatest difficulty confronting a republic lay in persuading the government to obey the law. The founders were hardly naïve; indeed, many were savvy politicians in their own right and understood the appetite that officials

have for political power; the more they have the more they want. This dark side of human nature, Madison explained, created the need for the separation of powers and checks and balances doctrines that shape and define the Constitution.

As Americans have witnessed the historical abuse of power by government officials— by democrats and republicans, liberals and conservatives alike—the question, always, has been one of securing protections against it. The difficulty in confining government to its proper constitutional sphere reminds us of the insights of a 17th Century English jurist: "The practice of government is but feeble proof of its legality." Constitutional democracy is vulnerable to assaults on its most important principles; once they are compromised, the life of the republic is in mortal danger.

What is required, of course, is a government that respects the rule of law and heeds public pleas for restraint. How to accomplish this, as Madison indicated, defies easy resolution, but there is a scheme for subordinating the government to the Constitution, and it places the citizenry at the center of the process.

Briefly put, the reliance on the people to scrutinize governmental claims to power suggests the need for a constitutional culture built on the premise of a constitutional conscience, which, in turn is predicated on the creation of constitutional consciousness—the three Cs.

A constitutional consciousness is a crucial first step toward holding government accountable. A consciousness or awareness of constitutional abuse of power or violations of the Bill of Rights reflects, manifestly, a well-informed public that is knowledgeable and capable of identifying constitutional violations. The creation of this level of awareness—consciousness—is predicated on constitutional education and civic education. Since citizens possess a special responsibility for policing constitutional boundaries, it follows that resources should be directed toward the goal of creating a citizenry steeped in knowledge about the Constitution. Ideally, a citizen's knowledge about the Constitution should be general in nature, but a firm grasp on particular area of the law such as



equal protection or gender equality would be extremely helpful in exposing discriminatory practices against women and minorities. As a nation that reveres its founders and hails their construction of a constitutional republic, it is not unreasonable to expect government to direct resources to public education and institutes able to impart constitutional knowledge to the broader public on a widespread basis.

A willingness to blow the whistle on constitutional violations, as a means of tempering governmental abuse of power, is the exercise of a constitutional conscience. The possession of a conscience when it comes to policing constitutional boundaries is critical to the mission of American Constitutional Democracy. Frankly, it does the country little good if we have a constitutional consciousness, but lack a constitutional conscience.

How do we develop such an important trait? It could be said that a public uninterested in declaring violations of the Constitution, is a public uninterested in the very premise of the rule of law and a constitutional democracy. Citizens cannot have it both ways; they cannot exalt the virtues and values of American Constitutionalism without exposing violations of the law of the land. Whistle-blowing, whether through speeches, letters to the editor or other means, represents a demonstration of good citizenship. As a teaching device, it is possible for citizens to imagine or contemplate life in a nation that does not embrace the rule of law, due process of law and judicial impartiality, or lacks protection for freedom of speech, press and religion. It is possible that this sort of exercise in civic education will instill or develop in the citizenry an internal compulsion, indeed a constitutional conscience, so it can be spared, for example, the devastation of authoritarianism and arbitrary rule.

The culmination of a constitutional consciousness and a constitutional conscience would constitute the creation in America of a constitutional culture. Achievement of a cultural goal, in this case, a well-informed citizenry committed to the protection and preservation of American Constitutional Democracy, and eager to protect its core values through vigilance, would lead to the entrenchment of the rule of law, consistently

obeyed and enforced. This goal is not beyond our reach. Its attainment would represent the fulfillment of Madison's hope for a reliable citizenry determined to ensure governmental compliance with the Constitution.

Americans are fond of invoking their creation story and those who scripted it, yet insufficiently interested in the nuts and bolts, planks and pillars on which our democratic platform rests. We embrace what Gunnar Myrdal characterized as the "American Creed," the principles of the Declaration of Independence and the Constitution, but pay too little attention to the historical ideas, events and details that influenced those magisterial documents and which have shaped our nation ever since. At this hour, when there exists a demonstrable need to prove, as President Biden has declared, "that democracy works," Americans everywhere should summon the Spirit of 1776--the focus, energy and stamina of the sort that generations have manifested--in tackling the great challenges that we have encountered across a vista of 250 years.

Roundtable conversations consisting of citizens of all ages addressing the great domestic issues of our time should become the new norm. Citizens should urge their representatives at every level of government to bolster democratic principles and practices, with an eye to facilitating participation in public affairs. Americans can make many choices that bear on self-government and the pursuit of democracy and we should believe that every citizen can make a difference in the development of policies, programs and laws through engagement and participation. The founders' great experiment in self-governance remains a work in progress. All that is at stake, of course, is the future of our republic and whether, as Benjamin Franklin put it, we "can keep it."



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