

[ROADMAP FOR RENEWAL](#) [A Legislative Blueprint for Protecting Our Democracy](#)

July 4, 2018

Our political system – like many liberal democracies around the world – is experiencing a turbulent moment. With the country divided, a President lashing out at checks and balances, a Congress abdicating its basic legislative and oversight responsibilities, and a government failing to address the country’s pressing public policy challenges, it is all too easy to despair. And yet, America has gone through worse and emerged stronger for it. Our country’s political course can change quickly. We expect it will do so again.

The next Congress will have an opportunity and an obligation to enact legislation to restore weakened norms, rebuild damaged institutions, and revive the public’s confidence in our democracy.

This document proposes a package of **legislative measures to restore and shore up the fundamental structures, institutions, and norms of our constitutional democracy**. We propose twenty-one reforms in five categories. The first three categories focus on the branches of government: (i) **strengthening Congress’s capacity to fulfill its constitutional role**; (ii) **constraining abuses of executive power**; and (iii) **protecting the courts** as a check on the other branches in order to uphold the constitution.

The other two categories focus on the most important part of our democracy: we the people. The fourth category – **protecting inclusive and fact-based democratic dissent, debate, and participation** – addresses how to make sure the public is accurately informed about our government and able to fully and inclusively participate in the public sphere without fear of threat or intimidation. The final category – **modernizing our campaigns and election system to protect and enhance participation and accurately reflect the views of voters** – focuses on how to ensure that our elections reflect the democratic choices of the country.

This is a package that Republicans *and* Democrats in Congress should embrace. The proposals do not fall along traditional partisan lines: some address issues that have long been championed by Republicans, others by Democrats, and many others that have not been on the political radar until recently. The proposals draw on smart ideas from others across the political and ideological spectrum – including think tanks, expert policymakers, and NGOs. Much reform is needed, and this blueprint is just a starting point. We welcome additional suggestions and ideas for improving this blueprint, which you can submit on our website: RoadmapForRenewal.com.

In the coming months, we will release policy papers refining and expanding on the proposals included below, explaining both why they are necessary and how the solutions will work. We welcome candidates of both parties at all levels of government to engage with these proposals, and we look forward to working with a future Congress to develop legislation to implement these reforms.

This blueprint will not cure all of our democracy's challenges. American democracy has always been imperfect, especially with respect to communities excluded based on race, ethnicity, and gender. Our democracy will not be whole until we have confronted the continuing legacy of exclusion. Further, the global challenges we have seen recently to liberal democracies results from large structural shifts – changing demographics and economic patterns; new technology; a new media landscape; growing tribalism.

[American democracy was in decline](#) before the election of President Trump. It will continue to be at risk of decline after unless we reinforce our democratic institutions now to reverse this decline and prevent the emergence of a future autocrat who may turn out to be even more effective at exercising unchecked executive power. Congress cannot legislate solutions to all of our problems. Many will involve hard public policy choices that a well-functioning political system should be able to make. Other institutions beyond Congress – the judiciary, the private sector, state governments, civic society, and our national culture – will need to contribute to responding to these broader structural challenges.

The post-Watergate era can serve as a model. After Nixon resigned, Congress took bipartisan action and enacted significant reforms on a wide range of pertinent issues. It passed the Ethics in Government Act in 1978, which created the Office of Government Ethics, the Office of the Independent Counsel, and special prosecutors. Congress also instituted term limits at the FBI, created the Congressional Budget Office, and set up the Church Commission, which ultimately led to permanent committees on intelligence, FISA, and other reforms. And even before Nixon left office, Congress overrode his veto to enact the War Powers Act.

One of the reasons that our democracy is not functioning as well as it should is that Congress as an institution has been so deficient. And yet, the Founders believed that Congress – which they placed in Article I of our Constitution – could uphold our constitutional democracy. The Constitution gives Congress as an institution a wide range of powerful tools. Members of Congress across party lines must rise to the occasion in placing country over party and personal interests in order to protect our democracy.

And it is up to all of us as Americans and as voters to ensure they do. During a dark moment for our country, it is all the more important to come together around a vision for renewal.

Solutions

I. STRENGTHEN CONGRESS'S CAPACITY TO FULFILL ITS CONSTITUTIONAL ROLE

In recent years – well before the current congressional majorities – Congress has found it all too easy to abdicate its role as the “first branch” of government. It has starved itself of the resources and capacity to craft complex legislation and conduct rigorous oversight. It has, for years, allowed the Executive Branch to amass for itself more and more control over major decisions – like going to war – that the Constitution assigns to or shares with Congress. It has surrendered control over the expenditure of funds and the staffing of agencies. And it has delegated too many of the country’s major public policy challenges to Executive Branch agencies, rather than enacting legislation to solve problems. [Just 8 percent of Americans have a “great deal of confidence” in the institution.](#) Our democracy will not survive without a well-functioning Congress. And so restoring our democracy must begin with Congress reasserting its own constitutional role.

1. Restore Congressional capacity to legislate and appropriate money effectively, including by:

- Adopting legislative rule changes in the Senate and House to allow bipartisan majorities to force votes on legislation and amendments;
- Implementing reforms to the budget and appropriations process, along the lines proposed [here](#), to ensure that Congress exercises the power of the purse rigorously and transparently;
- Increasing the size of, and training for, committee staff to allow more specialized legislative and oversight expertise;
- Strengthening and protecting the professional and nonpartisan Congressional Budget Office (CBO) as well as the Office of Congressional Ethics (OCE);
- Establishing a [Congressional Regulation Office \(CRO\)](#) (along the lines proposed by experts from Brookings and R Street) to give Congress independent analytical capacity to assess regulations in a neutral manner and to conduct retrospective reviews, and then legislate with more specific guidance to agencies on how to implement statutes.

2. Ensure constitutional checks on war powers to prevent lawless wars by:

- Revising the War Powers Act to more clearly prohibit the Executive Branch from unilaterally starting wars without Congressional consultation and approval;
- Clarifying which military conflicts against which adversaries and in which theatres Congress has and has not authorized the use of military force;
- Requiring the Executive Branch to disclose to Congress and the public its legal basis under domestic and international law for uses of military force; and

- Modernizing nuclear protocols, including through requirements that additional officials must sign off before nuclear strikes.

3. Re-establish Congress's role of providing advice and consent over federal officer nominations, *through:*

- Fixing gaps in the Vacancies Reform Act that allow the Executive to bypass Senate approval;
- Creating enforcement mechanisms to respond when the Executive fills key offices bypassing Senate approval; and
- Specifying basic requirements for additional positions requiring technical, managerial, scientific, and other skills.

4. Build Congressional capacity to conduct bipartisan, professional oversight of the Executive Branch, *including by:*

- Reinforcing Oversight Committee rules that allow for the minority to enforce oversight requests;
- Ensuring that non-classified agency reports provided to Congress are publicly available to enhance transparency;
- Increasing funding of independent oversight bodies including the Government Accountability Office (GAO) and creating a Congressional Oversight Office along the lines proposed by [Elaine Kamarck at the Brookings Institution](#) to serve as an early-warning system that monitors performance in the federal government and prevents crises; and
- Improving Congressional oversight of the intelligence community to ensure that it is conducted in a nonpartisan manner, including through [reforms to modernize Intelligence Committee rules and procedures](#).

II. CODIFY ADDITIONAL CHECKS TO CONSTRAIN ABUSES OF EXECUTIVE POWER

Norms and public expectations about Presidential conduct have previously played a substantial role in protecting against abuses of office by Executive Branch officials – for example by compelling the release of candidates' tax returns, protecting independent law enforcement, and deterring abuse of the pardon power. In the face of recent abuses of office, Congress should provide clarity by codifying certain constraints into statutes. It should also create enforcement mechanisms to respond to corruption and abuse within the Executive Branch.

5. Prevent improper White House interference with specific law enforcement matters at the Department of Justice and other law enforcement agencies *including by:*

- Codifying clear prohibitions on improper White House interference in specific-party matters;
- Requiring reporting to Congress of irregular contacts between the White House and DOJ or DHS; and
- Clarifying rights for harmed private parties to challenge improper White House interference in law enforcement matters.

6. End White House corruption and conflicts of interest *including by:*

- Establishing a new public integrity agency to police and enforce corruption, along the lines of that proposed by the [Roosevelt Institute](#);
- Implementing a series of reforms proposed by former Director of the Office of Government Ethics [Walter Shaub](#) to strengthen federal ethics rules; and
- Enacting specific reforms to address apparent or actual corruption including requiring the disclosure of Presidential candidates' tax returns, prohibiting the acceptance of foreign and domestic emoluments, blocking the appointment of family members to key positions, and mandating detailed disclosure of and divestment from ongoing business interests.

7. Protect and modernize the civil service to enable government officials to perform their duties in an effective and nonpartisan fashion *including by:*

- Creating stronger enforcement mechanisms to respond to politicians who retaliate, discriminate against, or intimidate civil servants based on political affiliation or work in prior Administrations;
- Requiring that each agency create a “dissent channel” to allow civil servants to voice objections to policies, corruption, or inappropriate interference by political appointees, with appropriate whistleblower protections;
- Enacting legislation to respond to judicial decisions reflecting confusion about whether administrative judges are inferior officers or civil servants;
- Ensuring that civil servants can bring their cases directly in court if the Merit Systems Protection Board (MSPB) is not fully staffed and able to provide redress; and
- Establishing a nonpartisan commission to recommend reforms to modernize the civil service in light of the changing nature of federal government workforce, including whether to [move agency jobs out of the DC area and around the country](#).

8. Ensure a non-politicized Census that counts all persons, *including through:*

- Prohibiting political interference in the development of census questions;
- Amending the Census Act to make clear that the Administration must follow a proper notice-and-comment process as required by the Administrative Procedures Act and the Paperwork Reduction Act before making decisions on additional questions to be asked;
- Requiring minimum levels of testing before changes in census questions and procedures;

- Further codifying privacy protections for census data and prohibitions on its use for improper purposes; and
- Establishing a Census-specific Inspector General tasked with monitoring for managerial and programmatic effectiveness as well as avoiding political interference.

9. Limit abuse of the pardon power *including by:*

- Enacting legislation akin to the [Abuse of the Pardon Prevention Act](#) to enable more rigorous oversight of pardon abuses;
- Enacting a resolution reiterating that bribery and obstruction laws forbid the President or any Administration official from dangling pardons in exchange for some benefit or to influence participation in an investigation; and
- Ensuring that courts have the necessary resources and authorities to ensure an adversarial process for challenges to pardons in contempt cases.

III. PROTECT THE COURTS AS A CHECK ON THE OTHER BRANCHES IN ORDER TO UPHOLD THE CONSTITUTION

Courts play a critical role in protecting our democracy against an abusive executive – by protecting the rights of individuals and communities harmed by government violations of the law, as well as checking a lawless executive. President Trump [has worked to undermine the independence of the judiciary](#) with his rhetorical attacks on the courts and his pardon of Sheriff Arpaio which undermines courts’ ability to enforce their orders. In addition, under current doctrine Americans whose constitutional rights have been violated by federal officials often are unable to get courts to hear their cases. At the same time, overly active courts can undermine a democracy by taking decisions away from the elected branches, and it can be a particular concern when a single judge has this outsize power. Congress should take action to ensure that courts can uphold constitutional rights and check lawless government actors.

10. Reform the judicial nomination and confirmation process to reduce partisan conflict *by:*

- Enacting a resolution and seeking nominee pledges to move toward a [system of fixed eighteen-year terms](#) for Supreme Court justices – as proposed by experts on the [left](#) and the [right](#) – to avoid situations where consideration of nominees is delayed, retirements are timed, or specific nominees are selected to allow long-term ideological control of the Court; and
- Restoring a regular order process for the consideration of judicial nominations made by the President by enacting such a process into statutory law in a way that would require consideration of nominees in set times and tie the hands of both parties to end the one-way ratchet of norm breaking that feeds partisan discord and further politicizes the judiciary.

11. Protect an independent judiciary and ensure that court orders are followed, including:

- Providing adequate tools and resources for courts to enforce their orders;
- Clarifying the role of U.S. Marshals in ensuring that the Executive Branch follows court orders; and
- Enacting a joint resolution regarding the importance of Executive Branch officials complying with court orders and the consequences for failure to do so.

12. Ensure courts may remedy violations of constitutional rights while addressing the possibility for overreach through injunctions including by:

- Enacting a statutory “*Bivens*” remedy that includes [reforms to runaway qualified immunity doctrine](#) to allow those who have been subject to constitutional violations by federal officials to have their day in court;
- Clarifying that plaintiffs have standing to sue where they can demonstrate a reasonable basis to believe that their constitutional rights have been violated by an individual acting under color of federal law; and
- Updating procedures for cases where litigants ask a single hand-picked district court judge to issue nationwide injunctions of federal policies.

13. Ensure that courts can hear cases involving the President so that nobody’s office places them above the law including by:

- Amending federal officer removal jurisdiction to allow the President to remove state court cases filed against the President regardless of whether the case concerns pre-office conduct.

IV. PROTECTING INCLUSIVE AND FACT-BASED DEMOCRATIC DISSENT, DEBATE, AND PARTICIPATION

A functioning democracy must include participation from all Americans, regardless of race or creed. The threat or specter of discrimination, harassment, or violence intimidates vulnerable groups from participating in civic life. Politicians demonize minority groups in order to divide the polity and consolidate their hold on power by privileging one group over others. We have seen this with President Trump’s verbal attacks on immigrants as “animals” and accompanying enforcement policies; his failure to confront threats and violence from the KKK and other militant hate groups; and his effort to stifle the voices of NFL athletes and others who wish to speak up. We must forcefully reject these attempts to divide Americans, and prevent harassing and intimidating tactics from closing off the public square.

Democracy also must rest on a shared foundation of factual debate. The spread of deliberately false and misleading news, the aggressive bullying of dissent by the

government in new and different ways, and the private intimidation of speakers or minority groups are all threats we must confront. The rise of video manipulation to create fake-but-realistic clips raises new concerns. We must also ensure that the government itself cannot quash dissent and democratic participation – for example, through threats against critics of the presidency, or government actions that bully private individuals. And we cannot allow organized hate groups or militias to threaten violence to intimidate some communities from participating in democratic debate. Facing these challenges will not be easy, and will require more than just new legal doctrines or legislative action.

14. Prevent the use of government as a political weapon against dissenters by:

- Clarifying that judicial redress is available in situations where there is political interference in regulatory or enforcement actions against media organizations;
- Prohibiting federal officials from coercing private employers to stifle the political speech of their employees, and private employers from coercing employee speech to curry favor with government actors; and
- Requiring reporting to Congress and the public on contacts between the White House and agencies on party-specific regulatory matters.

15. Require that federal law enforcement surveillance and monitoring of domestic organizations responds to the level of the threat and does not stifle First Amendment-protected activity, including by:

- Prohibiting monitoring based on race of the type outlined in the DHS “[race paper](#)”;
- Ensuring that countering violent extremism programs focuses on all those who may pose such a threat, including domestic and white-supremacist terrorism; and
- Providing guidance, training, and funding to states and cities to prevent and respond to armed or militia violence in their jurisdictions while protecting peaceful protests.

16. Reform ICE and CBP to treat all people as human beings and to prevent state-terror style, authoritarian policing tactics, including by:

- Creating new standards and providing enhanced funding for preventing abuses of individuals in ICE or CBP custody;
- Establishing an independent oversight mechanism to monitor for and respond to abuses of those confronted or detained by ICE and CBP;
- Restricting the breadth of the federal government’s asserted power to infringe on all Americans’ Fourth Amendment interests within 100 miles of a border;
- Preventing ICE and CBP from evading legal and accountability requirements through reliance on border militia organizations; and
- Establishing a nonpartisan blue ribbon commission to recommend how to avoid state-terror style immigration enforcement.

17. Prevent government spread of misinformation and clarify the availability of a strong remedy for disinformation by:

- Strengthening the [Data Quality Act \(DQA\)](#) to prevent and redress false or biased government releases of data, and to require agency examination and correction of challenged data; and
- Passing the [OPEN Government Data Act](#), which would require federal agencies to publish certain information online.

18. Empower members of public to become more informed citizens *by:*

- Ensuring that regulatory decisions about media ownership, regulation, and licensing are entirely free from political interference;
- Create a [public-private fund for media literacy](#), as proposed by the Alliance for Securing Democracy, to support media literacy education and training; and
- Establishing a blue-ribbon panel to provide recommendations on protecting a vibrant and diverse media and how to make Americans better-informed consumers of news, including how to guard against the influence of “deepfakes” – altered video and audios – and deceptive propaganda on social media.

V. MODERNIZE OUR CAMPAIGNS AND ELECTION SYSTEM TO PROTECT AND ENHANCE PARTICIPATION AND ACCURATELY REFLECT THE VIEWS OF VOTERS

Free, fair, informed, and regular elections form the cornerstone of the American experiment, allowing citizens to exercise their most basic political right: the right to choose who governs them. In a democracy, the people are the best constraint on the abuse of power; if they are unhappy with a leader, they can vote him or her out of office. However, American faith in our electoral system has been falling and our election infrastructure appears increasingly susceptible to attack or mere incompetence.

19. Reduce corruption in campaigns and increase democratic accountability *by:*

- Enacting reforms to the campaign finance enforcement system that close disclosure loopholes, create a new enforcement and oversight agency or fix the FEC, and reduce opportunities for corruption or the appearance of corruption;
- Requiring states to establish independent redistricting commissions to avoid partisan gerrymandering; and
- Passing the [Honest Ads Act](#), which subjects social media companies that provide platforms for civic discourse to federal regulation and campaign ad disclosure requirements.

20. Harden election machinery and campaigns against cyber-attack from foreign or domestic actors *by:*

- Appropriating additional funds and resources to states and municipalities for election security, administration, and information sharing;

- Passing the bipartisan [Secure Elections Act](#), which provides states with funding to replace decaying election systems and replaces or incorporates Voter Verified Paper Audit Trails; and
- Passing the bipartisan [Defending Elections from Threats by Establishing Redlines \(DETER\) Act](#), which addresses Russia’s meddling in the 2016 presidential election by attempting to deter Russian actors through targeted sanctions.

21. Ensure eligible voters have access to vote and have their votes counted

including by:

- Enacting legislation to create automatic registration, make voter registration portable between every state, restore voting rights to former prisoners, require that polling location and registration status be available online, and increase federal resources for state and local election boards, possibly through the mechanism set forth in the [21st Century Voting Act](#);
- Making election day either a national holiday or a weekend – possibly through the [Weekend Voting Act](#), which moves elections from Tuesdays to the first full weekend of November, with elections lasting two full days;
- Reauthorizing and updating struck-down portions of the Voting Rights Act, in order to continue protecting voting rights in the 21st century; and
- Preventing long lines at the polls by setting and enforcing standards regarding the distribution of voting machines and poll workers.

We encourage Americans to share, discuss, and deliberate on these proposals. The best way to protect our democracy is to engage with it and we hope this Roadmap provides an opportunity for us all to do that. To submit feedback and further ideas, or to follow progress on these proposals, visit RoadmapForRenewal.com and follow [@protctdemocracy](https://twitter.com/protctdemocracy).