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THE NEW ERA OF PROGRESSIVE FEDERALISM

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For more of the authors' writing on progressive federalism, please visit [Project Syndicate](#).

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THE NEW ERA OF PROGRESSIVE FEDERALISM

Do these circumstances sound familiar?

Markets are soaring, and wealth is growing—but most of the gains flow to people at the top. Technology is transforming daily life, but it is also fostering deep anxiety about the loss of jobs and entire occupations. Cities are thriving as magnets for the wealthy and the ambitious, but rural Americans often feel left behind and resentful. Hostility toward immigrants has become intense, and sometimes violent. Disillusion with government is high, and many citizens are convinced that wealthy interests are hijacking democracy itself. Amid all the dysfunction, however, new plutocrats have stepped up as philanthropists to underwrite social reform.

Yes, it sounds like Trump-era America. But these were also the conditions that prevailed more than a century ago, when the Progressive Era generated social and political reforms that made the United States a freer and fairer country.

We are not saying that history is repeating itself. But in a saying often attributed to Mark Twain, it often rhymes. As depressing as America may seem right now—just as it seemed to many in the early

1900s—the roots of a constructive and effective democracy are still with us.

We argue that this is exactly the right moment for a new form of progressivism: [progressive federalism](#).

Progressive does not mean right or left, Democrat or Republican, it means progress towards the goals of liberty, equality, democracy, prosperity and justice in which most Americans believe and both parties profess to share. Indeed, one of the original American Progressives, President Theodore Roosevelt of the U.S. Republican Party and later the U.S. Progressive Party, declared that he “always believed that wise progressivism and wise conservatism go hand in hand.”

The good news is that, even in 2018, there is much more to America than Congress and the White House. The Founding Fathers created a federal republic in which state and local governments have their own powers to innovate and solve problems, and democracy remains vibrant at those levels.

In good times, when leaders in Washington, D.C. genuinely want to improve life for all citizens, the federal government can chart the broad direction

while states serve as “laboratories of democracy” to find the best ways to deliver results.

In bad times, when D.C. is stalemated by political and ideological divisions and dominated by leaders who attack every aspect of government outside of the military, it’s time for states and local communities to take the initiative on their own. Regardless of what is happening in Congress or the White House, state and local governments are still tackling the goals their citizens clearly see as important. Many of those goals are progressive: widening economic opportunity; preserving basic fairness; ensuring universal health care and access to higher education; taming climate change and protecting civil rights.

For all the current mistrust and even disgust with Washington, D.C., it’s important to remember that Americans do not reject government per se.

Polls show that most Americans still want government to provide a wide array of public goods, from schools and roads to health care. Beyond that, polls also show that a majority of Americans **still trust their state governments** (62 percent) and their local governments (71 percent). A **2014 Pew study found** that while only 25 percent of respondents were satisfied with the direction of national policy, 60 percent were satisfied with governance in their own communities.

Americans may be very unhappy about the “swamp” in D.C., but they believe in the public missions of government itself and they still want to get things done.

That makes conditions right for a new movement toward progressive federalism.

The Intertwined DNA of Two American Traditions

Progressive federalism draws on two rich strands in American history and government.

The first thread is the Progressive Era of the early twentieth century. That era produced a host

of political and economic reforms that made government more honest, more democratic, and more effective at providing opportunities for all citizens. The second thread is federalism, which the Founding Fathers enshrined in the 10th Amendment of the Constitution and granted state and local governments considerable autonomy in many areas.

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The Progressive Era built on the earlier movement of agrarian populism, but it was driven by forces that were urban and middle-class. Angered and alarmed by the waste, corruption, and soaring inequality in the Gilded Age, and fearful of the very real danger of violent upheaval, the Progressives were committed to a sweeping array of reforms. Their overarching goals, which are certainly resonant in 2018, **were** to strengthen American democratic institutions and to spread the gains of economic progress more broadly.

The Progressive Movement achieved remarkable successes that remain important today. **Among them:** an independent Federal Reserve to set monetary policy; the Clayton Antitrust Act to break up monopolies and promote competition; the nation’s first income tax; extensive new regulations over modern transportation (the Interstate Commerce Commission), food and drug safety (the Food and Drug Administration); and child labor. Many of these innovations, particularly on labor conditions, began in the states, particularly New York.

The Progressives also played a crucial role in transforming the United States from a backwater into one of the most educated nations in the world. Local governments pioneered compulsory and free primary and secondary schooling—at the time, a radical idea in many other nations. State governments, aided by federal land grants under the Morrill Act, built a huge network of

affordable public colleges and universities. This vast [infrastructure of teaching and research](#) was central in preparing the United States for its subsequent role as leader of the free world.

Progressive reforms in government and politics were no less transformational. The 17th Amendment to the Constitution established the direct election of senators. The 19th Amendment established the right to vote for women. The Progressives also inspired scores of changes that gave citizens more direct control over their governments and greater ability to circumvent party machines, political bosses, and entrenched “vested interests.”

Innovations in democracy were also driven by states, some of which, for example, allowed women to vote before the 19th Amendment. Several states established recall procedures, allowing ordinary citizens to remove bad officials by popular vote. The direct primary allowed citizens to vote for their parties’ nominees, rather than succumb to the decisions made at conventions by party insiders. The referendum and initiative procedures, imported from Switzerland and first put in place in Oregon, allowed citizens to pass new laws and even change state constitutions by putting measures on election ballots for popular votes.

The Progressive Era laid the foundation for a second great wave of reforms under President Franklin D. Roosevelt’s New Deal, which established the pillars of America’s modern social contract. Importing the concepts of social insurance from Europe, the New Deal Progressives enacted a host of measures to guarantee at least some economic security for workers and their families. These reforms included Social Security, unemployment insurance and other anti-poverty measures that most Americans now consider rights rather than charity.

What is perhaps remarkable is that the United States enjoyed enormous and widely shared economic prosperity for decades in the wake of those reforms. Taken together, the combined work of Progressives from both periods turned the United States into the world’s shining example of democratic prosperity.

Federalism has a more tangled history, and the very word sparks deep suspicion among many traditional liberals. It is true that Southern-state politicians have often used “federalism” as a synonym for “states’ rights,” a rationale for letting states enforce racial segregation and suppress civil rights. In our own day, conservative states have invoked federalist rhetoric to fight the Affordable Care Act (ACA).

Federalism isn’t [intrinsically conservative or progressive](#). It depends on the [goals and political ideology](#) of particular state or local governments. But federalism has often been a powerful tool to advance progressive goals, and it is certainly one at a time like this when the federal government is divided along deeply partisan lines and is dominated by leaders who do not represent the progressive goals of those who elected them.

The Founding Fathers enshrined federalism in the 10th Amendment of the Constitution, which declares that “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.”

States can tailor strategies to their own distinctive conditions and voter preferences, but a successful innovation by one state can become a model for the rest of the country.

The Constitution does not give states the power to violate the Bill of Rights, due process, or to override or ignore federal laws. Federalism does recognize, however, the power of individual states to chart their own strategies in a wide range of areas. As a practical matter, state and local governments bear primary financial and legislative responsibility in areas ranging from education to public infrastructure.

This division of labor offers great opportunities. As the late Justice Louis Brandeis famously [wrote](#) in

1932, a state can serve as “laboratory,” testing new policies and ideas without jeopardizing the rest of the nation. Innovations that fail can be abandoned, but those that succeed can become examples for the entire country. States can tailor strategies to their own distinctive conditions and voter preferences, but a successful innovation by one state can become a model for the rest of the country.

Important reforms often bubble up from below because the most successful innovations are often the ones that grow out of concrete needs in particular communities.

As we will describe in more detail later, some of the great examples of progressive federalism in practice come from California’s insistence on tougher requirements on automobile emissions and on energy efficiency for appliances—both of which eventually became national standards. Today, California and other states are leading the way on climate change. And though the Constitution doesn’t reserve specific powers to cities and towns, they also often function as laboratories of democracy at the community level.

Cooperative Vs. Resistant Federalism

Progressive federalism can play out in two variants: **positive and cooperative, or resistant and oppositional**. In the cooperative variant, states and localities collaborate with the federal government to advance goals they all broadly agree on, such as infrastructure, education, and (for some) expanding access to health care.

In uncooperative or resistant federalism, states oppose national policies that conflict with progressive values, or stake out new ideas that national political institutions are not yet ready to embrace. Since Trump’s election, many states and cities have fought hard against his efforts to deport undocumented but law-abiding immigrants. They

have also moved ahead of the federal government on climate change, federal prohibitions on marijuana, and ideas to improve the democratic process, such as automatic voter registration.

At some point in the future, America may once again be led by those who believe in ambitious efforts to improve American lives. If or when that happens, states and localities can embark on a course of positive and cooperative federalism.

For the moment, however, progressive state and local governments will have to strike out on their own.

That isn’t necessarily a bad thing; important reforms often bubble up from below, because the most successful innovations are often the ones that grow out of concrete needs in particular communities. States and localities have a distinct practical advantage in being closer to the ground, and each can learn from what its counterparts are doing.

Either way, though, we see several compelling reasons to embrace progressive federalism.

The **first** is that most government activity inevitably takes place at the state and local level. In 2015, the federal government **employed 3 million workers and spent about \$600 billion** a year on domestic discretionary programs. By contrast, state and local governments collectively employed 14 million workers and had combined budgets of \$2.5 trillion. Regardless of which party is in power, states and localities carry out the bulk of work in delivering a vast array of public services: public schools, public health, transportation infrastructure, and energy and safety net programs.

Second, a decentralized approach makes it much easier to design and deliver programs that reflect the wide diversity of conditions in communities sprawled across a gigantic nation. Even when the federal government is setting goals and providing money, it can give state and local governments great flexibility in how they administer the details. In fact, **President Barack Obama’s Affordable Care Act was a model** for this aspect of progressive

federalism: It not only encouraged states to test bold new policies, it actually helped fund them. It also fostered scores of pilot projects around the country to explore the best way to improve the cost-effectiveness of health care delivery.

A federalist approach encourages the local sourcing of ideas, allowing for widespread and nimble innovation. Pilot projects and local experiments that get good results can be scaled up, while those that disappoint can be closed down quickly and relatively painlessly.

The **third** advantage of federalism is that it taps into the confidence and trust that most citizens still have in state and local institutions. People are better able to see their governments at work. They are more able to hold them accountable. Finally, the emergence of new technologies and techniques for measuring results should give local citizens a better understanding about which innovations to ramp up and which ones to shut down.

Federalism and “flexibility” shouldn’t be euphemisms or excuses for doing nothing. There is a huge difference between giving states the flexibility to innovate and giving them the pseudo-flexibility of ignoring federal public goals and undermining basic human rights. This fake “flexibility” has long been a subterfuge for anti-government conservatives, and it remains a mainstay of many leaders in Washington, D.C. today.

Case Studies in Collaborative Federalism: How States Led the Way on Air Quality and Climate Change

Over the past 40 years, some of the best examples of progressive federalism have been in environmental policy.

Individual state and local governments have led the nation time and again in pushing for cleaner air, and those efforts have produced significant national benefits.

Consider the extraordinary impact of California’s tougher restrictions on automobile emissions. With cities like Los Angeles suffering from acute smog, California received an exemption under the 1976 Clean Air Act that allowed it to impose stricter rules than those of the federal government. As it happened, more than a dozen other states eventually adopted the California standards as their own. By 2016, the federal Environmental Protection Agency had extended California’s rules to apply to all cars made in 2016 or later. Despite relentless opposition from car-makers, the industry survived handily.

Even more remarkable was California’s seemingly quirky insistence that refrigerators be more energy-efficient.

In 1976, the state imposed the nation’s first-ever efficiency standards on refrigerators. Other states, such as Massachusetts and New York, soon followed suit. Appliance manufacturers not only complied with new rules but managed to save consumers big money in the process. Eventually, the industry actually collaborated with consumer groups and Congress on legislation to make California’s rules nationwide requirements. President Ronald Reagan, who has never been called a regulatory zealot, signed that bill into law in 1987.

The energy-efficiency results have been enormous. According to the [American Council for an Energy Efficient Economy](#), adjusted for inflation, the average annual energy cost of a new refrigerator has plunged from \$1,556 in 1976 to \$550 in 2010. In other words, the energy savings for a single year are almost equal to the cost of a new refrigerator.

States have also led the way on climate change and on reducing carbon emissions. In 2006, 12 states sued the Environmental Protection Agency under President George W. Bush over its refusal to classify greenhouse gases as dangerous pollutants. The Supreme Court ruled 5-4 in favor of the states, a verdict that forced the EPA to come out of hiding. In 2009, under President Obama, the EPA concluded that certain greenhouse gases did indeed endanger

public welfare. That finding provided a basis for the Obama administration's [new auto-emissions standards and its Clean Power Plan](#) for reducing power-plant emissions.

President Donald Trump is now rushing to reverse course, signing executive orders to roll back the Clean Power Plan and pull out of the Paris Climate Accord.

Here is where the rhetoric around federalism can get distorted. President Trump claims that one of his goals in abandoning the Paris Accord is to return power to the states. But many of the biggest states and cities are defying the president and pressing ahead on their own.

More than a dozen states, representing one-third of the U.S. population, have joined the [U.S. Climate Alliance](#) and have vowed to meet the Paris commitments. So have more than 200 cities. Under Governor Jerry Brown, California is forging its own foreign policy. He helped launch the [Under2 Coalition](#), a global pact of cities, states and even nations pledging to pursue sharp reductions in carbon emissions. As of early 2017, the coalition included more than 170 jurisdictions—including Canada and Mexico—with combined populations of more than 1 billion people.

Between 2000 and 2014, even without mandates from Washington, D.C., 33 states implemented a broad array of climate action plans to reduce carbon emissions. Despite the warnings of naysayers that such plans would reduce economic growth, the [economies of these states expanded](#) at healthy rates at the same time. Several states have introduced their own cap-and-trade systems to put a price on carbon, and many are still [on track to meet President Obama's targets](#) under the Clean Power Plan. California's cap and trade system was recently renewed with bipartisan legislative support, and will generate substantial funds to support other government investment programs.

“Yes, I know President Trump is trying to get out of the Paris agreement, but he doesn't speak for the

rest of America,” [Governor Brown declared](#) in a video to the Global Citizens Festival in Hamburg in July 2017. “We in California and in states all across America believe it's time to act.”

Many American cities are also standing firm. Michael Bloomberg, the former New York City mayor and billionaire philanthropist, has launched a cross-sector coalition called “[We Are Still In](#),” which already includes more than 1,200 leaders from cities, states, corporations and universities. The goal, Bloomberg says, is to create a “parallel” government that can bypass the Trump administration and preserve the Paris accords. Just as California and other states drove national standards on automobile emissions and appliance efficiency, the new coalitions can bring their own market clout in the years ahead. As Bloomberg noted in a [letter](#) to United Nations Secretary General Antonio Guterres, “The bulk of the decisions which drive U.S. climate action in the aggregate are made by cities, states, businesses, and civil society.”

Progressive Federalism Led From Washington, D.C.: The Affordable Care Act

Conservatives often [denounce the Affordable Care Act](#), or “Obamacare,” as a socialist takeover of health care by the central government.

Nothing could be further from the truth. The ACA isn't remotely “socialist,” because it fundamentally works through private insurance companies and private health care providers. Nor is it any kind of federal “takeover.” In fact, the ACA both encourages and finances all kinds of policy innovations and pilot projects by states, local governments and private health-care providers.

It's worth remembering that the ACA was itself based on a pioneering innovation at the state level: the 2006 Massachusetts' health care reform, which then-Governor Mitt Romney proudly signed into law. That reform built on the funding and flexibility already provided to Massachusetts by the federal Medicare and Medicaid programs.

The ACA was explicitly designed to give states enormous flexibility—it is an example of federalism at work—a *national* commitment to health insurance for all Americans, alongside considerable state-level flexibility regarding the policies needed to realize this commitment. Under the ACA, the federal government uses a [combination of regulations, subsidies, and mandates](#) to approach universal coverage. But significant discretion is afforded to states in the organization and regulation of insurance markets and in the delivery and coverage of Medicaid, which by design is a jointly funded partnership between the federal government and the states to provide health care coverage for the poor.

The ACA was explicitly designed to give states enormous flexibility to honor a national commitment to health insurance for all Americans.

Following a 2012 Supreme Court decision, many states decided not to participate in the Medicaid expansion that was an essential ACA tool for increasing health insurance coverage. But 32 states, including the District of Columbia, chose to participate, [providing health insurance through Medicaid](#) to an additional ten million individuals, or about 56 percent of those newly insured since 2013.

One of ACA's goals is to make [health care more cost-effective](#)—to “bend the cost curve” to contain rising health care prices. But the issues are so complex that no one has a monopoly on the right solutions to achieve this goal. Most health care experts agree that it is essential for changes in the health care delivery system to move away from the “fee for service” model, under which insurers or government agencies reward doctors and hospitals based on the quantities and prices of the services they provide. Fee-for-service models create huge incentives for providers to sell services rather than reduce costs.

Behind the general consensus on the flaws of the fee-for-service approach, however, there is a diversity of views on potential strategies. Improving the cost-effectiveness of health care is a classic instance in which success depends on widespread experimentation and rigorous evaluation.

The ACA was designed to accomplish just that. The law allows states to apply for so-called demonstration waivers that permit them to test new approaches to Medicaid that differ from federal program rules. Waivers are permitted as long as the Secretary for Health and Human Services determines that a state initiative is a “demonstration pilot” likely to assist in promoting Medicaid’s objectives. Waivers are granted for five-year periods, with three-year renewals. As of February 1, 2018, there [were](#) 35 states with 43 approved waivers and another 23 states with 22 pending waivers. There is considerable variation in how states are using waivers—from delivery system reforms to modifications in benefits and co-pays to changes in eligibility and enrollment conditions.

Recently, ten states, all led by Republican governors, have asked for waivers to impose work requirements on “able-bodied” Medicaid beneficiaries and the Trump administration has signaled support, with the first such waiver granted to Kentucky in January 2018. Such waivers appear to conflict with Medicaid’s fundamental progressive purpose which is to provide health care coverage for the poor based on income. Work requirements may not affect the majority of Medicaid beneficiaries [since most of those who are able to work are working](#) while those who are not working—e.g., the disabled, the elderly, those taking care of children or other family members—are not able to work. The addition of work requirements to Medicaid, however, is a fundamental change that is likely to trigger lawsuits on the grounds that such requirements do not “assist in promoting” the program’s fundamental objectives.

The ACA grants waivers to states to write their own rules in many areas. Hawaii has been allowed to keep its unusually tough requirements on how

much health insurance small businesses have to provide to their employees. [Oregon](#) and [Alaska](#), struggling to slow increases in health insurance premium costs, have both received waivers that allow them to get federal support for innovative state re-insurance programs aimed at taking some of the risk off insurers.

The federal government has also [helped finance dozens of pilot projects aimed at improving the cost-effectiveness](#) of health care delivery. These projects are underway in red and blue states alike, and most of them involve financial structures that reward better health outcomes. The pilots span 34 states, from Arkansas and Tennessee to Ohio and Massachusetts, and some are [showing clear evidence of success](#). Over half the states are leveraging the \$1 billion earmarked in the ACA for the Center for Medicare and Medicaid Innovation Fund to encourage [state-level experimentation](#).

Recently, Hawaii became the first state to receive an ACA “state innovation waiver,” introduced in 2017. Eleven other states are developing innovation waiver proposals. This provision provides broad flexibility to states to redesign their health insurance and delivery systems, so long as innovations do not leave more people uninsured, make coverage less affordable or comprehensive, or increase the federal deficit. A state could use its ACA innovation waiver to provide coverage under a state-run program, and some states are [considering a single-payer approach](#).

All this is exactly in the spirit of federalism. The ACA embodied the recognition that solutions to complex challenges cannot simply come from the top down. The best solutions are likely to come from innovations that bubble up from below. Given the size and diversity of the United States, it’s not only the best way but probably the only way to go.

Progressive Federalism as Opposition

Given the current mood dominating Washington, D.C., much of progressive federalism at the state and

local levels is likely to take the form of resistance, opposition, or movement ahead on new ideas without an expectation that the federal government will follow.

Indeed, President Trump set off an avalanche of oppositional federalism within days after he took office.

The first wave came over President Trump’s attempted travel-ban on visitors from eight predominantly Muslim nations. The state of Washington immediately sued and quickly won an injunction that blocked the executive order. Hawaii sued and partially blocked Trump’s third version of the ban. Attorneys general from many other states have joined court battles at every other stage of the fight.

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A longer and possibly bigger battle is now underway over so-called “sanctuary cities” that refuse to help federal agencies round up undocumented immigrants. The Trump administration has threatened to block alleged sanctuary cities from receiving federal funds, but many cities have refused to back down and they have a strong legal position. Immigration enforcement is a federal responsibility, and it’s difficult to force local police departments into devoting resources to pursue a federal mission they oppose. California, far from relenting, has declared itself a “sanctuary state.”

Marijuana has become another area in which federalism has allowed states to push far ahead of the national government. Many states have [legalized marijuana for medical purposes](#), ignoring its classification as a Schedule 1 narcotic.

Nine states, starting with Colorado and Washington, have now also passed ballot initiatives that legalized marijuana for recreational purposes.

The Trump Justice Department under Attorney General Jeff Sessions has threatened to prosecute marijuana cases in the rebellious states, but that could unleash a deep popular backlash in otherwise conservative states such as Nevada.

Progressive Federalism is Messy. That's OK.

There is nothing neat and tidy about progressive federalism. “Red” states will inevitably push in very different directions than “blue” states. Even in the same state, state and local authorities are often at odds with each other. In fact, there is an increasingly common power struggle between left-leaning “blue” cities and right-leaning “red” state governments. Such conflicts have become common in Texas, where the conservative state legislature has tried to thwart progressive initiatives in cities like Austin and Dallas.

These confrontations have already led to several legal fights over [state powers of “preemption.”](#) In 2016 alone, according to [Preemption Watch](#), at least 36 state governments—most of them Republican-led—preempted cities on issues from the minimum wage and gun control to immigration and fracking.

These power struggles can be frustrating for Progressives, but they are inevitable and possibly even healthy in the long run.

We would argue that a basic principle of progressive federalism is to encourage robust competition in the marketplace for ideas. Progressive policies at the state and local level are good because they reflect citizen support for public goods and social justice. They are also good because they work. Over time, progressive policies that solve real problems and generally improve the lives of both Democratic and Republican voters, are likely to spread on the basis of their own merits.

As Progressives, we may abhor state initiatives that impose cruel restrictions on families in poverty. As believers in federalism, however, we would argue that the policies proven to work—to achieve broadly shared goals such as reducing poverty—should eventually carry the day. Voters in states that shame the poor or starve education are likely to question those policies if they see that the quality of life is higher in nearby cities or states with different policies.

We would argue that a basic principle of progressive federalism is to encourage robust competition in the marketplace for ideas.

Transparency and accountability are the keys to success here. We already have rigorous evaluation methods at our disposal, and technology has made it much less expensive to collect data and accurately assess which policies do and don't work. For evidence of just how rigorous these evaluations can be, look at the growing number of “pay for performance” pilot projects in which cities and states only reimburse the project promoters if independent evaluators conclude that results came in as hoped. The waivers under the ACA, Medicaid, and other programs typically require thorough, professional evaluation.

To be sure, governments and ideologues can and will come with distorted findings to justify bad policies. That leads us to what may be the biggest prerequisite for success of progressive federalism: political reforms to greatly increase accountability.

The Four Keys to Better Governance

Given the near collapse of constructive policy in Washington, D.C. it would be wonderful if state and local governments could simply step up and save the day.

Unfortunately, things are not so simple. For one thing, all three levels of government are interdependent and interconnected. They fund programs jointly, and they have separate legal authorities that can interfere with each other. For progressive federalism to truly succeed, there must be at least some basic agreement among the various players about goals and priorities.

As we pointed out earlier, there is more consensus among Americans than current ideological divisions suggest. Polls show that most citizens place high value on a broad range of public goods: access to good schools, and health care, higher education, modern infrastructure, clean air and water, and action to tame climate change.

The problem is that our democratic institutions have become increasingly rigged, to the point where political leaders brazenly and repeatedly ignore the clear preferences of most voters. Think here of gun safety, an issue on which large majorities of voters want action but on which Congress and state legislatures alike have done almost nothing. Think of health care, where the Congress twice tried to repeal the ACA, but failed as a result of grass-roots citizen pressure.

The problem is our democratic institutions have become increasingly rigged, to the point where political leaders brazenly and repeatedly ignore the clear preferences of most voters.

To reduce the power of vested special interests and strengthen progressive federalism, we believe that structural political reforms in four key areas are necessary.

1. Reform Legislative Redistricting.

Gerrymandering—in which state legislatures redraw electoral maps to benefit the party in power—

isn't new but has become much more corrosive to democracy. It is one of the biggest reasons that Congress is paralyzed by partisan gridlock and obstructionism. This is toxic for progressive federalism, because progressivism is usually about getting things done.

Gerrymandering currently gives Republicans a big edge, because they control most of the state legislatures. Regardless of which party benefits, however, the practice creates paralysis and undermines public accountability.

That's because it creates safe seats for each party, so members have almost no reason to collaborate across the aisle. For many House members, the only threat to re-election is from rivals in their own party who are even more extremist and unwilling to compromise than they are. Hard-right Tea Party insurgents took out Republicans, after all, not Democrats.

It's not just a problem for Congress. Party polarization in Washington, D.C. increases the stakes in party wars at the state level, which means that gridlock in Congress reinforces gridlock in state legislatures. It's a vicious circle that spreads the disease of paralysis deeper and deeper into the body politic.

There is hope. Courts in several key states—most recently [Pennsylvania](#) and North Carolina—ruled that their politically drawn electoral maps are unconstitutional. The Supreme Court recently declined to review the Pennsylvania decision, which rested on the state's own constitution, and is weighing a major case in Wisconsin, *Gill v. Whitford*, that could set a major precedent for other redistricting challenges.

Meanwhile, at least some states are trying to clean up on their own. Several states have taken the radical step of establishing special redistricting commissions that are independent of the two dominant political parties. In 24 states, voters can propose ballot initiatives to change districting rules, and voters in California and Arizona have

passed major reforms. Many more such efforts are likely to be on state ballots in 2018 and 2020.

2. Reform the Primary Process

Even with independently drawn districts, many elections will remain uncompetitive because some areas are entirely dominated by voters in one party. That reduces accountability, because even dismal politicians can be “safe” as long as they do what their party leaders tell them.

To address this, the political scientists [T. Anthony Quinn and R. Michael Alvarez recommend](#) reforming the primary process to give voters more choices. One approach, already enacted in California, is open primaries. Another is ranked-choice voting (RCV), in which voters can rank candidates in order of preference. Unless one candidate wins a majority of first-choice votes, second and third choices will be added in until a candidate has a majority. RCV has been adopted by a number of U.S. cities and most recently the state of Maine, and is likely to spread to other states and localities in the future.

As with re-districting reform, primary reform would provide a major boost to good government in general and progressive federalism in particular. It increases the incentives for elected leaders to appeal across party lines and to listen more closely to a broader spectrum of voters.

3. Reform Money in Politics

Money plays a major role in U.S. elections, and it reduces the accountability of elected officials to ordinary voters. The Supreme Court drastically expanded those risks with its [Citizen United](#) decision in 2010. That ruling invalidated limits on corporate election expenditures, on the theory that such expenditures are simply a form of free speech. While the court, in the same decision, encouraged disclosure and transparency as a sufficient protection for citizens, at the same time, the emergence of new vehicles for campaign expenditures, such as nonprofit political organizations, have allowed “dark money”

spending to skyrocket. Elections are now being financed with billions of dollars from unknown sources. Is it any wonder that voters think the system is rigged?

Given the Supreme Court rulings, it’s not clear that Congress can impose strict limits on the volume of campaign contributions. What Congress can do, however, is to pass tough new laws that increase transparency; and transparency may ultimately be more important than limits. If voters really know where a politician’s money is coming from, they can make much better judgments about who or what that politician is actually representing.

The 2016 election highlighted a new and equally dangerous threat to transparency and accountability: political spending by way of social media. We now know that the [Russian government used Facebook, Twitter, and Google](#) in a broad campaign to spread confusion and division, undermine Hillary Clinton, and support Donald Trump. Social media advertising, not to mention the heavy use of “bots” and trolling, remains almost completely exempt from the woefully inadequate disclosure requirements at the Federal Election Commission or anywhere else. Russian groups will inevitably be back in future elections, along with legions of other domestic groups all but certain to try out their own tactics to disrupt and undermine our voting system. Congress has the power to act, and it must.

States may actually have more opportunities for reform than the federal government. All 50 states require disclosure for financial contributions to state and local campaigns, and 39 have caps for individual contributions. Twenty-two states prohibit corporations from giving money to state and local candidates.

Many states are now exploring the possibility of making their disclosure rules permanent through amendments to their state constitutions. States are also pushing ahead with options for public financing of campaigns: [13 states already offer public financing options](#), and many more are poised to follow suit.

4. Reform Legislative Procedures

A final structural threat to American democracy is the partisan manipulation of legislative procedures. The U.S. Senate’s arcane filibuster rules, which effectively mean that almost all legislation needs a 60-vote majority, make bipartisan solutions almost impossible. The same happens in state legislatures, many of which require legislative supermajorities and arbitrarily high thresholds for passing budget and tax measures. Even ballot initiatives, which were created as a way for the people to speak, can be orchestrated and manipulated by opaque special interests.

But as California has shown, [structural barriers to good governance can be eliminated](#) through citizen-driven reforms. The California legislature has cleaned up redistricting, introduced “top-two primaries” and enacted an aggressive disclosure system. It has also reformed term limits, eliminated a supermajority rule for state budgetary measures,

and improved the ballot-initiative process. As a result, the legislature has become dramatically more effective, and its [approval rating](#) has gone from just 14 percent seven years ago to 57 percent today—its highest level since 1988.

Conclusion

It may be several years before the federal government is prepared to return to the path of progress on public goods and social justice valued by the majority of American citizens. In the meantime, progressive federalism—taking the opportunity to innovate, experiment, and evaluate at the state and local level in pursuit of progressive goals and values—is not merely a second-best option. It’s a new way to think about modern government, drawing on two of our most vital historical traditions, and mapping a path forward as a nation, informed by experience and success.



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