Summer 2020

VIRGINIA POLICY REVIEW

Volume XIII │ Issue I │ Summer 2020

Editor's Note: This Journal was written and compiled in the 2020 Spring Semester, but due to the COVID-19 Pandemic was not published until Summer 2020.

From the Editor

Dearest Readers,

In the moments before final edits began for this edition of The Virginia Policy Review I heard the words "Breaking News" on the television, and time froze. On March 11, 2020, the World Health Organization declared COVID-19 a pandemic. We at the University of Virginia's Frank Batten School of Leadership and Public Policy found ourselves on spring recess, our editors scattered to the winds — the most recent in-person team meeting, was the last. The next time we would see each other would be over a Zoom call.

Since then, our experiences have all been drastically different, some of us even having the misfortune of losing loved ones to COVID-19. As policy students we must press on and engage with what's happening around us. During this pandemic we can identify policy challenges in every aspect of life, from personal protective equipment shortages, implementing and enforcing public health guidance, poverty and distributional challenges, access to education, and facing populist politics and civil unrest. This list is not exhaustive, nor limited to one country.

Last fall, we decided that this Journal would be centered around Populist Politics and Social Movements. It was important to document global "leaderless movements" and discuss populism in the 2020 American Presidential Election. Populists argue that politics should be an expression of the general will of the "people," not corrupt institutions — they break politics down to good or evil. The articles included in this pre-COVID journal address discussions of the Democratic party during 2020 primary season, analysis of political opinions over time, and issues surrounding social media. In the time since these articles were originally written the federal and state responses to the COVID-19 pandemic have become increasingly politicized, protests stemming from the Black Lives Matter movement have continued across the country, and the increasing conflict between different groups at protests have been a key feature of mainstream media coverage.

This journal would have partnered well with our National Journal Conference (NJC) that was set to take place in the Rotunda on Grounds, before cancelling it due to COVID-19. We planned NJC to cover social movements in Charlottesville, Virginia, and we had an array of speakers we were thrilled give the stage to. We sought to provide space for social activists, community leaders, journalists, and politicians alike to come together to discuss not only how and why we remember what we do, but also how history is actively being made. It was to be an event that engaged students and community members, and had all leaving feeling invigorated, mobilized, and optimistic about how to navigate the uncertain times we were facing.

Throughout the year our team worked tirelessly on the journal and planning the NJC. The unseen successes are all due to their hard work, and desire to grow. This year our journal would not have been possible without the Executive Board. Thank you, Madison Roberts, for your creativity, and resolve; Rebecca Hatter, for your grounded approach to problem solving, and good spirit; and James Reed, for your steadiness, adaptability, and ability to truly lead from anywhere. And to Geoff Paul, thank you making things go right when they went left— good luck this year as Editor-In-Chief. I can't wait to see what's next for you and Morgan Smith!

These are certainly unprecedented times, and if you're reading this we are happy to have you with us in a historic year for VPR. I hope you enjoy Virginia Policy Review Volume XIII Issue 1.
Wishing you all health and safety.

Thank you,
Anna Zoi Haritos

Staff Acknowledgements

Table of Contents

The Debate Over Political Polarization: An Updated Examination of Public Polarization[1]

By Julia Stamper

Political polarization has been and continues to be a popular and controversial subject in academic research for more than a decade. The term itself, "political polarization," refers to the vast opinion gap that separates Democrats from Republicans, and liberals from conservatives, on various political issues. However, for there to be polarization, mere division on issues is not sufficient; there needs to be a *deep* and *substantial* divide between the two positions. When looking at the two parties in Congress, for example, there is evidence that Republicans have moved further to the right, whereas Democrats have moved further to the left (Poole and Rosenthal, 2016). However, does a similar gap exist within the public?

Although there is a general consensus among political scientists that the U.S. Congress has become more polarized in the last several decades, there is a heated debate regarding whether congressional polarization is mirrored by polarization in the public. Some argue that polarization of the public has increased since the 1950s, but not enough to account for the vast increase in the polarization of Congress (Hill and Tausanovitch, 2015). Still others argue that the public is not polarized by any substantial measure, and our divide is largely a myth fabricated by politicians and perpetuated by the media (Fiorina, Abrams, and Pope, 2011). And yet still others argue the public is, indeed, polarized (Abramowitz, 2013). So, the question remains: is the public polarized?

This research is important because polarization affects public policy. Legislative gridlock and/or government shutdowns have become increasingly common. Increased polarization also has pushed more ideologically moderate Congress members to retire in recent years, making compromise and bipartisanship more difficult (Theriault, 2008). Regardless of whether the polarization of the American public has caused the polarization of the Congress in the past, a public that is increasingly more polarized will undoubtedly have an effect on the ideological composition of the Congress in the future as elected officials will follow their constituents' positions in order to remain in office (Downs, 1957). This development has obvious implications for the future of American government (Davis and Mason, 2016).

---

[1] Originally submitted as A Senior Honors Project Presented to the Honors College, East Carolina University, In Partial Fulfillment of the Requirements for Graduation with Honors, December 2018; Approved by: Dr. Peter Francia, Department of Political Science

The Polarization Debate

Polarization of the American public has been the study of extensive research in recent decades. Beginning in 2005 and continuing through the present, Morris Fiorina and his co-authors propose that the American public is not as polarized as many media accounts suggest. They argue that though polarization may exist, it does not extend outside of the "political class" comprised of politicians and strong party activists, claiming that, "most Americans are somewhat like the unfortunate citizens of some third-world countries who try to stay out of the crossfire while left-wing guerrillas and right–wing death squads shoot at each other" (Fiorina, Abrams, and Pope, 2011, 8).

Additionally, they observe that the majority of Americans are not interested in and are ill-informed about politics. When individuals do have opinions, most hold positions in or around the center of the ideological spectrum (Fiorina, Abrams, and Pope, 2011). Fiorina draws his conclusions by comparing survey responses taken from residents in "red states" and those in "blue states" (whether a state is red or blue is determined based on the previous presidential election. States where Republican candidates won are red and states where Democratic candidates won are blue). His results reveal no substantial differences between red state and blue state respondents (Fiorina, Abrams, and Pope, 2011).

Fiorina (2011) finds that there are minimal differences on policy preferences and "dividing issues" between citizens of red and blue states. In 2000, residents of red states were just as likely as those in blue states to believe that corporations had too much power and made too much profit. Likewise, similar percentages of residents in blue states agreed with residents in red states that government was almost always wasteful and inefficient. Majorities in both states viewed religion as very important, and minorities in both states believed homosexuality should be accepted by society (Fiorina Abrams, and Pope, 2011). In 2004, a nearly identical minority of residents in red and blue states (46% and 45% respectively) thought that immigration should decrease and that homosexual marriage should be allowed (31% and 39%).

Fiorina also observes that constituents are reluctant to categorize themselves as Republicans or Democrats, choosing instead to identify as an Independent. A similar phenomenon occurs when individuals are asked to categorize their ideological position; few categorize themselves as conservatives or liberals, preferring the term moderate (Fiorina, Abrams, and Pope, 2011). However, of those who do categorize themselves as conservatives and liberals, there are more conservatives dwelling in both the red and blue states. This indicates that the supposed "red state-blue state divide" is more myth than reality.

Other political scientists have since disputed Fiorina's claims, including Francia and Baumgartner (2006) who claim that the public is indeed polarized, and this polarization is evident when comparing survey data between rural and urban populations. They find that there is clear geographic polarization, including a lack of homogeneity even within the red and blue states.

Perhaps the most formidable argument against Fiorina's is one proposed by Alan Abramowitz. Abramowitz (2013) takes a different approach than Francia and Baumgartner and claims that polarization is evident in survey data from red and blue states, and shows Americans cultural, geographic, and economic issues. He argues that the American public has become fixated on party membership and loyalty and, consequently, has damaged Republicans' and Democrats' ability to work with each other (Abramowitz, 2013). He rejects Fiorina's claim that the polarization is only evident in the political class claiming instead that, "there is no disconnect between elected officials and the voters who put them in office…. Polarization is not a result of a failure of representation; it is the result of successful representation" (Abramowitz, 2013, Preface xiii).

Abramowitz counters Fiorina's claim that individuals' self-identification indicates the opposite of polarization with data that the average ideological position for self-identified Democrats moves steadily towards "strong liberal" while the average position for self-identified Republicans moves steadily towards "strong conservative" (Abramowitz, 2013). Additionally, he graphs the average ideological position for self-identified Democrats and Republicans compared to the average ideological placement for each party. If the electorate is truly a collection of moderates being forced to choose between two ideologically polarized parties, then both Democrats and Republicans should categorize themselves in the exact middle of the two parties. Instead, Democrats and Republicans both categorize themselves extremely close to their respective parties (Abramowitz, 2013). The largest discrepancy is in the 1970s when the public position for Democrats averaged 3.7 while the Democratic Party's average was 3.4; however, the prevalence of conservative, Southern Democrats likely explains this result.

Abramowitz also has data that indicate Americans are polarized on key issues. Individuals who perceived universal health care as either important or very important in 2008 were deeply divided on whether healthcare should be a purely private or governmental function. When asked their opinions on universal healthcare, approximately 70% of Democrats "favored it a great deal" while 70% of Republicans "opposed it a great deal" (Abramowitz, 2013). There is also clear separation on the topic of abortion over time (1980-present). In 1980, white Democrats were closely divided between the pro-choice and pro-life stance, 49% to 49%. In 2008, a gap had developed and grown to 61% pro-choice and 28% pro-life.

Given the conflicting assessments in the academic literature, the purpose of this study is to use the most recent survey data available to determine whether Fiorina (*Culture War: The Myth of Polarized America*) or Abramowitz (*The Polarized Public: Why American Government is So Dysfunctional*) better depicts the reality of polarization (or the lack thereof) in contemporary American political life. Additionally, the country has changed significantly since Fiorina first published his findings in 2005, and it is arguably

different still since his last examination in 2011 and Abramowitz's examination in 2013; one does not need to look far for evidence of the changes.

Baldassarri and Gelman (2008) find that issue partisanship, or liberal/conservative identification, has increased, allowing parties to attract individuals more easily into their camps by effectively sorting them into ideological, moral, social, and economic viewpoints. However, they do not find strong evidence to indicate that there is public polarization on key issues (new lifestyles, traditional values, abortion, affirmative action, federal spending for the environment, moral behavior, and equality). Hence, their results do not point to deep divisions on what are typically considered "polarizing" issues (Baldassarri and Gelman, 2008). In short, there is more evidence for party sorting than issue-based polarization. However, others argue just the opposite; they claim political parties have managed to sort the electorate into their ideological camps based on issues that have the most traction and salience by taking more distinct stances on these issues (Abramowitz and Saunders, 1998; Layman, Casey, and Horowitz, 2006).

Others still have explored the possible impact of the advances in technology, media bias, the prevalence of campaign ads, and the rise of social media on the American electorate from a variety of standpoints such as political socialization, partisan sorting, informative power, and even their positive effects on the democratic process (Davis and Dunaway, 2016; Dellavigna and Kaplan, 2007; Farrell, Lawrence, and Sides, 2008; Geer, 2010). Social media allow individuals to bypass information from those with whom they disagree and instead turn to their own information sources comprised solely of those with whom they share similar beliefs (Sunstein, 2018). Individuals prefer messages that are already in line with their current views, which could be contributing to the increased polarization in recent decades (Knobloch-Westerwick and Meng, 2009; 2011).

Regardless of what factors some scholars may argue are contributing to polarization, the fact remains that the world of American politics has changed and so have the opinions of the American electorate. Even if all the academic literature above is discounted, the 2016 election would be reason enough to reexamine polarization as it saw not only nasty attacks of those with contrasting views—both candidate-on-candidate and citizen-on-citizen attacks—but the rise of extremely polarized candidates themselves. From a business man promising to build a wall along the southern border to a self-proclaimed democratic-socialist who favors marginal tax rates as high as 90%, primary voters responded favorably to both. Immediately after the election, there were protests across the nation, and deep division remains today, two years later. At least anecdotally, there are plenty of examples that people no longer politely disagree with each other's policy preferences; instead, we prefer to attack each other on personal and moral grounds and claim they, and those like them, will be the downfall of the country. It is for reasons such as these that an updated examination of the political polarization of the American public is needed.

Research Questions and Hypothesis

This research centers around the research question: Is the American public politically polarized? The hypotheses of Fiorina and Abramowitz are tested to answer this research question. The American National Election Studies (ANES) is used to compare and contrast the two claims.

If Fiorina's hypothesis is correct, then analyzing public survey data would reveal that a majority of Americans have opinions that are situated in the middle, or moderate, position. A graph of the data would form a normal distribution, a bell curve. If Abramowitz is correct, then an analysis of public opinion surveys would reveal a majority of opinions in the extremes of the spectrum instead of in the middle. The graph would then shift from a normally distributed bell curve to a bimodal, or "u" shaped, curve.

Methodology

The ANES is used because it allows for the analysis of responses over several decades and therefore provides a better picture of shifts in public opinion. Polarization of the electorate is evident over many facets of political life—and even nonpolitical, some would argue (Iyengar and Westwood, 2014). For this reason, I chose to analyze several separate indicators: ideological self-identification, feelings towards presidents of the opposite party, feelings toward the opposite party in general, and opinions on policy issues.

Research shows that while the electorate may have followed the lead of party elites and national parties, the public has ultimately become more ideologically consistent and our political system would be unrecognizable without the alignment (Abramowitz, 2010; Baumer and Howard, 2016; Levendusky, 2009). So, I examined how Democrats and Republicans placed themselves on the ideological spectrum. There also has been extensive research on issue polarization (Adams, 2014: Carsey and Layman, 2006; Iyengar and Westwood, 2014; Mason, 2014), meaning that there is a deep divide in opinions between Republicans and Democrats on salient policy issues; therefore, I examine the changing opinions of Democrats and Republicans on three long-term and relevant issues: health insurance, abortion, and immigration. Finally, polarization can be measured on the basis of Republicans' and Democrats' feelings towards the opposite party (Iyengar and Westwood, 2014: Iyengar and Krupenkin, 2018); this led me to examine how Republicans and Democrats respond on feeling thermometers towards presidents—particularly those of the opposite party— and the opposite party as a whole.

Comparison of the average responses (means) of Republicans and Democrats each year and cross tabulation analysis is used to determine if there is any evidence of political polarization at the surface level on Democrats' and Republicans' ideological self-placement, opinions on three long-term and prevalent policy issues—health insurance, abortion, and immigration — and feelings towards the opposite party itself and presidents of the opposite party. After the cross tabulation analysis and a comparison of the mean

responses establishes that Democrats and Republicans were indeed divided, and deeply divided, increasingly more so with the passage of time, I use multi-variate analysis to ensure that the polarization on the policy issues is primarily a result of respondents' political party identification and not other factors. Additionally, after establishing that political party identification is indeed the dividing factor, predictive probability distributions are used to determine the policy positions of strong party identifiers, party identifiers, weak party identifiers, and pure independents. The methods of analysis for cross tabulations, comparisons of means, regressions, and predictive probabilities are each explained in more detail below. For all three methods, the ANES time series data from 1948- 2016 is used to not only identify potential polarization in recent years, but also to compare to polarization in years past.

Cross tabulations are used to analyze the distribution of Republicans' and Democrats' responses on 7-point Likert scales and similar scales of a smaller range (4-point or 5-point). In order to ensure accuracy when measuring the suspected polarization in the American public, I analyze questions in which individuals are asked about their opinion on a current issue (abortion, immigration, health insurance) or are asked to categorize their ideological leanings on a 1-7 scale where 1 represents "strong liberal" and 7 represents "strong conservative." The opinions on issues are categorized on a scale that varies from question to question, but the scale and meaning are defined for each issue. Any responses labeled "Do not know" or "Did not answer" or any such similar responses are excluded.

When polarization does not exist, then a graph of public opinions is a bell curve with the majority of responses collecting around the middle, or moderate, viewpoint. For example, if there is no ideological polarization, a majority of Americans would ideologically categorize themselves as a 3, 4, or 5 (on a 7-point scale) and thus create a bell curve. When polarization does exist, however, there are a greater percentage of responses gathered in the extremes of the scales creating an inverse bell curve. For example, if the ideology scales indicate polarization, the largest numbers of responses are concentrated in the left (1-2) and right (6-7) sides making the graph look more like a 'u' than a bell curve. This holds true for scales of any number; measured on a scale of 5 and with no polarization, the majority of response should cluster around 2, 3, and 4 as opposed to 1 and 5.

I also analyze feeling thermometer scales for how positively or negatively Democrats and Republicans feel towards presidents while they were in office and towards the opposite party. A response of 51-100 degrees indicates a more favorable feeling while a response of 0-49 degrees indicates a more negative feeling. A response of 50 indicates a completely neutral opinion. For the purposes of visual representation of how polarized the American public is in their feelings towards Republican and Democrat Presidents and the Republican and Democrat parties, I recode the 1-100 scale into a condensed, 5-point scale and used a cross tabulation analysis. Responses of 0-19 degrees are coded as 1, 20-39 degrees as 2, 40-59 degrees as 3, 60-79

degrees as 4, and 80-100 degrees as 5. Category 1 represents a very unfavorable opinion, 2 an unfavorable opinion, 3 a neutral opinion, 4 a favorable opinion, and 5 a very favorable opinion. Once again, responses of "Do not know" or "Did not answer" or other such similar responses were excluded. Using the same methods, I also examined feeling thermometer data for how self-identified Democrats and Republicans feel towards the opposite party.

Since all responses to the ANES are recorded on numerical scales, I also compare the mean response of Republicans and Democrats over time to demonstrate how polarized the public has become. When polarization exists, the average response for Republicans moves steadily toward the most conservative choice while the average response for Democrats moves to the more liberal choice. As the average opinion moves farther and farther towards the extremes, there is clear separation in the graph. This logically follows cross tabulation data because as more and more respondents categorize their opinions in the extremes of the scale, those responses will pull the mean towards the tail end of the scale. The mean response for both Republicans and Democrats was analyzed for the ideological self-identification, all three policy issues, and the two feeling thermometers for each year data are available. Those responses are graphed chronologically over time to represent visually how the gap in the opinions of Republicans and Democrats grows.

Since a surface level analysis of distribution of responses and comparison of the average responses reveals deep divisions between Republicans and Democrats, regression analysis is used to control for other characteristics that could cause the respondents to have such dividing responses. Factors such as age, gender, race, education level, and family income are controlled for. To aid in the understanding of the regression models, I use predictive probabilities to translate the regression findings back onto each issues' individual scale thus showing how each respondent would respond to that question based on their party identification and controlling for the demographic factors (King, Tomz, and Wittenberg, 2002).

While only the charts for the first year the questions appear in the ANES and 2016 are included in the Findings section, charts for every year data is available can be found in the Appendix to visually demonstrate the shift in opinions over time. The mean values for Republicans and Democrats as well as the expected responses for partisans generated in the predictive probabilities are also included in the Appendix.

Findings

Comparison of Means and Cross Tabulations for Ideological Self-Identification and Feeling Thermometers

In 1972, when asked to identify themselves on a 7-point scale ranging from "very liberal" to "very conservative," the mean score for Democrats was 3.77 and the mean score for Republicans was 4.64. When asked the same question in 2016, the mean score for Democrats was 3.05 and the mean score for Republicans

was 5.3. This indicates that Democrats in 2016 were 19.25% "more liberal" than Democrats in 1972 while Republicans in 2016 were 14.33% "more conservative" than Republicans in 1972. Figure 1 shows the steady widening of mean ideological scores for Democrats and Republicans since 1972. In 1972, Republicans and Democrats were separated by 0.87 and by 2016, the spread had grown to 2.26. A 160.73% increase in spread. If there was no polarization, then there would be a minimal or nonexistent gap between the means of Democrats and Republicans. However, as the gap expands an enormous 160.73% over 44 years, it indicates the public has become much more polarized since the 1970s.

Figure 1

AVERAGE RESPONSES OF PARTY IDENTIFIERS FOR IDEOLOGICAL SELF-PLACEMENT BY YEAR
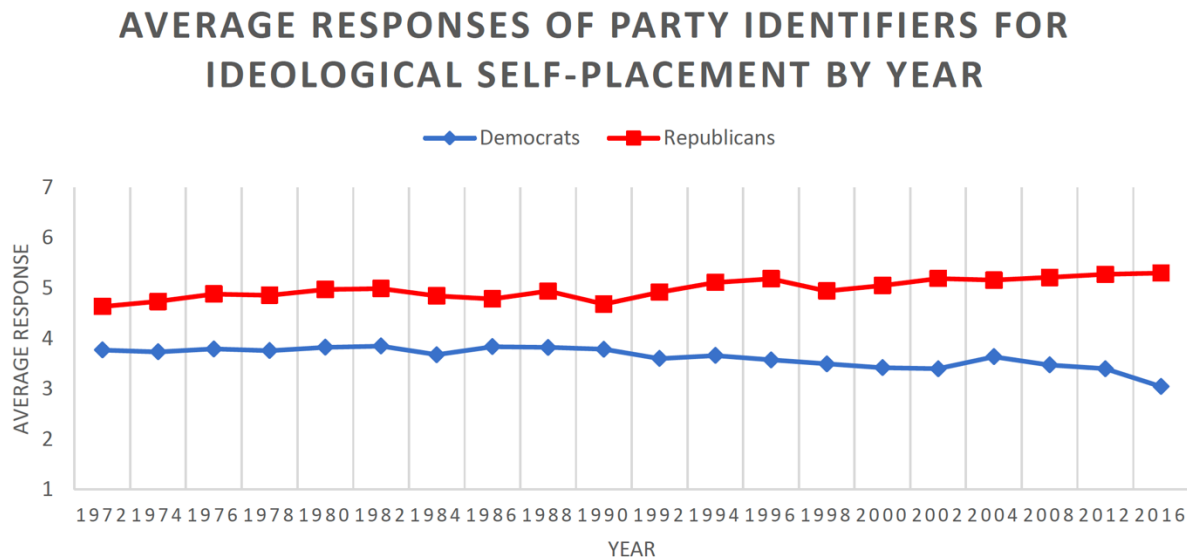
There is also evidence of polarization in the distribution of how liberal or conservative Democrats and Republicans categorize themselves. In 1972, 36.3% of Democrats and 33.4% of Republicans categorized themselves as "moderate" (category 4). Conversely, 19.3% of Democrats categorized themselves as "strong liberals" (category 1) or "liberals" (category 2) while 24.7% of Republicans categorized themselves as "strong conservatives" (category 7) or "conservatives" (category 6). In 2016, 29.5% of Democrats and 19.3% of Republicans categorized themselves as "moderate;" 38.5% of Democrats categorized themselves as either "strong liberals" or liberals," and 52.6% of Republicans categorized themselves as either "strong conservatives" or "conservatives." Figures 2 and 3 demonstrate the shift in the distribution from 1972 and 2016.

Figure 2

IDEOLOGY BASED ON PARTY ID 1972

■ Democrats %   ⊟ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology Response	1	2	3	4	5	6	7
Democrats %	3.1	16.2	16.8	36.3	14.2	9.8	0.6
Republicans %	0.7	2.9	9.6	33.4	28.7	21.8	2.9

IDEOLOGY RESPONSE

Figure 3

IDEOLOGY BASED ON PARTY ID 2016

■ Democrats %   ⊟ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology Response	1	2	3	4	5	6	7
Democrats %	7.4	31.1	23.3	29.5	5.5	2.4	0.7
Republicans %	0.1	1.4	3.1	19.3	23.3	44.7	7.9

IDEOLOGY RESPONSE
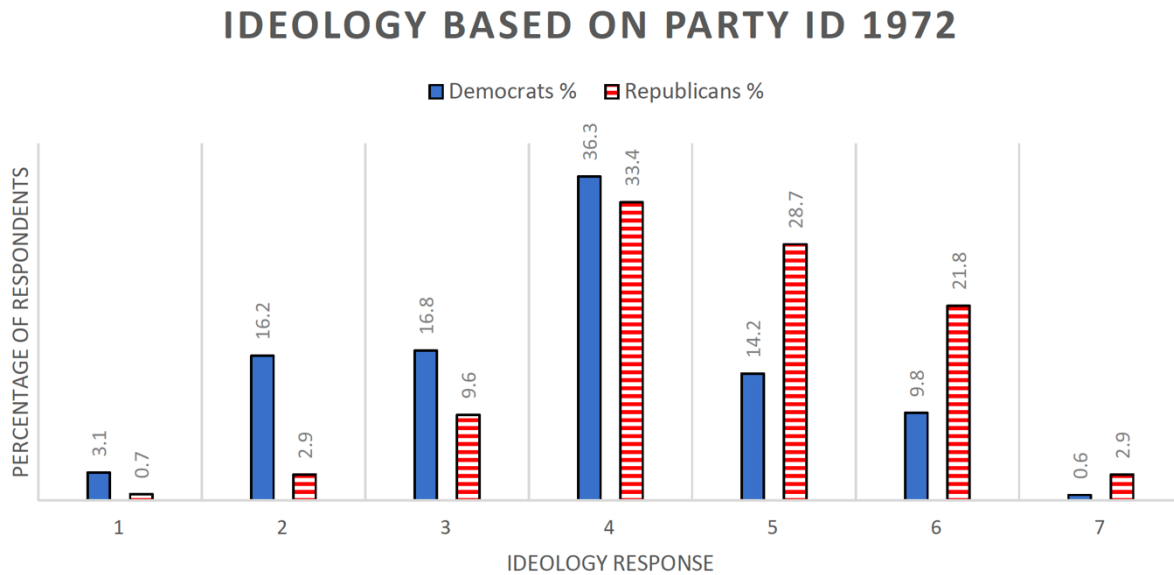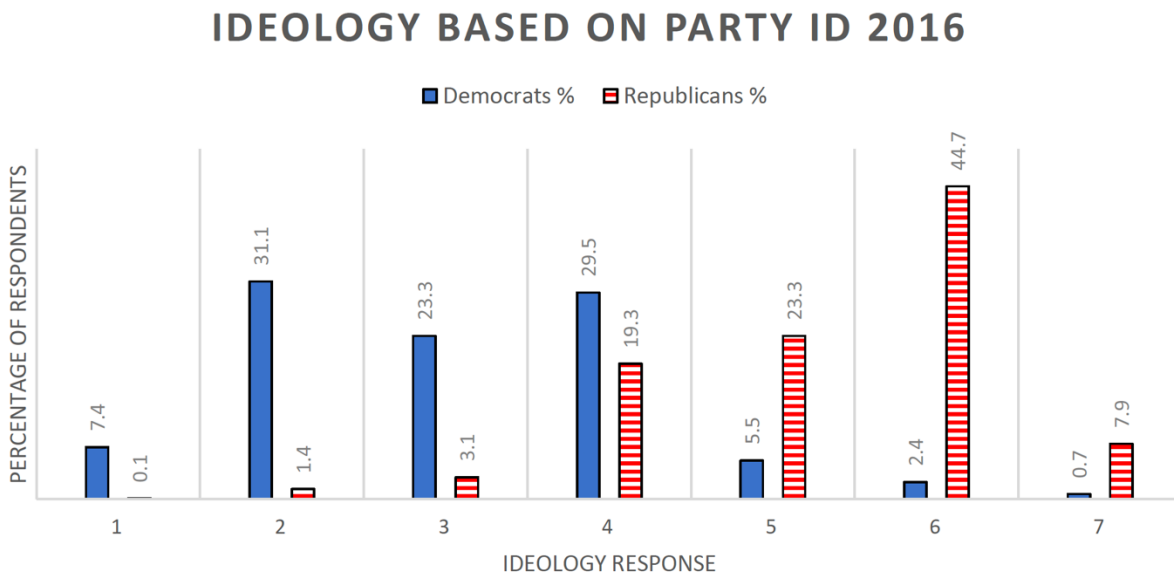
There is also evidence of polarization in the feeling thermometer data. In 1968, 90.3% of Democrats and 72.1% of Republicans felt neutral, favorable, or very favorable towards Lyndon Johnson. In 2016, 94.4% of Democrats felt neutral, favorable, or very favorable towards Barrack Obama while only 24.8% of Republicans did. Figures 4 and 5 indicate this.

Figure 4

FEELING THERMOMETER TOWARDS PRESIDENT
JOHNSON BASED ON PARTY ID 1968

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

1: Democrats 6.7, Republicans 16.5
2: Democrats 31, Republicans 11.5
3: Democrats 18.6, Republicans 33.2
4: Democrats 31.7, Republicans 29.6
5: Democrats 40, Republicans 9.3

CONDENSED FEELING THERMOMETER RESPONSE
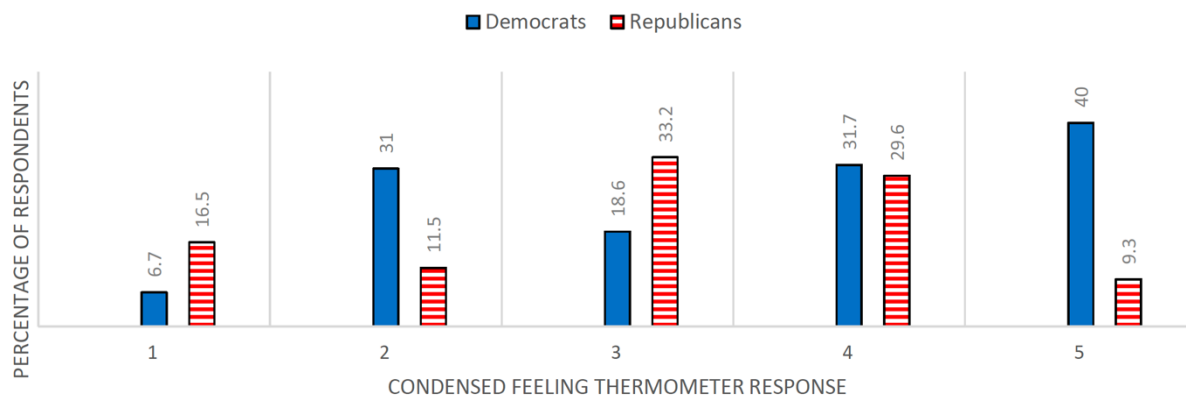
Figure 5

FEELING THERMOMETER TOWARDS PRESIDENT
OBAMA BASED ON PARTY ID 2012

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

1: Democrats 4, Republicans 57.8
2: Democrats 1.6, Republicans 12.8
3: Democrats 5.3, Republicans 13.6
4: Democrats 22.8, Republicans 10.9
5: Democrats 66.3, Republicans 4.9

CONDENSED FEELING THERMOMETER RESPONSE
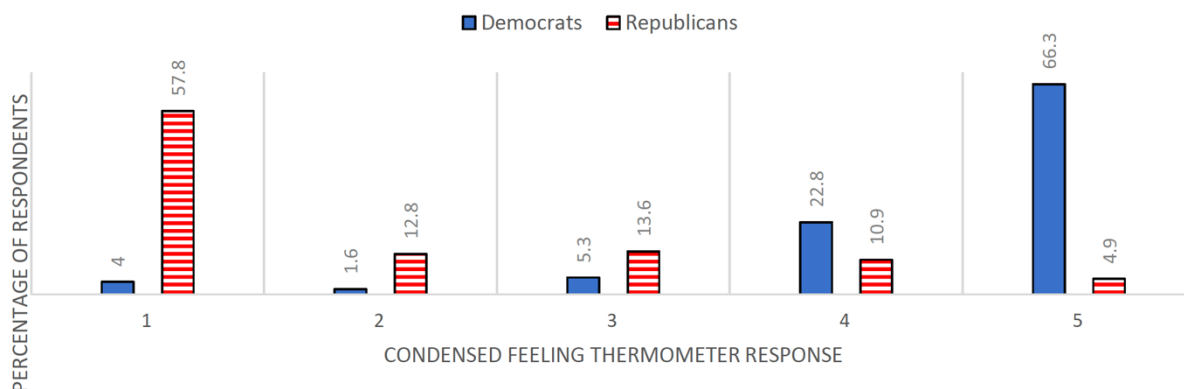
A similar phenomenon holds true for Republican presidents and presidential candidates. In 1970, 98.1% of Republicans and 78.6% of Democrats felt neutral, favorable, or very favorable towards Richard Nixon. In 2008, 83.6% of Republicans and 35.7% of Democrats felt neutral, favorable, or very favorable towards George W. Bush. Additionally, in 2016, 82.5% of Republicans and 16.7% of Democrats felt neutral, favorable, or very favorable towards then presidential candidate Donald Trump. Figures 6, 7, and 8 visually represent this.

Figure 6

FEELING THERMOMETER TOWARDS PRESIDENT NIXON BASED ON PARTY ID 1972

■ Democrats ⊟ Republicans
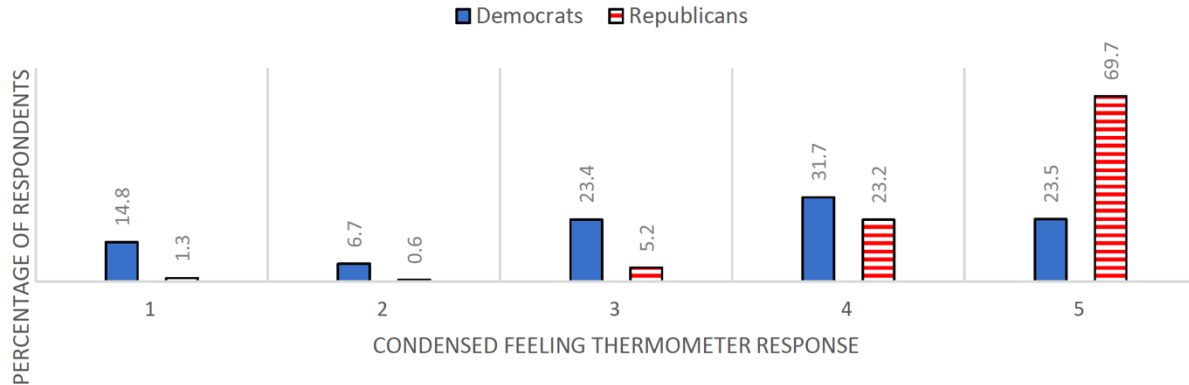
Figure 7

FEELING THERMOMETER TOWARDS PRESIDENT BUSH BASED ON PARTY ID 2008

■ Democrats ⊟ Republicans
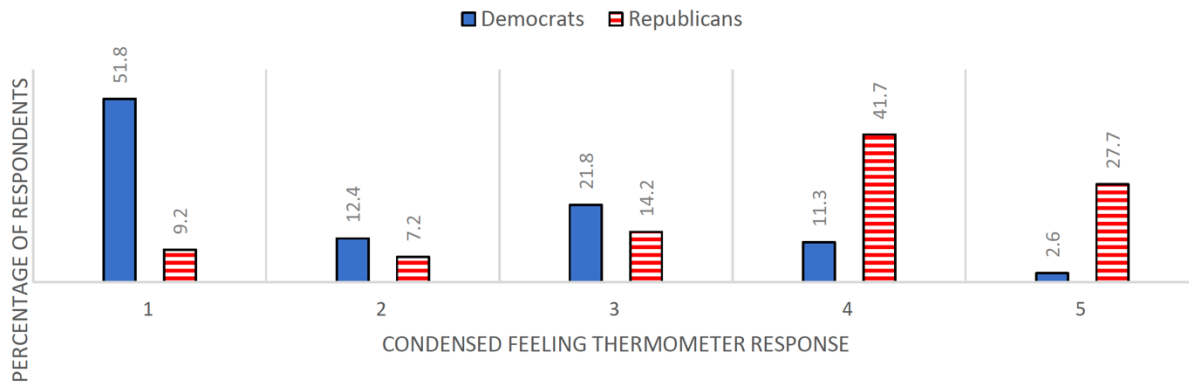
Figure 8

FEELING THERMOMETER TOWARDS (CANDIDATE) TRUMP BASED ON PARTY ID 2016

■ Democrats ⊟ Republicans
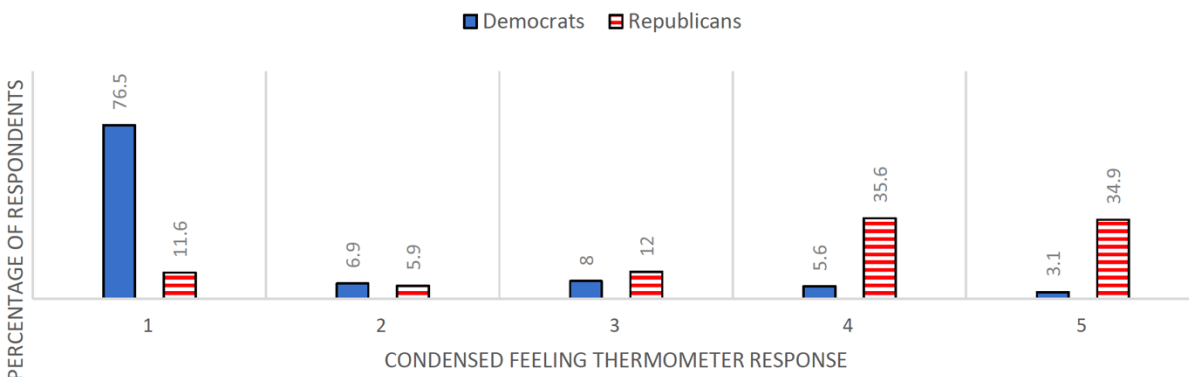
Since 1968, Democrats and Republicans feelings towards presidents of the opposite political party have declined steadily as indicated not only by the increase in percentage of respondents who feel "unfavorably" or "very unfavorably," but also by the mean of all responses. In 1970, on the condensed feeling thermometer, the average Democrat response towards a Republican president (President Nixon at the time) was 3.03, which represents a "neutral" response. By 2016, the average Democrat response for a Republican candidate (Trump) was 1.52, which would represent a "very unfavorable" response. This is a 1.51 change on a five-point scale. There is a similar decline in opinion for Republicans' feelings towards Democratic presidents. In 1968, the average Republican response toward a Democratic president (President Johnson) was 3.04, which is once again a "neutral" response. In 2016, the average Republican response toward a Democratic president (President Obama) was 1.92, which can be interpreted as "very unfavorable." A comparison of the means is also represented on a full feeling thermometer as coded by the ANES—not in the condensed five categories. For Democrat presidents, the average response moves from 66.7 for Democrats in 1968 to 79.37 in 2016 and from 46.21 for Republicans in 1968 to 23.81 in 2016. A similar phenomenon occurs for Republican presidents as Democrats moved from 46.78 in 1970 to 25.58 in 2008 and Republicans shifted from 78.63 in 1970 to 62.531 in 2016. Figures 9 and 10 represent this data.

Figure 9a

AVERAGE CONDENSED FEELING THERMOMETER RESPONSES OF PARTY IDENTIFIERS TOWARDS DEMOCRAT PRESIDENTS BY YEAR
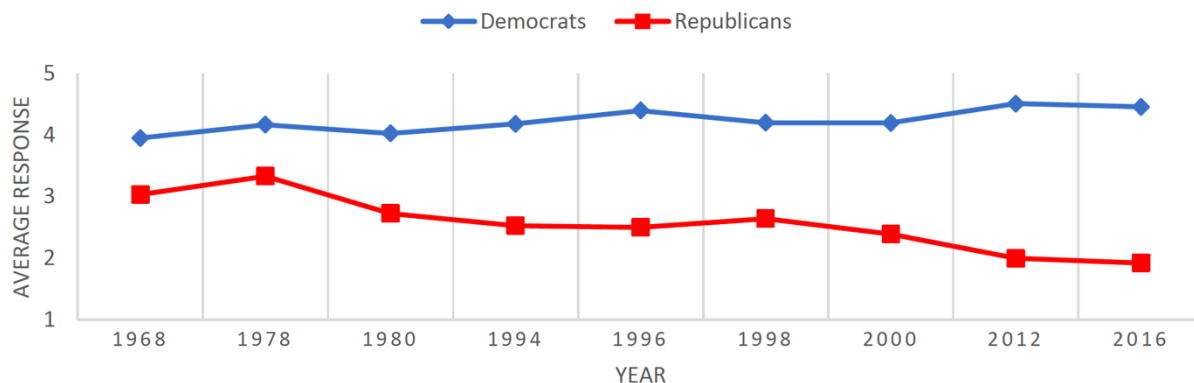
Figure 9b

AVERAGE FULL FEELING THERMOMETER
RESPONSES OF PARTY IDENTIFIERS TOWARDS
DEMOCRAT PRESIENDENTS BY YEAR
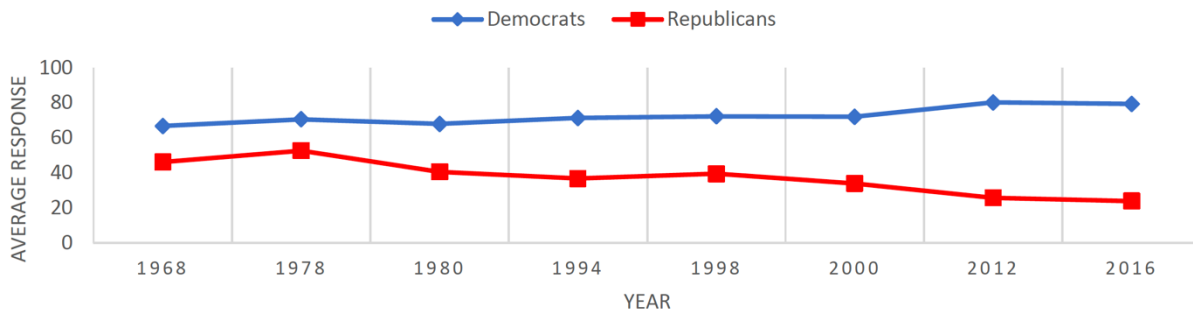
Figure 10a

AVERAGE CONDENSED FEELING
THERMOMETER RESPONSES OF PARTY
IDENTIFERS TOWARDS REPUBLICAN
PRESIENDENTS BY YEAR
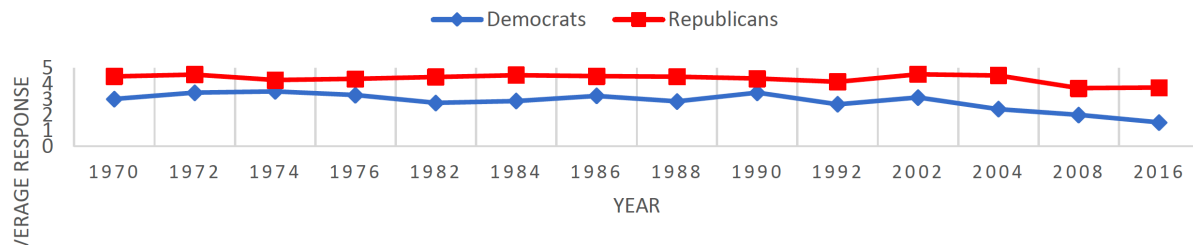
Figure 10b

AVERAGE FULL FEELING THERMOMETER
RESPONSES OF PARTY IDENTIFERS TOWARDS
REPUBLICAN PRESIENDENTS BY YEAR
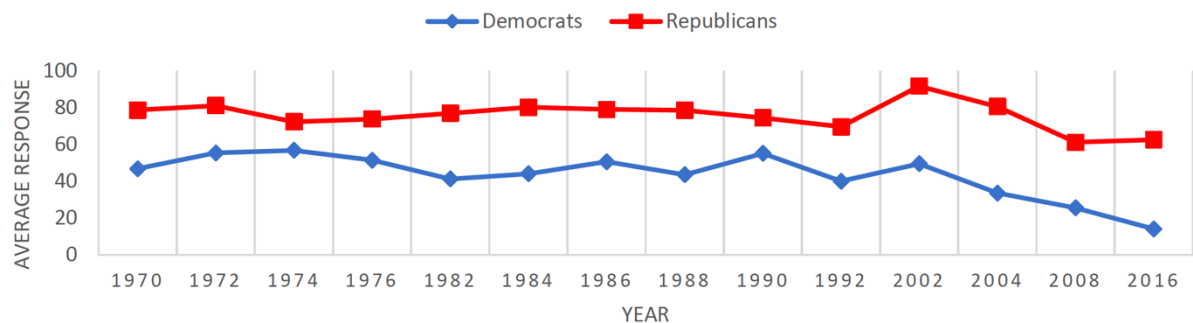
Republicans' and Democrats' distaste for presidents of the opposite party is mirrored by their growing distaste for the entire party in general. In 1978, the data was normally distributed in almost a perfect bell curve as 50% of Democrats felt neutral; when combining categories, 82.9% of Democrats felt "neutral," "favorable," or "very favorable" towards the Republican Party. By comparison, 55.4% of Republicans felt "neutral" while 82.3% felt "neutral," "favorable," or "very favorable" towards the Democrat Party. By 2016, however, only 35% of Democrats felt "neutral," "favorable," or "very favorable" towards the Republican Party, whereas 61.6% of Republicans felt likewise towards the Democrat Party. Figures 11 and 12 represent this.

Similar to the previous graphs, a normally distributed bell curve indicates a lack of polarization; however, polarization would not be represented by a bimodal curve in this instance. Since these figures represent the responses towards the opposite party, if the average respondents' feelings towards the opposite party decrease (and therefore indicate polarization), the graph should move from a normal distribution to a right-skewed graph as a greater percentage of respondents categorize the opposite party in the more unfavorable responses

Figure 11

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1978
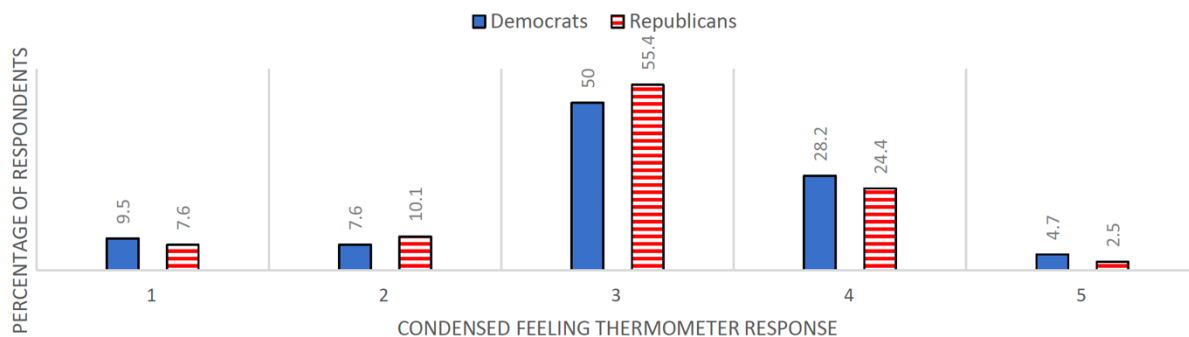
Figure 12

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 2016

■ Democrats ▥ Republicans

PERCENTAGE OF RESPONDENTS

1: 45.4 / 22.6
2: 19.6 / 15.8
3: 25.4 / 39.8
4: 8.1 / 19.1
5: 1.5 / 2.7

CONDENSED FEELING THERMOMETER RESPONSE
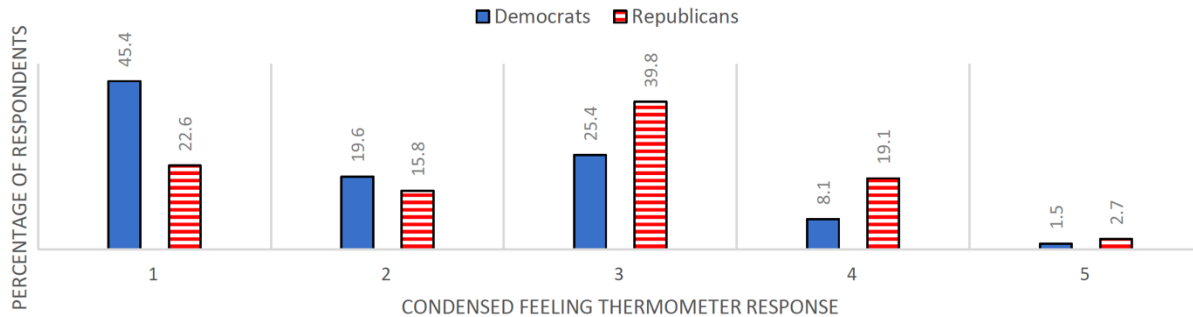
Once again, the mean feeling thermometer response of Republicans and Democrats towards the opposite party paints a similar picture. In 1978, the average Democrat response regarding the Republican Party was 3.07 while the average Republican response regarding the

Democrat Party was 3.35. On the condensed feeling thermometer, both represent a neutral opinion. In 2016, the average Democrat response was 1.86 and the average Republican response was 1.92. Both of these responses represent an unfavorable response. On a five point scale, Democrats moved down 1.20 points—a 39% change— while Republicans moved down 1.44—a 42% change. Once again, the average response on the full feeling thermometer is also given. In 1978, the average Democrat response towards the Republican Party was 48.32, which dropped to 26.96 in 2016. Similarly, the average Republican response towards the Democrat Party dropped from 47.41 in 1978 to 24.91 in 2016. Figure 13 visually represents this.

Figure 13a

AVERAGE CONDENSED FEELING THERMOMETER RESPONSES OF PARTY IDENTIFERS TOWARDS THE OPPOSITE PARTY BY YEAR

◆ Democrats ■ Republicans

AVERAGE RESPONSE
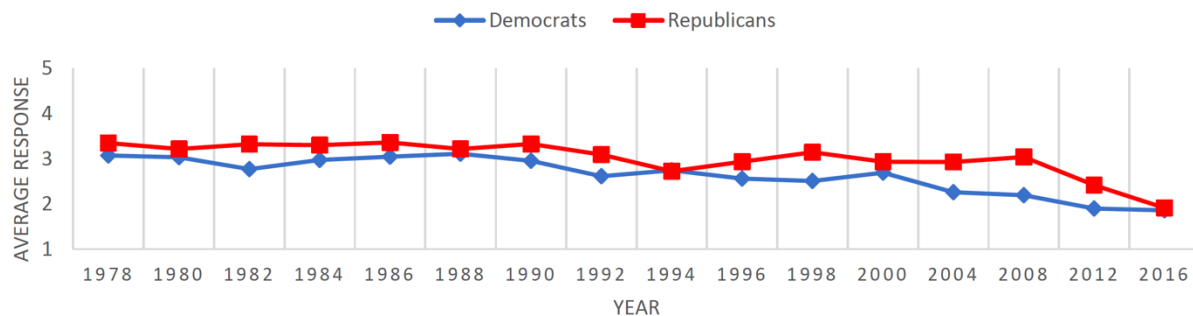
YEAR

Figure 13b

AVERAGE FULL FEELING THERMOMETER
RESPONSES OF PARTY IDENTIFERS TOWARDS
THE OPPOSITE PARTY BY YEAR
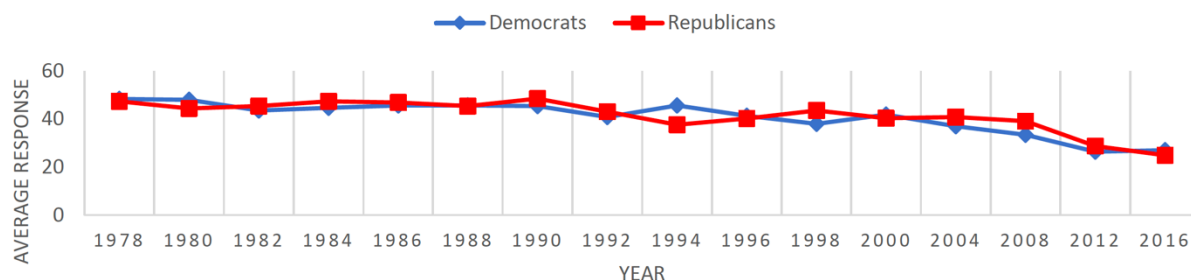
Comparison of Means and Cross Tabulations for Salient Policy Issues

Even beyond citizens' ideological self-placement and their feelings towards presidents of the opposite party and the opposite party in general, there is evidence to suggest that citizens are polarized on key issues—health insurance, abortion, and immigration. These issues were chosen because of their long-term prevalence in American politics.

Health insurance has been a polarizing issuing in the United States since Lyndon Johnson's Great Society and the introduction of Medicaid and Medicare in 1965 and continues to be today. The data indicate spikes in polarization that are responsive to each of the health insurance reforms implemented since the 1960s. However, though American's opinions on health insurance are somewhat fluid depending on the most recent health care policies, the data indicate that polarization has none-the-less increased steadily since the 1970s and the gap in opinions between Republicans and Democrats is greater now than ever before.

The ANES first asked citizens' opinions on health insurance in 1970 and asked them to categorize those feelings on a 1-7 scale. A response of 1 represents the opinion that there should be a government insurance plan that covers all medical and hospital expenses while a response of 7 represents the opinion that medical expenses should be paid for by individuals or private health insurance plans. Of course, individuals can hold opinions somewhere in between that is represented by a response of 2, 3, 4, 5 or 6 with 4 representing a neutral position. In 1970, the average response for Republicans was 4.58 while the average response for Democrats was 3.44, which is a spread of 1.15. While the spread is large for a 7-point scale, both parties' averages are about 0.5 points away from the neutral response. By 2016, the average response for Republicans was 5.22, which is a 13.9% percent change from 1970. The average response for Democrats steadily shifted more to the left coming to rest at 3.09 in 2016, which is a 10.2% change from 1970. Overall, the gap between the average responses from both parties grows to an even more polarized 2.13 points on a 7-point scale, which is an 86% increase. Figure 14 displays this information visually.

Figure 14

AVERAGE RESPONSES OF PARTY IDENTIFIERS ON HEALTH INSURANCE BY YEAR
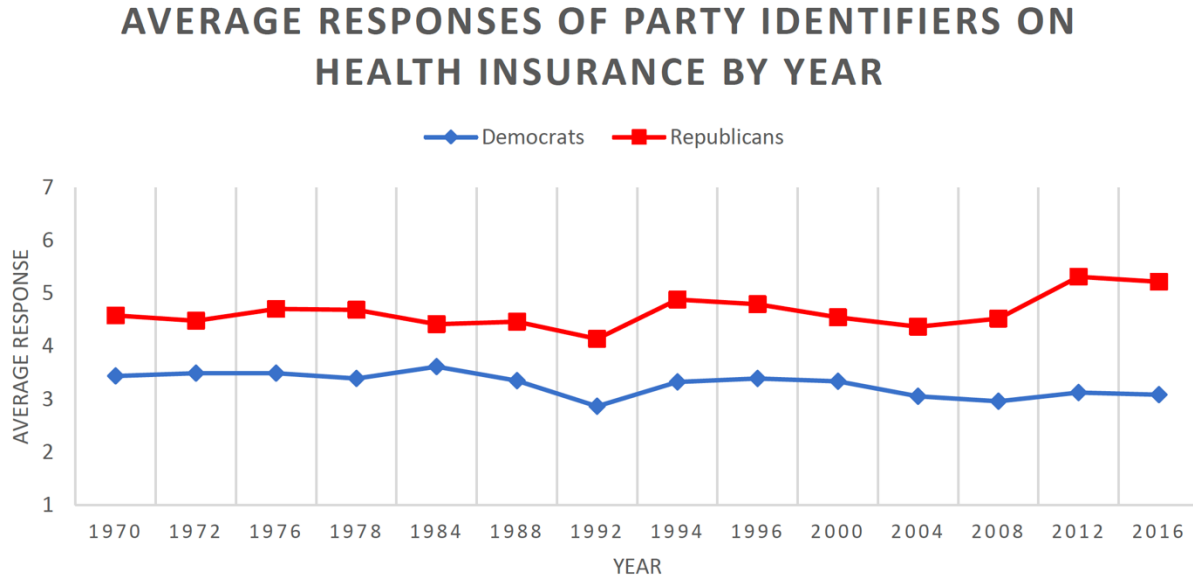
In addition to the widening gap in average opinion held by Republicans and Democrats, the percentage of individuals who respond in the extreme, tail, ends of the 7-point scale (1-2 and 6-7), also indicates polarization. In 1970, 12.8% of Democrats and 17.3% of Republicans responded 4 (the neutral position). Conversely, 45.8% of Democrats responded 1 or 2 and 44.8% of Republicans responded 6 or 7. In 2016, the percentage of neutral responses (4) for Democrats was 21.5% and for Republicans it was 16.4%. In the extremes, 43.1% of Democrats responded 1 or 2 while 52.2% of Republicans responded 6 or 7. Therefore, Democrats experiences a 5% decrease in extreme response while percentage of Republicans with extreme responses grew 16%. This indicates that Republicans have certainly become more polarized when it comes to government vs private health insurance, but Democrats have shifted little over the past 40-50 years. Of course, part of the shift in Republicans opinions could be due to the health insurance policies of President Clinton and Obama in the past 20 years. Figures 15 and 16 show the shift in opinions.

Figure 15

HEALTH INSURANCE OPINIONS BASED ON
PARTY ID 1970
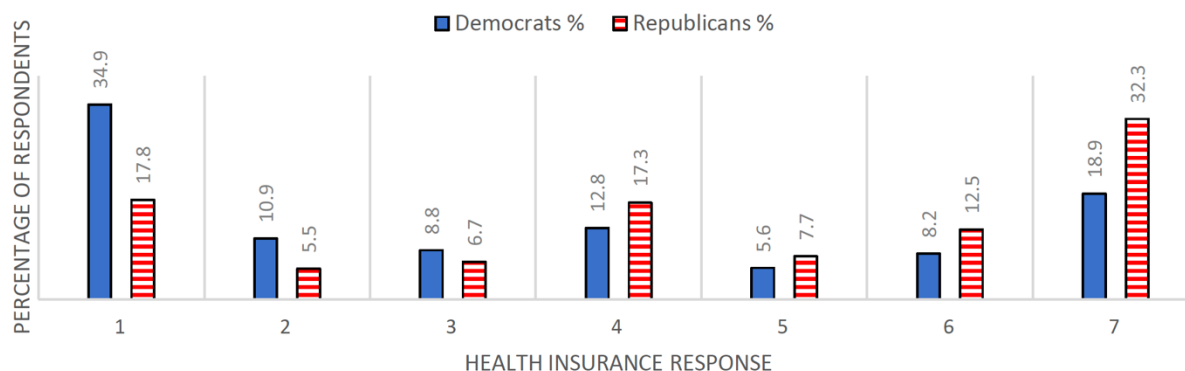
Figure 16

HEALTH INSURANCE OPINIONS BASED ON
PARTY ID 2016
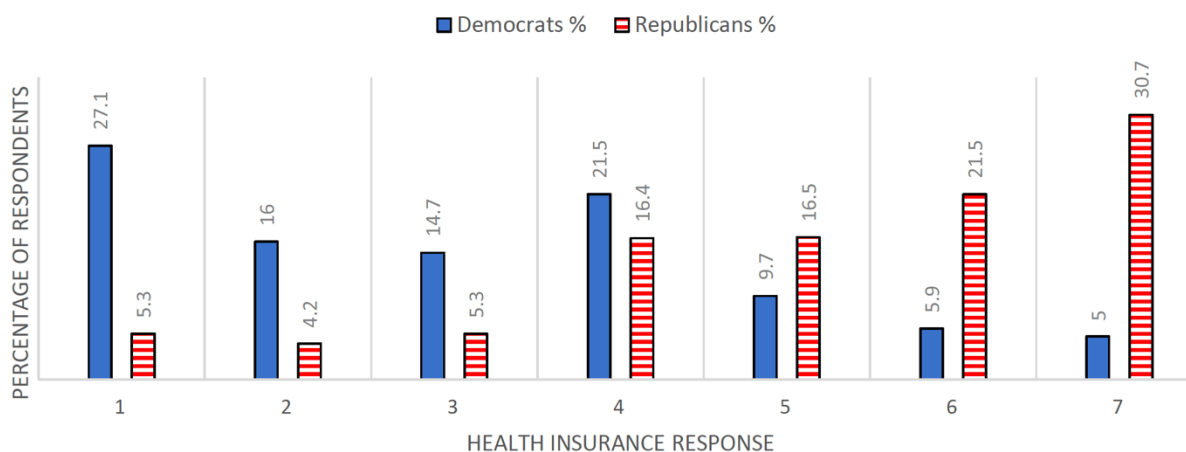
Health insurance is not the only popular issue Americans are polarized about. Abortion has also been a divisive issue since even before its legalization in *Roe v. Wade (1973)*. The ANES asks respondents their opinions on a 4-point scale, but unlike most of the other opinion questions, this scale is reversed. Meaning that a response of 1 is the most conservative response and the responses become more liberal the higher in number they are as opposed to the more common scales where 1 is the most liberal responses and responses become steadily more conservative as the number increases. The most conservative response, 1, represents the opinion, "By law, abortion should never be permitted," 2 represents, "The law should permit abortion only in case of rape, incest, or when the woman's life is in danger," 3 represents, "The law should permit abortion for reason other than rape, incest, or danger to the woman's life, but only after the need for the abortion has been clearly established," and finally, the most liberal response, 4, represents, "By law, a

woman should always be able to obtain an abortion as a matter of personal choice." The scale clearly has two extreme positions, but its format, a 4-point scale instead of a 5 or 7-point one, could cause the polarization to seem insignificant when displayed visually as the data points obviously cannot separate as much as they could on a larger, more robust scale.

In 1980, the data indicated low polarization as the average response for Democrats and Republicans was extremely close, and the Republicans' average response was surprisingly, slightly more liberal than the Democrats.' Democrats had an average response of 2.80 and Republicans was 2.82. By 2016, the gap had widened significantly and Republicans were solidly closer to the conservative response than Democrats. The average Democrat response was 3.32 and the average Republican response was 2.52. The percentage of change for Democrats was

18.61% while it is only 10.7% change for Republicans. Therefore, while Republicans may have had a larger opinion shift in regards to health insurance, Democrats shifted more on the topic of abortion. Additionally, the gap grows from a very close 0.03 to a much larger 0.8 on a 4-point scale, which is a 3,088% increase in under 40 years. Therefore, Republicans and Democrats have become so polarized that it is immediately evident despite the restrictions of a smaller response scale than health insurance or immigration (discussed as the next issue). Figure 17 shows the widening gap in average responses between Republicans and Democrats.

Figure 17
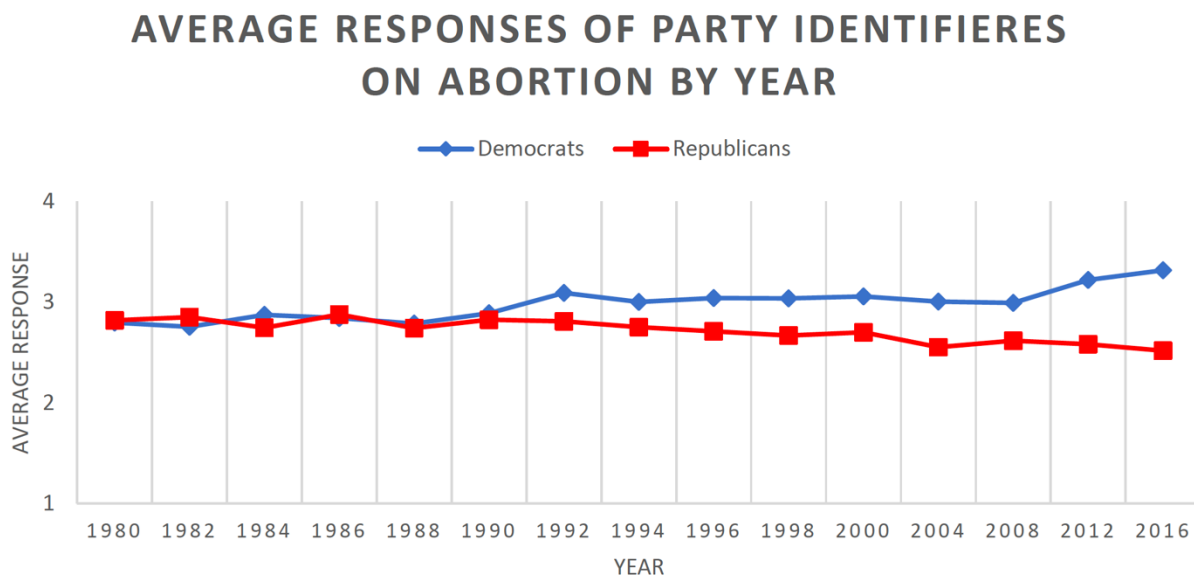
Once again, polarization is also evident in the percentage of Republicans and Democrats who respond in the extreme categories, 1 (in this case, the most conservative) and 4 (the most liberal). In 1980, 9% of Republicans responded 1 ("By law, abortion should never be permitted") and 33.8% of Democrats responded

4 (By law, a woman should always be able to obtain an abortion as a matter of personal choice"). By 2016, the percentages in the extremes nearly doubled for both parties. Approximately, 19.1% of Republicans responded with 1 and

62.9% of Democrats responded with 4. There is also evidence of party sorting throughout the past 40 years. In 1980, the percentage of Republicans who responded with 4 was nearly as high as the percentage of Democrats. This indicates that the parties have become more ideologically cohesive on key issues. Additionally, many Republicans believe in individual liberty and individuals' autonomy over their lives, which could explain the higher percentage of Republicans respondents in the 4 category than would be traditionally expected. Figures 18 and 19 show the shift in public opinions.

Figure 18

ABORTION OPINIONS BASED ON PARTY ID 1980
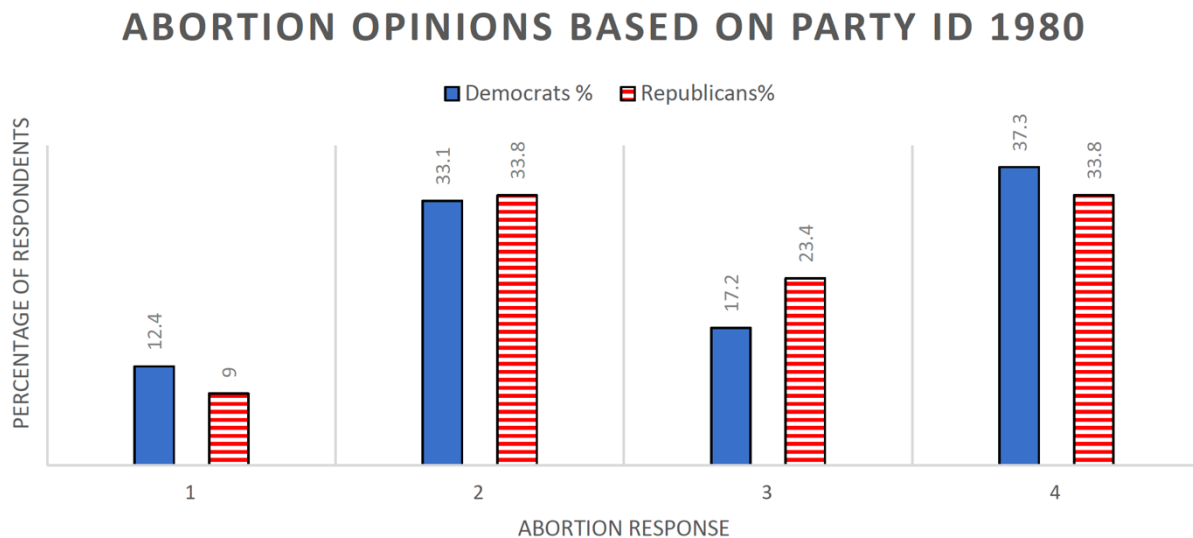
Figure 19

ABORTION OPINIONS BASED ON PARTY ID 2016
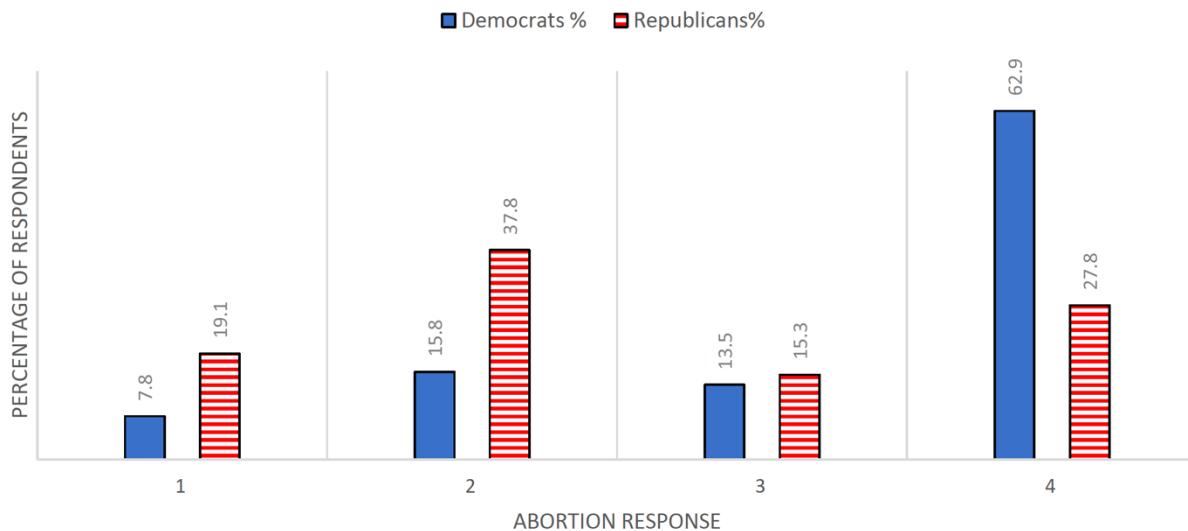
There is also evidence of increasing polarization regarding immigration. Beginning in 1990, respondents were asked their opinions regarding whether the number of immigrants should be increased or decreased on a 5-point scale. A response of 1 represents the opinion that the number of immigrants should be, "increased a lot," 2, "increased a little," 3, "same as now," 4, "decreased a little," and 5, "decreased a lot."

Once again, there is evidence of low polarization in 1992, when the question was first asked, as the average response for Republicans was 3.66, which is extremely close to the Democrat average which was 3.56. However, over the next 20 years, the gap would grow from a pretty insignificant 0.1 to a much larger 0.86 which is a 760% increase as the Republican average response moved to 3.92 and the Democrat average response move to 3.06. While such a large percentage of change is shocking over 24 years in itself, what is even more significant is that the overwhelming majority of the gap between the two parties' average response comes in the last 10 years. Through 2008, the average response stayed extremely close to each other; the most they were separated by was 0.14 in 2004, but in 2012, the gap grew to 0.35 and ultimately continued growing to be the 0.86 gap in 2016 as discussed above. Figure 20 demonstrates this extreme separation in such a short time frame.

Figure 20

AVERAGE RESPONSE OF PARTY IDENTIFIES ON IMMIGRATION BY YEAR
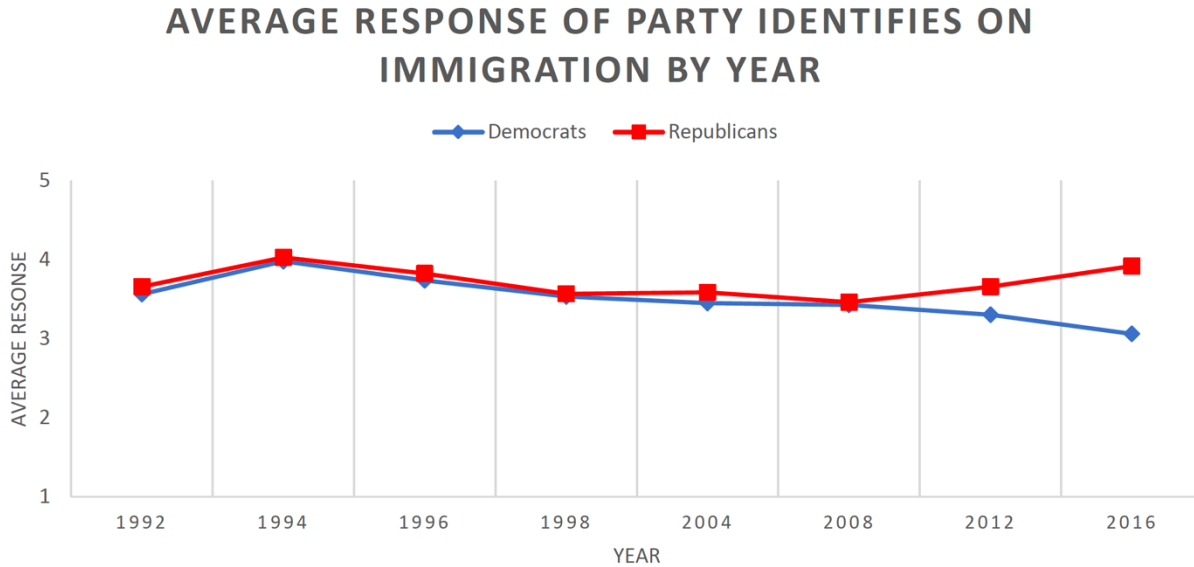
The evidence of polarization is once again furthered by analyzing the percentage of respondents who selected the extreme responses (responses 1 and 5). In 1992, only 3% of Democrats responded 1 while 24.1% of Republicans responded 5 (for reference, 22.2% of Democrats also responded 5). A response of 3, the moderate "stay the same" response, was selected by nearly half of all Republicans and Democrats with 44.3% and 42.8% respectively. In 2016, however, Republicans move towards and Democrats move away from the 5 category with 38.8% of Republicans and 12% of Democrats selecting it. Now, 8.6% of Democrats respond 1. The moderate, 3, response also saw change as now 47.1% of Democrats and 31.4% of Republicans select it. Figures 21 and 22 represent the change in distributions.

Figure 21

IMMIGRATION OPINIONS BASED ON PARTY ID 1992

Figure 22

IMMIGRATION OPINIONS BASED ON PARTY ID 2016
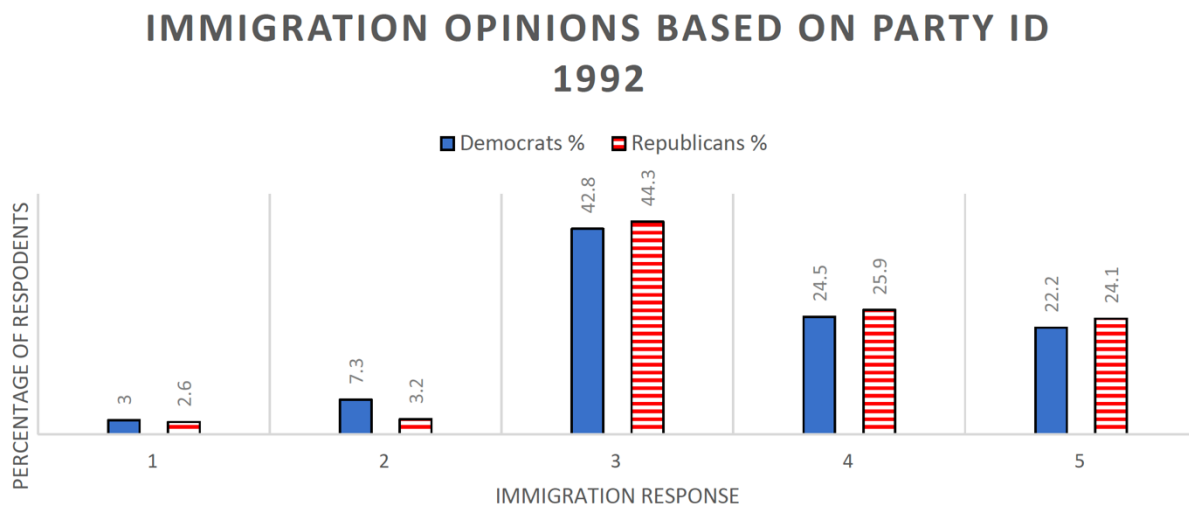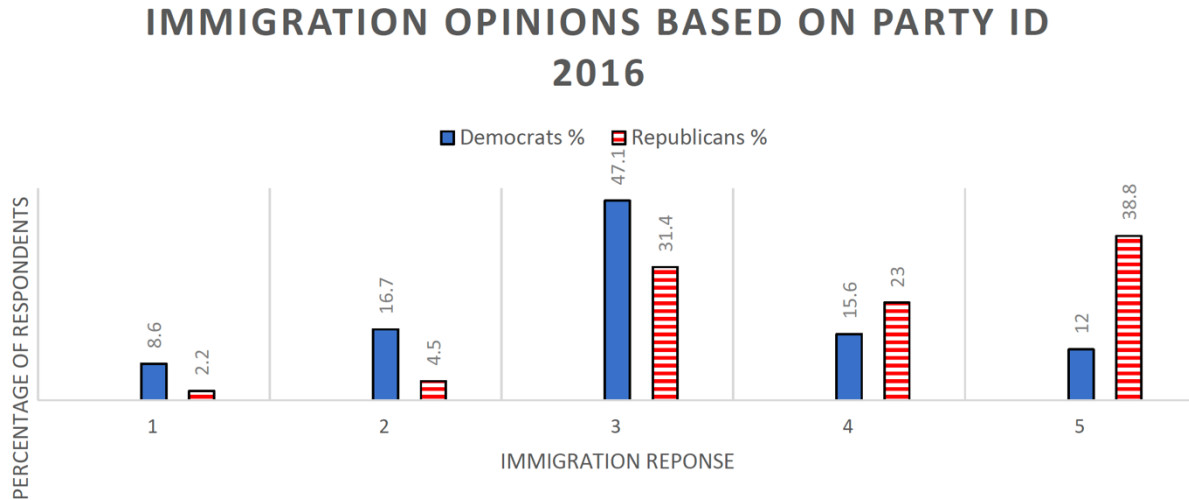
Multi-variate Analysis: Regression Models and Predictive Probability

While there are clear differences between Republicans and Democrats on salient policy issues, could these differences possibly be explained by other factors, such as demographic differences? Using an OLS regression model, I examine that possibility. The dependent variable for each regression is the respondents' opinion on each issue—health insurance, abortion, and immigration—on that issue's scale as defined above. The primary explanatory variable is the respondents party identification on a 7-point Likert scale where a response 1 represents "Strong Democrat", 2 represents "Democrat," 3 represents "Weak Democrat," 4 represents "Independent," 5 represents "Weak Republican," 6 represents "Republican,' and 7 represents "Strong Republican." I control for common demographic variables that are often considered to affect an individuals' opinion on political issues: age, gender, race, education level, and family income.

For each of the three issues, there is a simple regression without controls and a regression with the controls. This is done to show that adding the controls actually weakens the adjusted R^2—the proportion of variation that can be explained by the independent variables—or only increases the adjusted R^2 value slightly. This coupled with the findings of the analysis indicate that an individuals' party identification is strongly related to their opinion on policy issues, and more consistently so than other demographic factors. Three years with presidential elections were selected for comparison.

Table 1: Opinion on Health Insurance without controls: 1972, 1996, and 2016

	1972		1996		2016
Party ID 7pt	.224	(.036)***	.339	(.021)***	.457 (.013)***
Constant	3.044	(.151)***	2.715	(.089)***	2.281 (.06)***
N		1,107		1,531	3,752
Adjusted R²		.033		.145	.235

*p < .05 **p < .01 *** p< .001

Note: Table reports unstandardized regression coefficients and their standard errors. Data from American National Election Studies.

Table 2: Opinion on Health Insurance: 1972, 1996, and 2016

	1972		1996		2016	
Party ID 7pt	.176	(.038)***	.316	(.025)***	.419	(.016)***
Controls						
Age	-.008	(.005)	.007	(.003)*	.010	(.002)***
Male	-.264	(.151)	.044	(.1)	-.039	(.067)
Black	-1.048	(.259)***	.198	(.165)	.359	(.122)**
Hispanic	-.865	(.718)	-.031	(.173)	-.120	(.113)
Other	-.149	(.972)	-.608	(.333)	-.122	(.129)
Education Level	-.029	(.05)	.031	(.037)	-.010	(.027)
Family Income	.231	(.074)**	.290	(.051)***	.185	(.033)
Constant	3.257	(.389)***	1.451	(.271)***	1.477	(.188)***
N		1,119		1,255		2,938
Adjusted R²		.061		.172		.221

* p < .05 **p < .01 *** p< .001

Note: Table reports unstandardized regression coefficients and their standard errors. Data from American National Election Studies.

Table 3: Opinion on Immigration without controls: 1992, 2004, and 2016

	1992		2004		2016	
Party ID 7pt	.026	(.010)*	.032	(.014)*	.186	(.008)***
Constant	3.515	(.044)***	3.415	(.064)***	2.758	(.036)***
N		**2,159**		**1,032**		**3,605**
Adjusted R²		**.002**		**.004**		**.124**

*p < .05 **p < .01 *** p< .001

Note: Table reports unstandardized regression coefficients and their standard errors. Data from American National Election Studies.

Table 4: Opinion on Immigration: 1992, 2004, and 2016

	1992		20004		2016	
						(.010)*
Party ID 7pt	.014	(.012)	.038	(.017)*	.167	**
Controls						
Age	-.002	(.001)	.003	(.002)*	.009	(.001)***
Male	.035	(.046)	-.29	(.067)	-.075	(.039)
Black	-.204	(.073)**	-.003	(.103)	-.079	(.069)
Hispanic	-.058	(.084)	-.417	(.114)***	-.286	(.065)***
Other	-.086	(.159)	-.556	(.177)***	-.227	(.077)**
Education Level	-.073	(.017)***	-.153	(.026)***	-.090	(.015)***
Family Income	.046	(.023)*	.038	(.031)	-.030	(.019)
Constant	3.849	(.119)***	4.138	(.184)***	3.041	(.107)**
N		**1,807**		**793**		**2,861**
Adjusted R²		**.013**		**.090**		**.153**

*p < .05 **p < .01 *** p< .001

Note: Table reports unstandardized regression coefficients and their standard errors. Data from American National Election Studies.

Table 5: Opinion on Abortion without controls: 1980, 1996, and 2016

	1980		1996		2016	
Party ID 7pt	.020	(.014)*	-.077	(.013)***	-.173	(.008)***
Constant	2.743	(.056)***	3.174	(.053)***	3.607	(.033)***
N		1,545		1,674		4,192
Adjusted R²		.001		.022		.113

* p < .05 **p < .01 *** p< .001

Note: Table reports unstandardized regression coefficients and their standard errors. Data from American National Election Studies.

Table 6: Opinion on Abortion: 1980, 1996, and 2016

	1980		1996		2016	
Party ID 7pt	-0.012	(.015)	-.101	(.015)***	-.182	(.009)***
Controls						
Age	-.006	(.002)***	-.005 (.002)**		.000 (.001)	
Male	.012	(.058)	-.04 (.058)		.041 (.036)	
Black	-.129	(.095)	-.208 (.096)*		-.135 (.064)*	
Hispanic	-.005	(.141)	-.277 (.102)**		-.361	(.060)***
Other	.232	(.309)	-.452 (.19)*		-..065 (.069)	
Education Level	.132	(.021)***	.124	(.021)***	.112	(.014)***
Family Income	.098	(.028)***	.081 (.029)**		.085	(.018)***
Constant	2.358	(.147)***	2.786	(.155)***	2.894	(.100)***
N		1,295		1,377		3,333
Adjusted R²		.086		.079		.138

*p < .05 **p < .01 *** p< .001

Note: Table reports unstandardized regression coefficients and their standard errors. Data from American National Election Studies.

To explain the results further of the regression analysis, I use predictive estimates generated using CLARIFY to allow for a better visual representation of how much an individuals' party identification can affect their opinion on health insurance, abortion, and immigration, while controlling for the demographic variables (King, Tomz, and Wittenberg, 2002). Figures 23, 25 and 27 show the stance of strong party identifiers (1 and 7) and pure independents (4). Figures 24, 26, and 28 represent the stance of all party identifiers (1-3 and 5-7) and independents (4), as well as the mean response on the party identification scale. The mean response on the party identification scale is included to show the average person's opinion on the issues. Though it is extremely close to the independent response, it does vary slightly and provides insight to the ideological leanings of the average voter that also varies depending on the issue.

The predictive estimates reinforce the descriptive analysis. Health insurance was already a topic of contention in the 1970s and only becomes more polarized as we move into the present; Figures 23 and 24 illustrate this shift. In 1970, the estimated response for a strong Republican was 4.69, the estimated response for a strong Democrat was 3.56, and the estimated Independent response was 4.13. By 2016, strong party identifiers move substantially farther into their respective ideological camps, and Independents remain relatively unchanged at 4.1. Strong Republicans' estimated placement is 5.35, whereas strong Democrats' estimated placement is 2.85. There is a similar, but smaller, amount of growth in weaker identifiers. Democrats (2) move from 3.75 to 3.26, weak Democrats (3) from 3.94 to 3.68, weak Republicans (5) from 4.31 to 3.52, and Republicans (6) from 4.5 to 4.94. Once again, the opinions on health insurance are highly affected by the changes in the law implemented be Democratic presidents (Johnson's Great Society, Clinton's health care reform, and Obama's Affordable Care Act). Despite this, strong Republicans desire to have insurance be a largely privately funded entity is greater than ever and strong Democrats desire for the opposite—largely government funded— is almost as low as it was in 1992 in the midst of Clinton's campaign health care reform promises. The initiation of these programs by Democrat presidents could be what caused the strong Republicans to have a higher percentage of change than strong Democrats (30% vs 13%).

Figure 23

PREDICTIVE PROBABILITY: HEALTH INSURANCE.
STRONG PARTY IDENTIFIERS V. INDEPENDENTS

Figure 24

PREDICTIVE PROBABILITY: HEALTH INSRUANCE.
PARTY IDENTIFIERS V. INDEPENDENTS
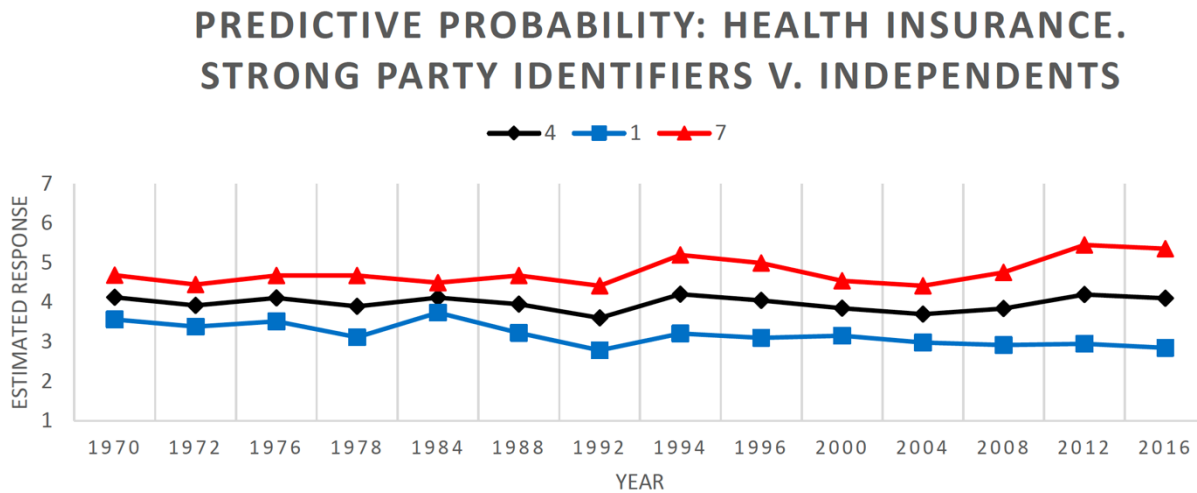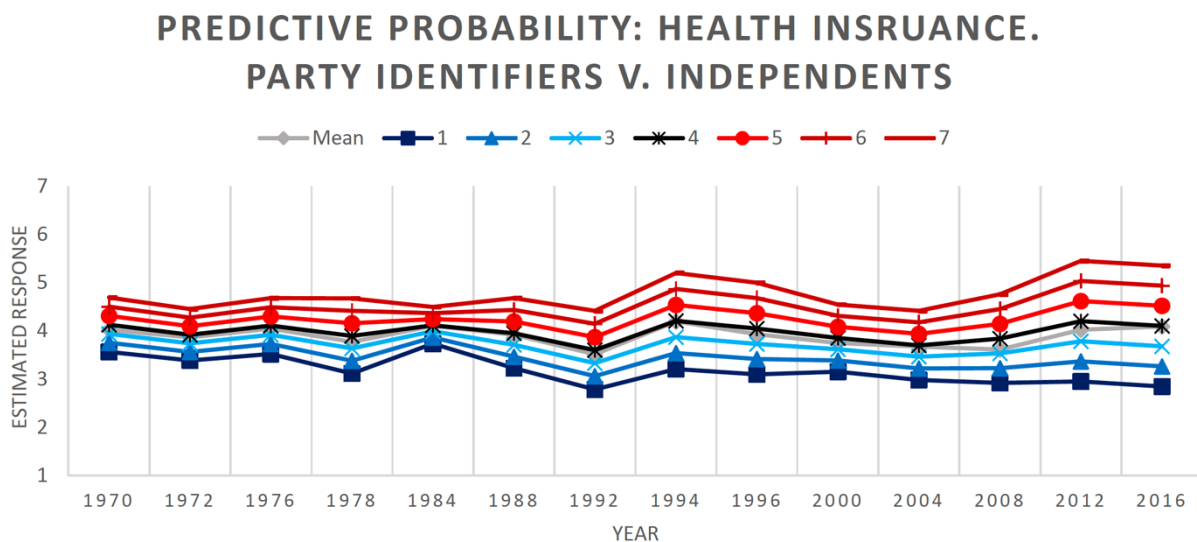
Abortion and immigration have moved away from topics of general agreement to highly polarizing issues. Both issues have nearly identical responses for over a decade before the opinions indicate any level of polarization. When the opinions do finally split, they do so intensely; this further indicates that public opinion on key issues responds to certain triggers.

With the exception of 1984, there is almost no movement by any party identifiers on the topic of abortion until 1992; as illustrated by Figures 25 and 26, a gap developed and grows through the present. This 1992 split can most likely be attributed to the Supreme Court cases regarding abortion (namely *Planned Parenthood v. Casey* 1991 when the trimester approach was replaced with the undue burden standard). Though party identifiers remained relatively stagnant around the ideological center for a decade, they are much more ideologically sorted today. Strong Democrats move from 2.84 in 1980 to 3.49 in 2016 and strong Republicans move from 2.76 to 2.39 (as mentioned above, the abortion scale is "backwards," and the most

conservative response is represented by 1 while the most liberal response by 4). True independents remained relatively constant throughout, but do become slightly more liberal in their responses moving from 2.8 to 2.95. Weaker party identifiers fall in line and move according towards their respective ideological camps as well: Democrats (2) moved from 2.83 to 3.3, weak Democrats from 2.81 to 3.12, weak Republicans (5) from 2.79 to 2.76, and Republicans (6) from 2.78 to 2.57. Contrarily to the topic of health insurance, strong Democrats have changed their opinions much more than strong Republicans (22% vs 13%); however, as mentioned above, Republicans are more likely to support individual liberty and this could affect their feelings regarding abortion.

Figure 25
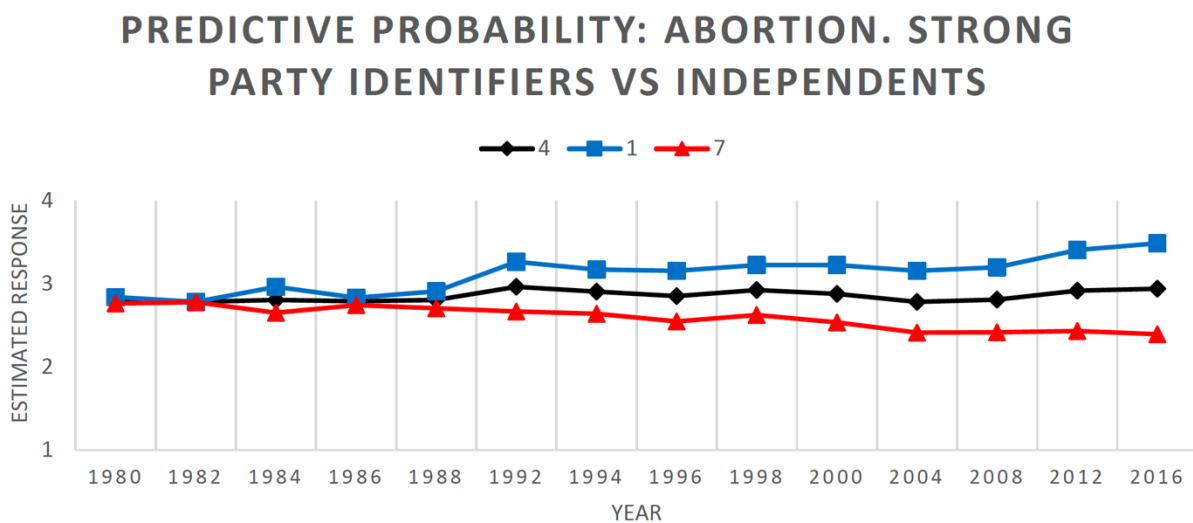
Figure 26
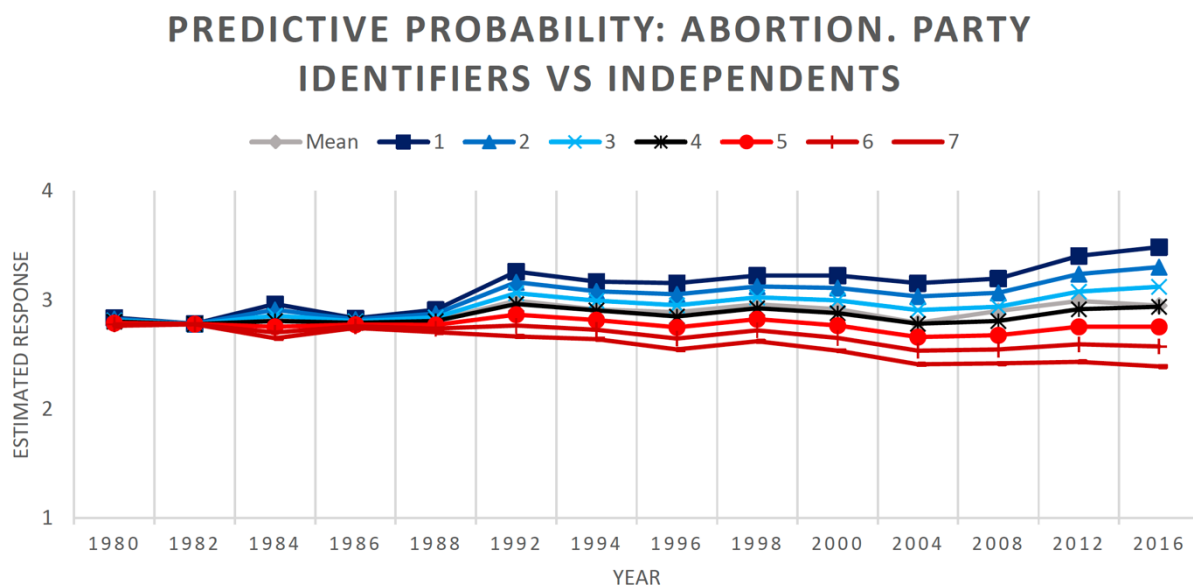
Interestingly, opinions on immigration remain almost exactly identical even for strong party identifiers until 2012. Then, the scale is, in effect, "blown wide open" and the gap in opinions only increases in 2016. This could be the result of the 2016 election, which saw the promises of Donald Trump to build/reinforce physical borders and the unrivaled hatred and adoration of those statements by some Democrats and some Republicans respectively. As figure 27 and 28 represent, strong Democrats could be expected to respond 3.65 in 1990 and 3.07 in 2016 while strong Republicans expected responses to move from 3.73 in 1990 to 4.07 in 2016. Once again, Independents experience low movement and their small shift is towards the ideological left moving from 3.69 to 3.57. Democrats (2) move from 3.66 to 3.24, weak Democrats (3) from 3.68 to3.41, weak Republicans (5) from 3.7 to 3.74, and Republicans (6) from 3.72 to 3.91. The ANES immigration question is asked on a 5-point scale and a gap of 1 (3.07 and 4.07) should be unheard of in a society devoid of mass, public polarization, as some would claim we live in. Even weak party identifiers have a gap of 0.33 (3.41 and 3.74).

What is highly intriguing and also concerning about this gap in opinions on immigration is its development and growth in just 8 years. Also intriguing is how the Democrats expected position on immigration never falls below the moderate response (3 on this 5-point scale); so, while Republicans became much more conservative on the topic of immigration, Democrats do not become much more liberal. This could be because both parties started closer to the conservative position in 1990. However, Democrats had a greater percentage of change (15.89% vs 9.11%), so their opinions could eventually move firmly into the "liberal camp." This trend should be followed closely in the coming years.

Figure 27

PREDICTIVE PROBABILITY: IMMIGRATION. STRONG PARTY IDENTIFIERS V. INDEPENDENTS

Figure 28

PREDICTIVE PROBAILITY: IMMIGRATION. PARTY IDENTIFIERS VS INDEPENDENTS
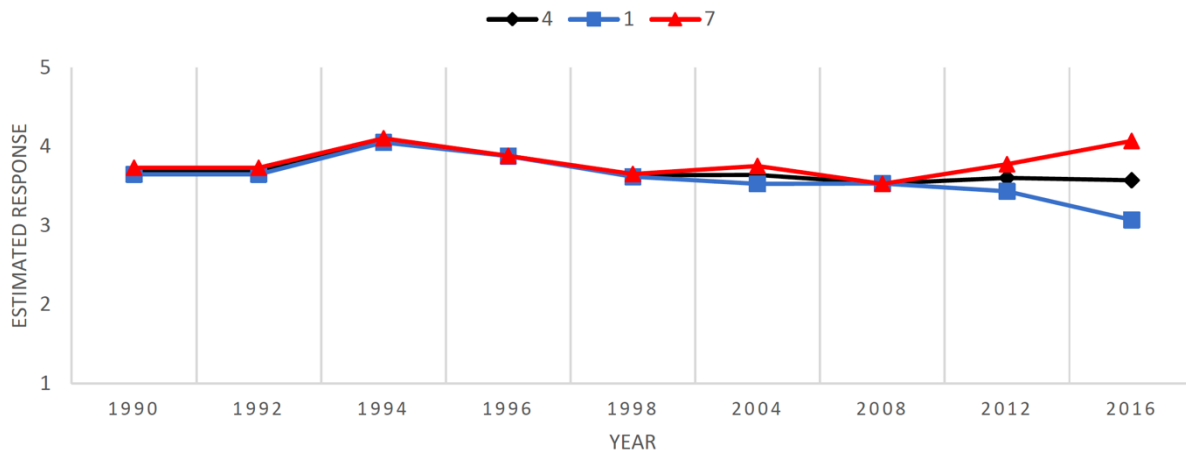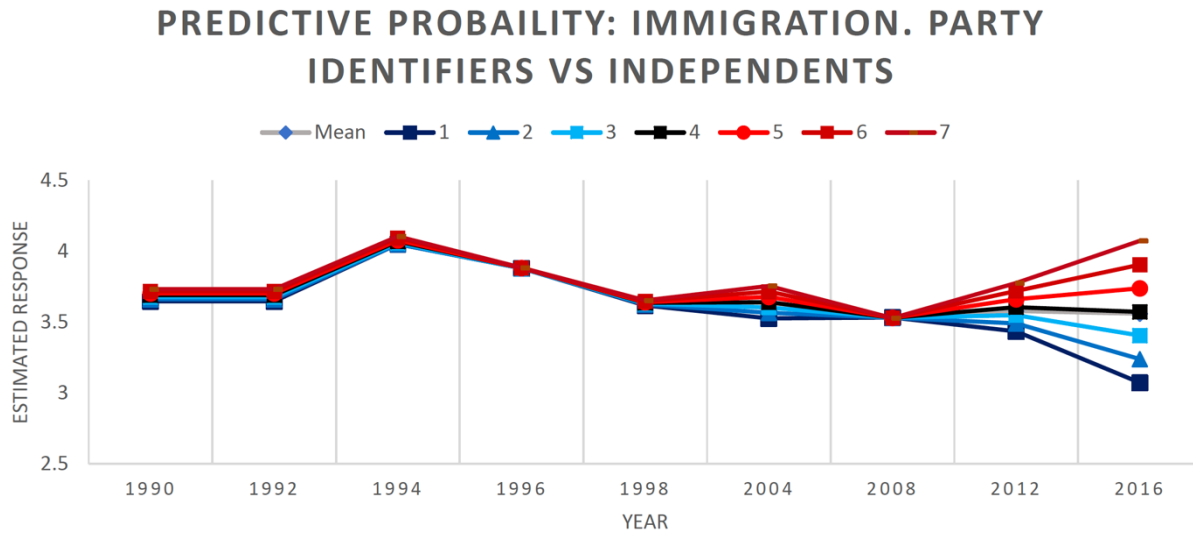
Conclusion

This research provides evidence that the American public is, indeed, polarized on three separate measures of polarization—ideological self-identification, feelings towards the opposite party and key figures within that party, and stances on salient policy issues—using both descriptive and multivariate analysis. A higher proportion of party identifiers are more likely to identify at the tail ends of the ideological spectrum, the scales showing policy preference, and the feeling thermometers towards presidents and the opposite party. The mean response for all three scales mentioned has also moved farther and farther towards the extremes and the gap between Republicans and Democrats has grown, or in some cases developed and grown, and grown at a higher rate in the last 10 years. The multivariate analysis provides further evidence for the separation between party identifiers and indicates that demographic factors do not affect individuals' policy preferences as much as their party identification. In short, the American public has become increasingly polarized along party lines with both strong and weak party identifiers having sizable gaps in opinions when compared to their opposite party counterparts.

Moving forward, more examination of causes of the polarization seems in order. Similarly, the trend of Republicans becoming more conservative on the topic of immigration, but Democrats hovering around the moderate position should be followed as more data become available; this should especially be the case if Democrats' opinions continue to become more liberal at a faster rate than Republicans' opinions become more conservative. Examination of why Republicans experience a greater shift on some issues and Democrats on others would also contribute to the conversation of polarization. In the meantime, it is safe to say that the divisions found between Democrats and Republicans indicate that the United States is, indeed, a polarized nation.

Appendix

Ideology Cross Tabulations for each year ANES data is available from 1948-2016.

IDEOLOGY BASED ON PARTY ID 1972

■ Democrats %   ▤ Republicans %

Ideology Response	Democrats %	Republicans %
1	3.1	0.7
2	16.2	2.9
3	16.8	9.6
4	36.3	33.4
5	14.2	28.7
6	9.8	21.8
7	0.6	2.9

PERCENTAGE OF RESPONDENTS / IDEOLOLGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1974

■ Democrats %   ▤ Republicans %

Ideology Response	Democrats %	Republicans %
1	3	0.2
2	19.4	4
3	14.3	6.7
4	40	32.7
5	12.9	26.7
6	8.9	27
7	1.6	2.7

PERCENTAGE OF RESPONDENTS / IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1976

■ Democrats %   ▤ Republicans %

Ideology Response	Democrats %	Republicans %
1	3.2	0.3
2	16.1	3.1
3	16.7	5.5
4	39.6	29.4
5	13.2	27.5
6	9.1	28.6
7	2.1	5.5

PERCENTAGE OF RESPONDENTS / IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1978

■ Democrats % ▣ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats %	Republicans %
1	3.2	0.4
2	15.3	3.6
3	18.6	6.2
4	39.8	28.4
5	13.4	27.5
6	7.5	29
7	2.2	5

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1980

■ Democrats % ▣ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats %	Republicans %
1	4.3	0.3
2	15.3	1.6
3	18.3	8
4	34.2	23.1
5	14.4	29.2
6	10.9	33.4
7	2.7	4.5

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1982

■ Democrats % ▣ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats %	Republicans %
1	2.9	0.6
2	14.8	1.8
3	16.5	4.9
4	40.3	25.7
5	13.4	29.1
6	9.8	33
7	2.3	4.9

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1984

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats %	Republicans %
1	3.8	0.4
2	17.1	4.1
3	19.6	6.9
4	37.3	25.2
5	12.7	28.9
6	8.5	30.9
7	1.1	3.5

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1986

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats %	Republicans %
1	2	0.9
2	13.1	1.5
3	20.6	8.5
4	39.7	30.2
5	13.7	27.5
6	9.6	28.4
7	1.3	2.9

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1988

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats %	Republicans %
1	4.1	0.8
2	13.6	2.5
3	20.4	6.6
4	34.5	24.8
5	15.4	28.4
6	9.6	31
7	2.5	5.9

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1990

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats %	Republicans %
1	3.3	0.4
2	16.8	4.6
3	16.6	7.1
4	37.4	33.1
5	15.8	27.6
6	7.4	23.6
7	2.7	3.7

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1992

■ Democrats % ▤ Republicans %

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5	6	7
Democrats	5.5	20.4	18.3	32.4	13.3	7.8	2.3
Republicans	0	2.2	7.2	26.7	28.6	30.4	4.7

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1994

■ Democrats % ▤ Republicans %

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5	6	7
Democrats	3.7	15.9	17.8	40.7	11.4	8.7	1.8
Republicans	0.3	1.7	3.5	25.3	25.3	37.9	6.1

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1996

■ Democrats % ▤ Republicans %

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5	6	7
Democrats	3.3	17.5	23.2	34.6	13.5	6.7	1
Republicans	0	1.6	3.7	21.2	27.4	40.1	6

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 1998

■ Democrats % ▤ Republicans %

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5	6	7
Democrats	5.2	15	19.4	40.2	11.3	6.8	2.1
Republicans	0.5	2.5	4.9	25.3	32.4	29.7	4.7

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 2000

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats	Republicans
1	4.7	0.4
2	20.1	2.5
3	19.47	5.3
4	36.1	23.9
5	8.8	26.8
6	10.7	33.8
7	0.3	7.4

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 2002

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats	Republicans
1	3.7	0.2
2	26.1	3.8
3	18.3	3.6
4	33.3	20.1
5	7.9	22.2
6	9	41.3
7	1.8	8.8

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 2004

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats	Republicans
1	5.9	0.2
2	22.6	2.2
3	18.5	4.1
4	37.7	22.1
5	8	24.6
6	6.6	39.4
7	0.7	7.3

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 2008

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Ideology	Democrats	Republicans
1	6.9	0.5
2	23.3	1.8
3	16.3	4.2
4	34.1	20.8
5	10	22.9
6	6.9	41.5
7	2.5	8.3

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 2012

■ Democrats % ▤ Republicans %

PERCENTAGE OF RESPONDENTS

	Democrats	Republicans
1	6.3	0.5
2	21.8	1.4
3	19.6	3
4	37.7	19.9
5	8.4	24.2
6	4.7	42.7
7	1.3	8.4

IDEOLOGY RESPONSE

IDEOLOGY BASED ON PARTY ID 2016

■ Democrats % ▤ Republicans %

PERCENTAGE OF RESPONDENTS

	Democrats	Republicans
1	7.4	0.1
2	31.1	1.4
3	23.3	3.1
4	29.5	19.3
5	5.5	23.3
6	2.4	44.7
7	0.7	7.9

IDEOLOGY RESPONSE

Mean responses for Republicans and Democrats on Ideology for each year data is available in the ANES Time Series 1948-2016.

Year	Democrats	Republicans	Year	Democrats	Republicans
1972	3.7719	4.637	**1994**	3.6621	5.1157
1974	3.7347	4.7351	**1996**	3.5737	5.1873
1976	3.7919	4.8847	**1998**	3.4965	4.9459
1978	3.8252	4.9761	**2000**	3.4189	5.0528
1980	3.8252	4.9761	**2002**	3.3994	5.194
1982	3.8497	4.9939	**2004**	3.6392	5.1606
1984	3.6787	4.849	**2008**	3.4754	5.2148
1986	3.8386	4.787	**2012**	3.3994	5.2742

1988	3.8213	4.9414	2016	3.0458	5.3014
1990	3.786	4.6837			
1992	3.6016	4.9196			

Condensed Feeling Thermometer Towards Presidents Cross Tabulations for each year data is available from the ANES Time Series 1948-2016.

Democratic Presidents

FEELING THERMOMETER TOWARDS PRESIDENT JOHNSON 1968

■ Democrats ▤ Republicans

CONDENSED FEELING THERMOMETER RESPONSE	Democrats	Republicans
1	6.7	16.5
2	31	11.5
3	18.6	33.2
4	31.7	29.6
5	40	9.3

PERCENTAGE OF RESPONDENTS

FEELING THERMOMETER TOWARDS PRESIDENT CARTER 1970

■ Democrats ▤ Republicans

CONDENSED FEELING THERMOMETER RESPONSE	Democrats	Republicans
1	2.1	12.6
2	2.1	9.5
3	11.2	23.3
4	46.1	40.9
5	38.6	13.7

PERCENTAGE OF RESPONDENTS

FEELING THERMOMETER TOWARDS PRESIDENT CARTER 1980

■ Democrats ▤ Republicans

CONDENSED FEELING THERMOMETER RESPONSE	Democrats	Republicans
1	4.3	28
2	3.4	13.9
3	13.8	21.9
4	42.5	29.6
5	36.1	6.6

PERCENTAGE OF RESPONDENTS

FEELING THERMOMETER TOWARDS PRESIDENT CLINTON 1994

PERCENTAGE OF RESPONDENTS

■ Democrats ◩ Republicans

Condensed Feeling Thermometer Response	Democrats	Republicans
1	2.4	31.8
2	2	17.6
3	9.6	22.2
4	46.7	22.8
5	39.3	5.6

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS PRESIDENT CLINTON 1996

PERCENTAGE OF RESPONDENTS

■ Democrats ◩ Republicans

Condensed Feeling Thermometer Response	Democrats	Republicans
1	2.2	35.7
2	0.8	15.5
3	4.4	18.7
4	39.8	23.3
5	52.8	6.9

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS PRESIDENT CLINTON 1998

PERCENTAGE OF RESPONDENTS

■ Democrats ◩ Republicans

Condensed Feeling Thermometer Response	Democrats	Republicans
1	3.4	34.3
2	2	11.8
3	11.8	20.3
4	36.8	22.5
5	46.1	11.1

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS PRESIDENT CLINTON 2000

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5
Democrats	2.3	2.4	14.3	35.4	45.7
Republicans	35.3	20.1	21	17.3	6.4

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS PRESIDENT OBAMA 2012

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5
Democrats	2.3	1.3	5.1	23.3	66
Republicans	52.5	15.6	16	11.5	4.4

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS PRESIDENT OBAMA 2016

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5
Democrats	4	1.6	5.3	22.8	66.3
Republicans	57.8	12.8	13.6	10.9	4.9

CONDENSED FEELING THERMOMETER RESPONSE

Republican Presidents

FEELING THERMOMETER TOWARDS PRESIDENT NIXON 1970

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

Response	1	2	3	4	5
Democrats	20.7	9.5	29.6	26.5	13.6
Republicans	1	1.2	8.8	26.8	62.1

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS PRESIDENT NIXON 1972

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

Response	1	2	3	4	5
Democrats	14.8	6.7	23.4	31.7	23.5
Republicans	1.3	0.6	5.2	23.2	69.7

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS PRESIDENT FORD 1974

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

Response	1	2	3	4	5
Democrats	8.1	6.6	28	40.3	17
Republicans	2.1	0.8	11.7	41.7	43.7

CONDENSED FEELING THERMOMETER

FEELING THERMOMETER TOWARDS
PRESIDENT FORD 1976

■ Democrats ■ Republicans

PERCENTAGE OF RESPONDENTS

- 1: 12.47 | 1.4
- 2: 9.1 | 1.1
- 3: 29.4 | 8.3
- 4: 36.5 | 43.3
- 5: 12.6 | 45.9

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS
PRESIDENT REAGAN 1982

■ Democrats ■ Republicans

PERCENTAGE OF RESPONDENTS

- 1: 27.7 | 1.3
- 2: 11.5 | 0.4
- 3: 24.9 | 6.7
- 4: 27.3 | 35.3
- 5: 8.5 | 56.2

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS
PRESIDENT REAGAN 1984

■ Democrats ■ Republicans

PERCENTAGE OF RESPONDENTS

- 1: 24.7 | 0.8
- 2: 10.5 | 1
- 3: 25.5 | 5.6
- 4: 29.1 | 26.4
- 5: 10.2 | 66.2

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS
PRESIDENT REAGAN 1986

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

Response	Democrats	Republicans
1	16.7	1
2	9.2	1.8
3	25.2	5.9
4	32.9	29.8
5	16.1	61.5

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS
PRESIDENT REAGAN 1988

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

Response	Democrats	Republicans
1	27	1.9
2	9.8	1.5
3	28.5	9.6
4	18.9	22.4
5	15.8	64.6

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS
PRESIDENT BUSH 1990

■ Democrats ▤ Republicans

PERCENTAGE OF RESPONDENTS

Response	Democrats	Republicans
1	11.9	1.7
2	8.6	1.1
3	21.6	8.6
4	40.3	39.5
5	17.5	49.1

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS PRESIDENT BUSH 1992

■ Democrats ▤ Republicans

Response	Democrats	Republicans
1	24.6	2.7
2	15.1	2.1
3	32.5	11.6
4	22.5	46.8
5	5.3	36.9

PERCENTAGE OF RESPONDENTS

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS PRESIDENT GEORGE W. BUSH 2002

■ Democrats ▤ Republicans

Response	Democrats	Republicans
1	13.3	0.4
2	16.4	1.6
3	30.5	5.1
4	24.8	22
5	15	70.9

PERCENTAGE OF RESPONDENTS

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS PRESDIENT GEORGE W. BUSH 2004

■ Democrats ▤ Republicans

Response	Democrats	Republicans
1	40.2	2.5
2	11.9	2.1
3	23.6	3.5
4	18.1	22.8
5	3.6	39.1

PERCENTAGE OF RESPONDENTS

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS
PRESIDENT GEORGE W. BUSH 2008

■ Democrats   ▤ Republicans

PERCENTAGE OF RESPONDENTS

Response	1	2	3	4	5
Democrats	51.8	12.4	21.8	11.3	2.6
Republicans	9.2	7.2	14.2	41.7	27.7

CONDENSED FEELING THERMOMETER RESPONSE

FEELING THERMOMETER TOWARDS
CANDIDATE TRUMP 2016

■ Democrats   ▤ Republicans

PERCENTAGE OF RESPONDENTS

Response	1	2	3	4	5
Democrats	76.5	6.9	8	5.6	3.1
Republicans	11.6	5.9	12	35.6	34.9

CONDENSED FEELING THERMOMETER RESPONSE

Mean Condensed Feeling Thermometer responses for Republicans and Democrats on presidents for each year data is available in the ANES Time Series 1948-2016.

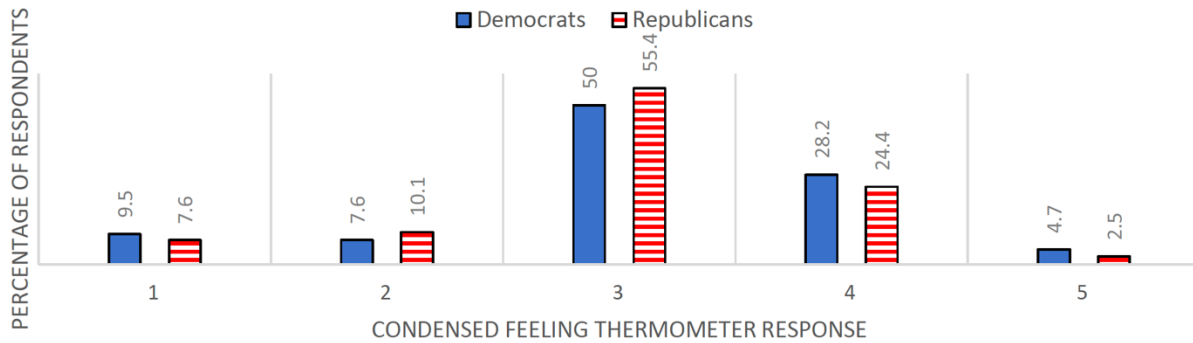| Year (President)	Democrat	Republican	Year (President)	Democrat	Republican
1968 (Johnson)	3.9528	3.0361	**1992 (Bush Sr.)**	2.6883	4.1308
1970 (Nixon)	3.0264	4.4759	**1994 (Clinton)**	4.1837	2.597
1972 (Nixon)	3.4255	4.5938	**1996 (Clinton)**	4.4004	2.5023
1974 (Ford)	3.5163	4.2423	**1998 (Clinton)**	4.2021	2.6445
1976 (Ford)	3.2769	4.3128	**2000 (Clinton)**	4.1991	2.3929
1978 (Carter)	4.1689	3.3343	**2002 (W. Bush)**	3.1184	5.6115
1980 (Carter)	4.0288	2.7273	**2004 (W. Bush)**	2.3847	4.5394
1982 (Reagan)	2.7743	4.4449	**2008 (W. Bush)**	2.0059	3.7152
1984 (Regan)	2.8956	4.5616	**2012 (Obama)**	4.5132	1.9965
1986 (Reagan)	3.2254	4.4883	**2016 (Obama)**	4.4591	1.9223
1988 (Reagan)	2.8677	4.4623	**2016 (candidate Trump)**	1.5203	3.7612
1990 (Bush Sr.)	3.4301	4.3319			

Full Feeling Thermometer for Republicans and Democrats on presidents for each year data is available in the ANES Time Series 1948-2016.
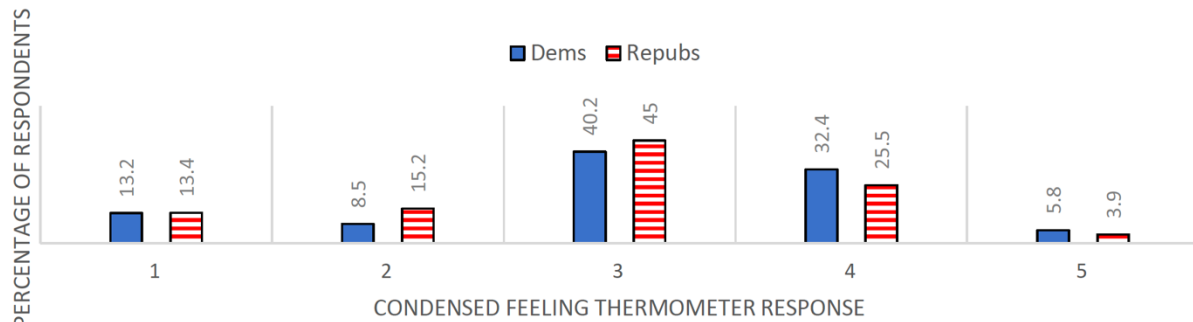
Year (President)	Democrat	Republican	Year (President)	Democrat	Republican
1968 (Johnson)	66.7	46.2054	**1992 (Bush Sr.)**	69.5524	52.7473
1970 (Nixon)	46.7789	79.6268	**1994 (Clinton)**	71.3685	36.7530
1972 (Nixon)	55.4077	81.0544	**1996 (Clinton)**	73.1316	36.4089
1974 (Ford)	56.8062	72.2957	**1998 (Clinton)**	75.2343	39.4818
1976 (Ford)	51.3864	73.9306	**2000 (Clinton)**	72.0238	33.9335
1978 (Carter)	70.5941	52.636	**2002 (W. Bush)**	49.5107	81.6188
1980 (Carter)	67.96	40.528	**2004 (W. Bush)**	33.5169	80.5456
1982 (Reagan)	41.2428	76.9528	**2008 (W. Bush)**	25.5772	31.1853
1984 (Regan)	44.0436	80.1541	**2012 (Obama)**	80.1731	25.7086
1986 (Reagan)	50.5568	78.9582	**2016 (Obama)**	79.3679	23.8068
1988 (Reagan)	46.5366	78.5596	**2016 (candidate Trump)**	14.0609	62.5311
1990 (Bush Sr.)	55.0852	74.4191			

Condensed Feeling Thermometer Towards the Opposite Political Party Cross Tabulations for each year data is available from the ANES Time Series 1948-2016.

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1978

■ Democrats   ▤ Republicans

PERCENTAGE OF RESPONDENTS

Response	Democrats	Republicans
1	9.5	7.6
2	7.6	10.1
3	50	55.4
4	28.2	24.4
5	4.7	2.5

CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1980

■ Dems   ▤ Repubs

PERCENTAGE OF RESPONDENTS

Response	Dems	Repubs
1	13.2	13.4
2	8.5	15.2
3	40.2	45
4	32.4	25.5
5	5.8	3.9

CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1982

■ Dems   ▤ Repubs

PERCENTAGE OF RESPONDENTS

Response	Dems	Repubs
1	16.8	7.9
2	12.9	14.4
3	39.1	50.8
4	27.1	24.4
5	4.1	2.6

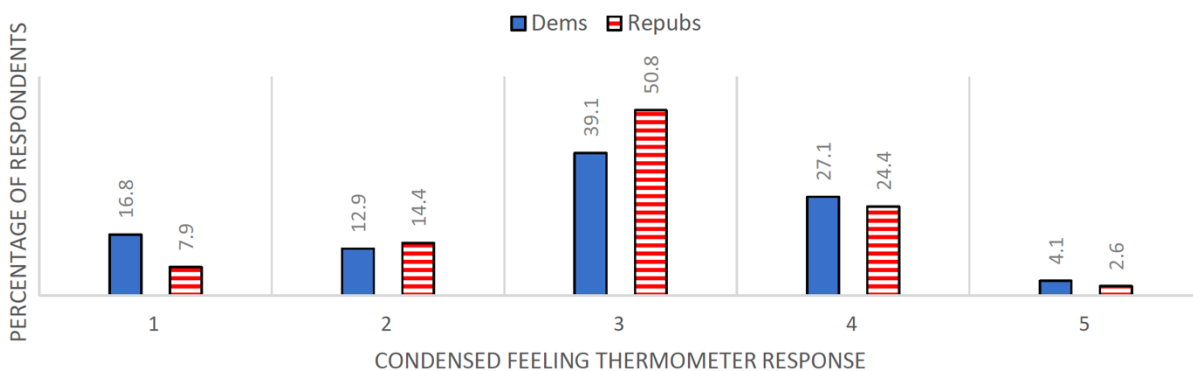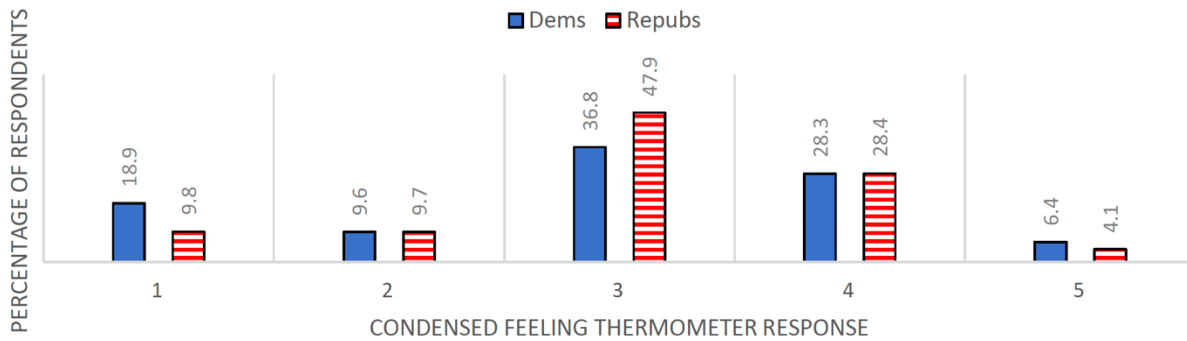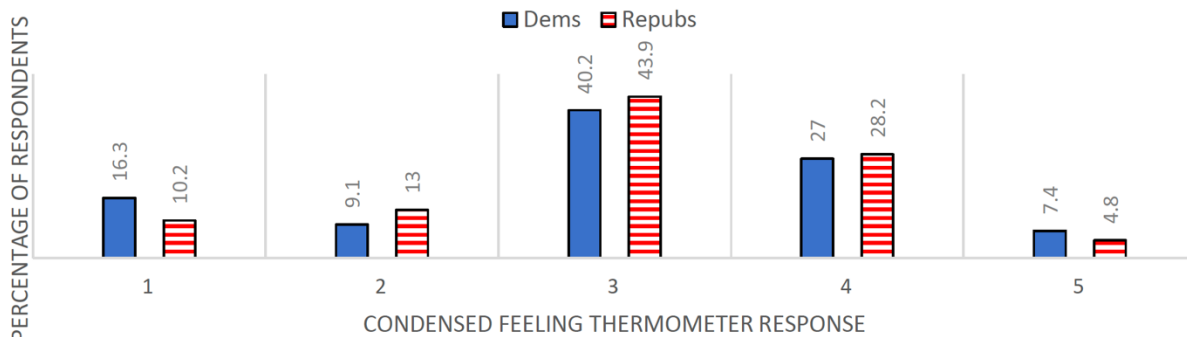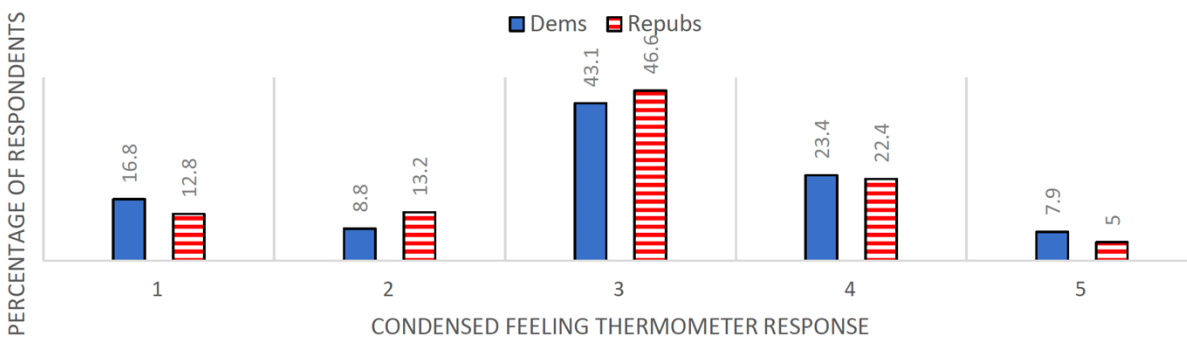CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1984
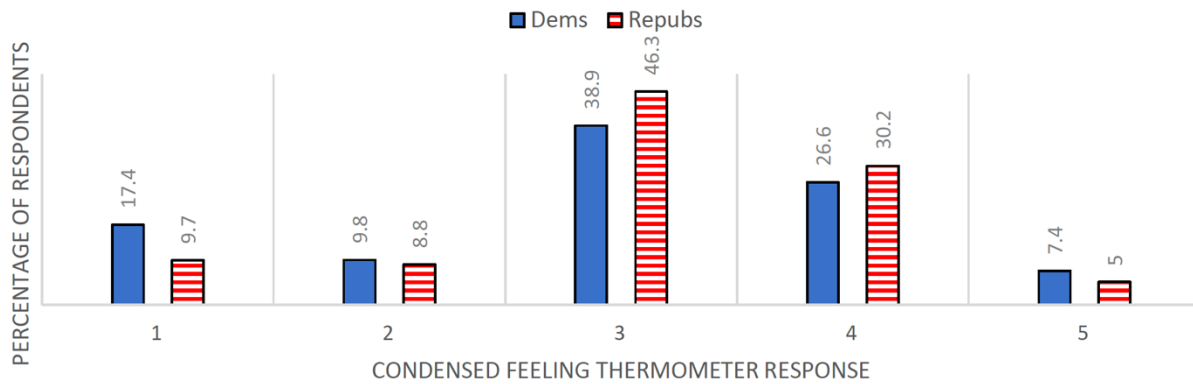

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1986

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1988

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1990

■ Dems ▤ Repubs

PERCENTAGE OF RESPONDENTS

Response	Dems	Repubs
1	17.4	9.7
2	9.8	8.8
3	38.9	46.3
4	26.6	30.2
5	7.4	5

CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1992

■ Dems ▤ Repubs

PERCENTAGE OF RESPONDENTS

Response	Dems	Repubs
1	19.1	14.3
2	14.9	15.3
3	41.6	43.4
4	21	23.5
5	3.5	3.5

CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1994

■ Dems ▤ Repubs

PERCENTAGE OF RESPONDENTS

Response	Dems	Repubs
1	12.8	20.2
2	12.4	21.7
3	43.4	40.8
4	26.4	16.5
5	5.1	0.8

CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1996

■ Dems ■ Repubs

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5
Dems	19	13.6	41.7	22.8	2.8
Repubs	19.8	16.7	37.1	23.6	2.8

CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 1998

■ Dems ■ Repubs

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5
Dems	22.2	17.5	39.9	16.1	4.2
Repubs	13.1	17.2	41.9	24.1	3.7

CONDENSED FEELING THERMOMETER REESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 2000

■ Dems ■ Repubs

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5
Dems	16.7	15.5	43.5	20.4	3.9
Repubs	15.8	20.5	44.1	16.9	2.7

CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 2004

■ Dems ■ Repubs

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5
Dems	27.1	14.8	37.2	17.6	3.3
Repubs	18.3	14.5	43.5	21.2	2.5

CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 2008

■ Dems ■ Repubs

PERCENTAGE OF RESPONDENTS

	1	2	3	4	5
Dems	34	13.7	37.5	12.4	2.4
Repubs	21.8	16.6	40.6	18.5	2.5

CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER TOWARDS OPPOSITE PARTY 2012

■ Dems ■ Repubs

PERCENTAGE OF RESPONDENTS

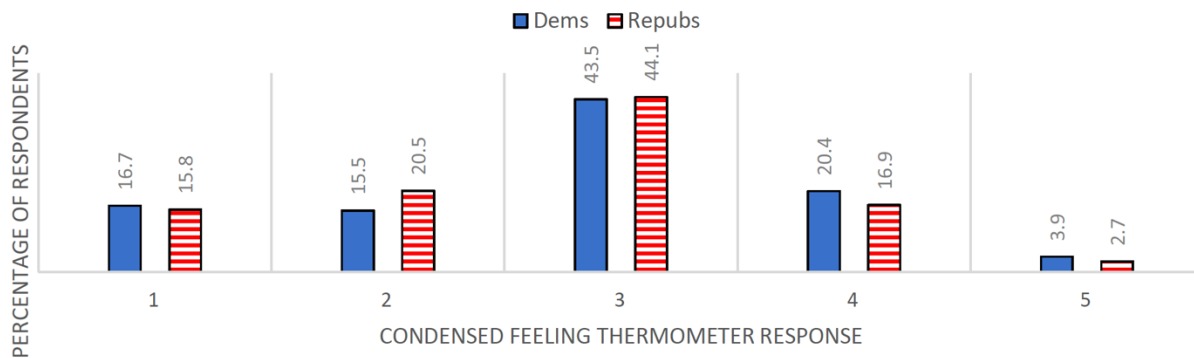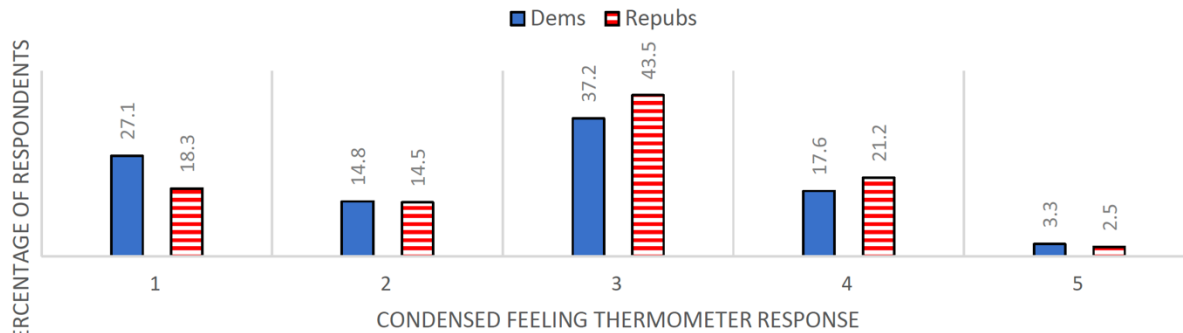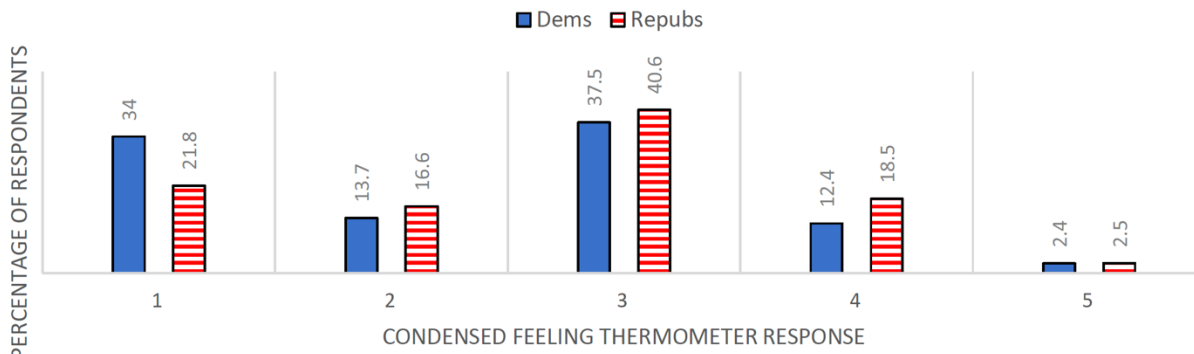|	1	2	3	4	5
Dems	46	16.4	28.6	8	1
Repubs	39.8	19.2	31.1	9	1

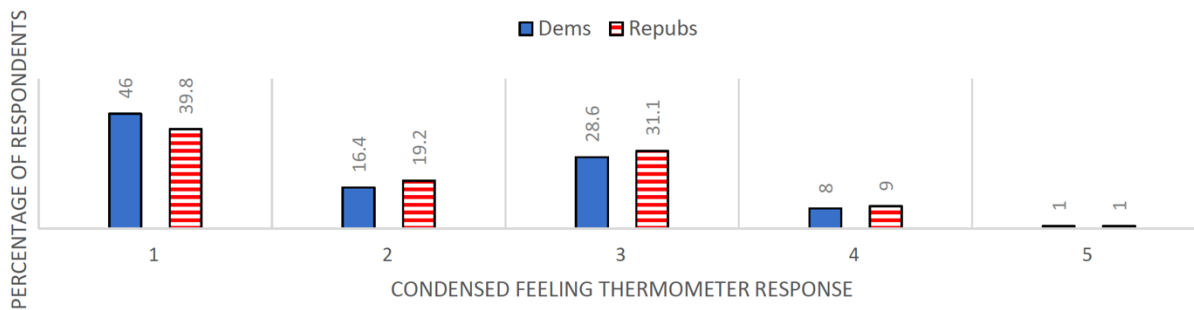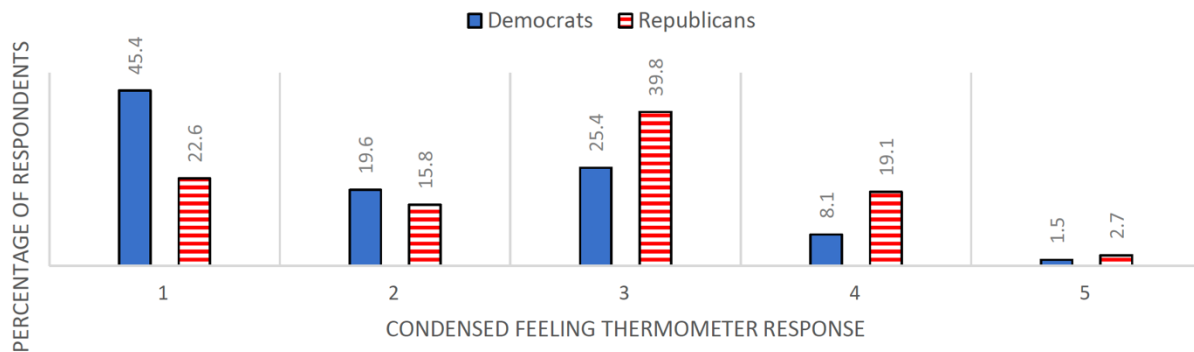CONDENSED FEELING THERMOMETER RESPONSE

CONDENSED FEELING THERMOMETER
TOWARDS OPPOSITE PARTY 2016

Mean Condensed Feeling Thermometer responses for the opposite party for each year data is available in the ANES Time Series 1948-2016.

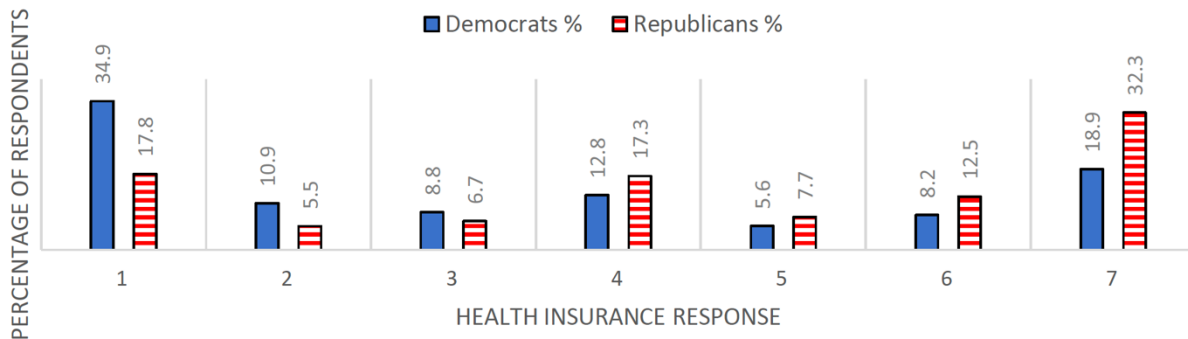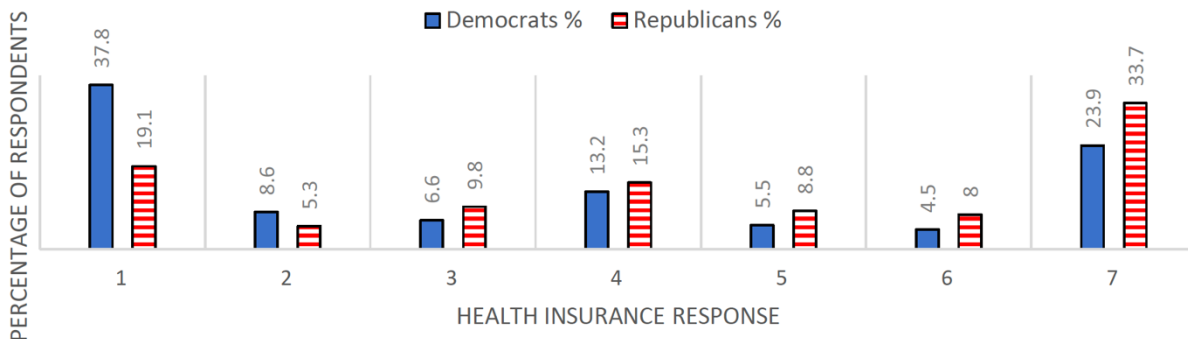| Year	Republican (feelings towards Democrats	Democrats (feelings towards Republicans)	Year	Republican (feelings towards Democrats)	Democrats (feelings towards Republicans)
1978	3.3514	3.0755	**1994**	2.7304	2.7482
1980	3.0363	3.2209	**1996**	2.9364	2.5664
1982	3.3226	2.7734	**1998**	3.1468	2.5082
1984	3.3014	2.9747	**2000**	2.9348	2.6932
1986	3.3606	3.0453	**2004**	2.9286	2.2605
1988	3.222	3.1166	**2008**	3.0391	2.195
1990	3.333	2.9568	**2012**	2.4186	1.9025
1992	3.0917	2.6131	**2016**	1.9158	1.8648

Mean Full Feeling Thermometer responses for the opposite party for each year data is available in the ANES Time Series 1948-2016.

Year	Republican (feelings towards Democrats	Democrats (feelings towards Republicans)	Year	Republican (feelings towards Democrats)	Democrats (feelings towards Republicans)
1978	47.4094	48.3223	**1994**	37.6756	45.5881
1980	44.4066	47.9749	**1996**	40.2193	41.3068
1982	45.4501	43.5878	**1998**	43.5484	37.9907
1984	47.3845	44.6718	**2000**	40.3780	41.8495
1986	46.8984	45.6854	**2004**	40.8445	37.05
1988	45.3719	45.6616	**2008**	39.14	33.3776
1990	48.5448	45.4366	**2012**	28.7856	26.3712
1992	43.0952	40.7788	**2016**	24.9136	26.9627

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 1970

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	34.9	17.8
2	10.9	5.5
3	8.8	6.7
4	12.8	17.3
5	5.6	7.7
6	8.2	12.5
7	18.9	32.3

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 1972

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	37.8	19.1
2	8.6	5.3
3	6.6	9.8
4	13.2	15.3
5	5.5	8.8
6	4.5	8
7	23.9	33.7

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 1976

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	34.5	15.8
2	10.1	7.5
3	8.4	4.8
4	12.4	13.3
5	7.6	10.9
6	6.8	16
7	20.1	31.7

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 1978

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	36.3	14.4
2	9.7	7.6
3	8.3	7.3
4	12.2	13.7
5	8.1	10.8
6	8.5	14.6
7	16.8	31.5

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 1984

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	21.9	10.3
2	9.8	9.7
3	13.3	8.2
4	20.5	21.4
5	17	15.8
6	9.8	19.6
7	7.8	15

HEALTH INSURANCE RESONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 1988

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	24.8	12.2
2	13.9	7.4
3	13.6	10
4	20.8	17
5	11.2	18.2
6	7.1	16
7	8.6	19.2

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 1992

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	30.6	13.7
2	19.2	8.1
3	14.6	12
4	18.4	21.7
5	7.8	17.8
6	4.5	14.4
7	4.9	12.3

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 1994

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	25.1	7.7
2	12.5	3.6
3	15.6	9.2
4	21.3	19.6
5	9.9	16.5
6	7.6	18.6
7	7.7	24.9

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 1996

■ Democrats %   ▤ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	19	6.5
2	15.6	6.2
3	16.7	8.6
4	22.5	18.3
5	13.5	19.3
6	7.3	22.5
7	5.3	18.6

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 2000

Democrats % ■ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	21.3	7
2	13.3	7.6
3	19.8	13.2
4	22.1	18.5
5	10.2	21.3
6	6	16.4
7	7.3	16.7

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 2004

Democrats % ■ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	26.7	11.4
2	16.6	7.7
3	17	9.2
4	19.6	19.3
5	9.3	21.3
6	6	18.2
7	4.9	12.7

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 2008

Democrats % ■ Republicans %

PERCENTAGE OF RESPONDENTS

Response	Democrats %	Republicans %
1	32.3	9.5
2	16	8.2
3	12.9	11.6
4	19.2	15.3
5	8.1	19.7
6	5	17.7
7	6.6	18

HEALTH INSURANCE RESPONSE

HEALTH INSURANCE OPINIONS BASED ON PARTY ID 2012

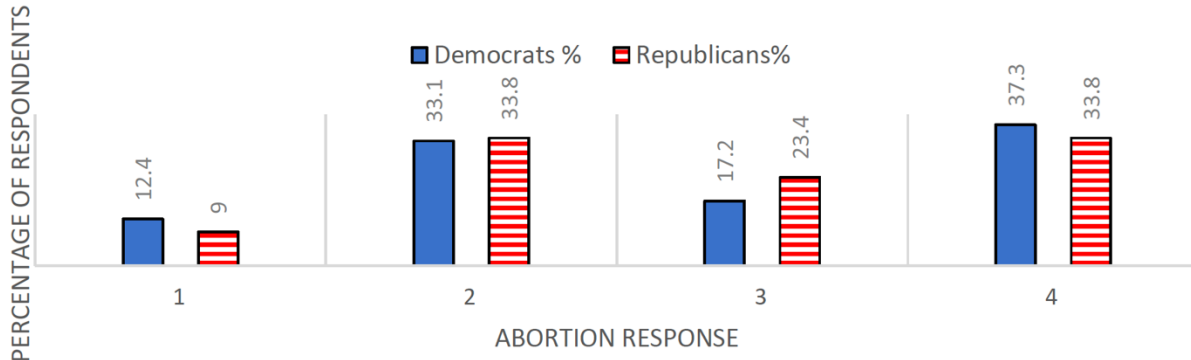## HEALTH INSURANCE OPINIONS BASED ON PARTY ID 2016
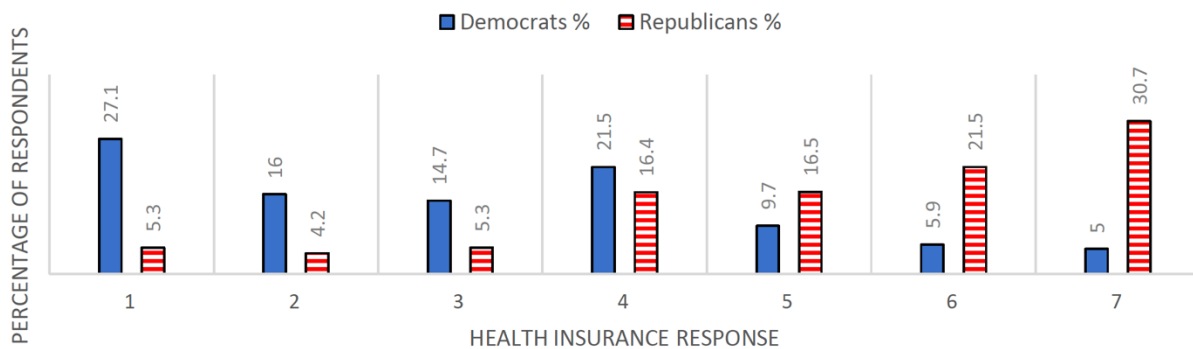
Mean responses for Republicans and Democrats on health insurance for each year data is available in the ANES Time Series 1948-2016.

Year	Democrats	Republicans	Year	Democrats	Republicans
1970	3.4362	4.5831	**1994**	3.3236	4.8869
1972	3.4902	4.4824	**1996**	3.3921	4.7953
1976	3.4937	4.7056	**2000**	3.3396	4.5497
1978	3.3887	4.6881	**2004**	3.056	4.3714
1984	3.6138	4.4134	**2008**	2.9629	4.5272
1998	3.3518	4.4631	**2012**	3.1264	5.3176
1992	2.8652	4.1429	**2016**	3.0857	5.2201

Abortion Cross Tabulations for each year data is available from the ANES Time Series 1948-2016
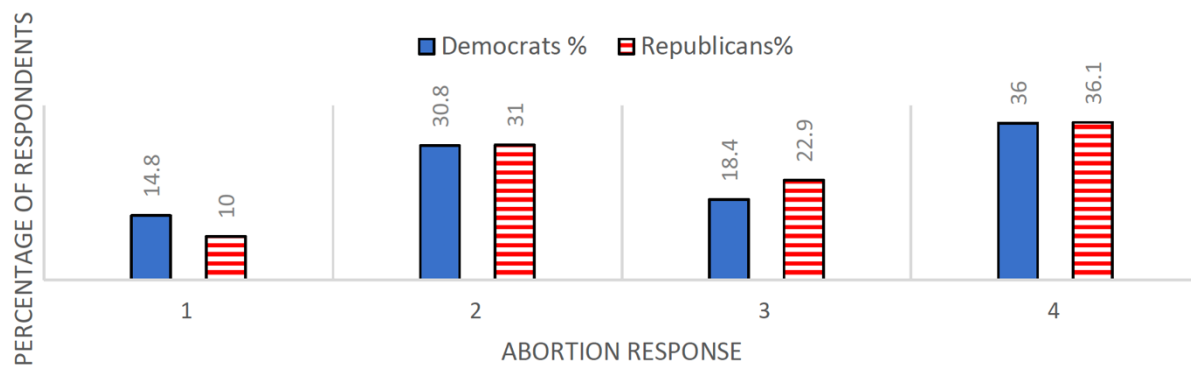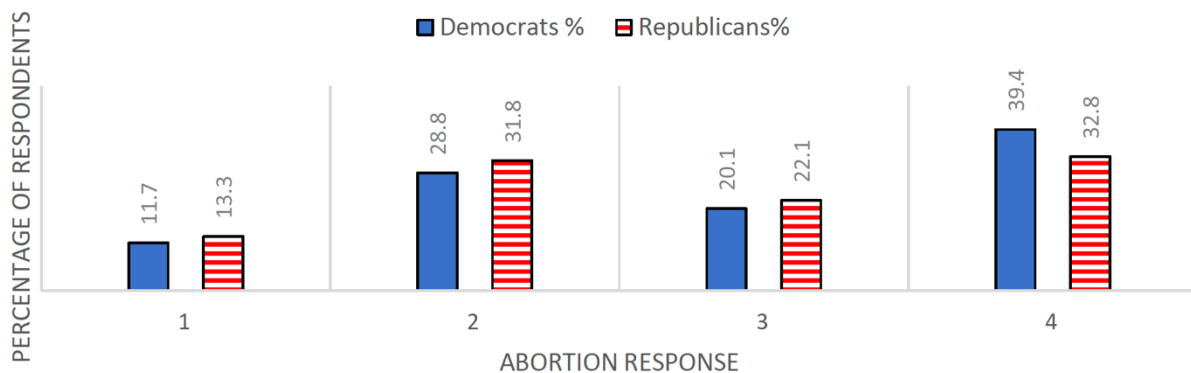
ABORTION OPINIONS BASED ON PARTY ID
1980

Democrats % Republicans%

Abortion Response	Democrats %	Republicans%
1	12.4	9
2	33.1	33.8
3	17.2	23.4
4	37.3	33.8

PERCENTAGE OF RESPONDENTS

ABORTION RESPONSE

ABORTION OPINIONS BASED ON PARTY ID
1982

Democrats % Republicans%

Abortion Response	Democrats %	Republicans%
1	14.8	10
2	30.8	31
3	18.4	22.9
4	36	36.1

PERCENTAGE OF RESPONDENTS

ABORTION RESPONSE

ABORTION OPINIONS BASED ON PARTY ID
1984

Democrats % Republicans%

Abortion Response	Democrats %	Republicans%
1	11.7	13.3
2	28.8	31.8
3	20.1	22.1
4	39.4	32.8

PERCENTAGE OF RESPONDENTS

ABORTION RESPONSE

ABORTION OPINIONS BASED ON PARTY ID
1986

PERCENTAGE OF RESPONDENTS

■ Democrats %   ▤ Republicans%

Response	Democrats %	Republicans%
1	14.2	9.9
2	28.2	30.8
3	16.7	21.1
4	40.9	38.2

ABORTION RESPONSE

ABORTION OPINIONS BASED ON PARTY ID
1988

PERCENTAGE OF RESPONDENTS

■ Democrats %   ▤ Republicans%

Response	Democrats %	Republicans%
1	13.4	12.1
2	31.4	35.3
3	18.1	19.2
4	37	33.5

ABORTION RESPONSE

ABORTION OPINIONS BASED ON PARTY ID
1990

PERCENTAGE OF RESPONDENTS

■ Democrats %   ▤ Republicans%

Response	Democrats %	Republicans%
1	11.6	11.2
2	31.1	33.8
3	14	16.5
4	43.3	38.6

ABORTION RESPONSE

ABORTION OPINIONS BASED ON PARTY ID
1992

■ Democrats % ■ Republicans%

PERECENTAGE OF RESONDENTS

ABORTION RESPONSE

	1	2	3	4
Democrats	9.7	24.3	13.2	52.9
Republicans	11.9	33.8	15.6	38.6

ABORTION OPINIONS BASED ON PARTY ID
1994

■ Democrats % ■ Republicans%

PERCENTAGE OF RESPONDENTS

ABORTION RESPONSE

	1	2	3	4
Democrats	12.5	24.9	12.5	50.1
Republicans	11.1	38.1	15.3	35.5

ABORTION OPINIONS BASED ON PARTY ID
1996

■ Democrats % ■ Republicans%

PERCENTAGE OF RESPONDENTS

ABORTION RESPONSE

	1	2	3	4
Democrats	10.6	23.9	16.6	48.9
Republicans	12.6	37.7	15.7	34

ABORTION OPINIONS BASED ON PARTY ID
1998

■ Democrats %   ▤ Republicans%

PERCENTAGE OF RESPONDENTS

	1	2	3	4
Democrats %	9.7	25.8	15.3	49.1
Republicans%	15	34.2	19.8	30.9

ABORTION RESPONSE

ABORTION OPINIONS BASED ON PARTY ID
2000

■ Democrats %   ▤ Republicans%

PERCENTAGE OF RESPONDENTS

	1	2	3	4
Democrats %	10.5	24.8	13.5	51.3
Republicans%	13	37	17.2	32.8

ABORTION RESPONSE

ABORTION OPINIONS BASED ON PARTY ID
2004

■ Democrats %   ▤ Republicans%

PERCENTAGE OF RESPONDENTS

	1	2	3	4
Democrats %	9.4	27.7	15.9	47
Republicans%	17.1	37.2	18.9	26.8

ABORTION RESPONSE

ABORTION OPINIONS BASED ON PARTY ID
2008

ABORTION OPINIONS BASED ON PARTY ID
2012
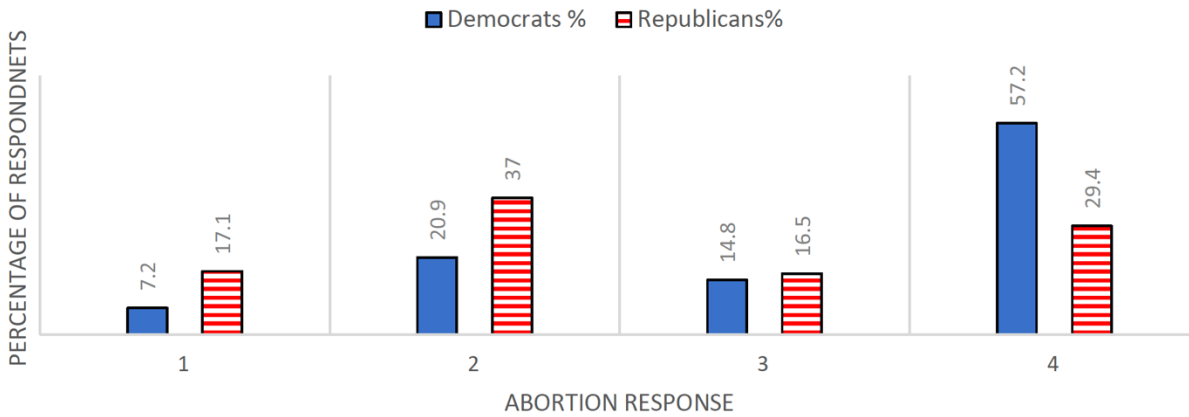
ABORTION OPINIONS BASED ON PARTY ID
2016
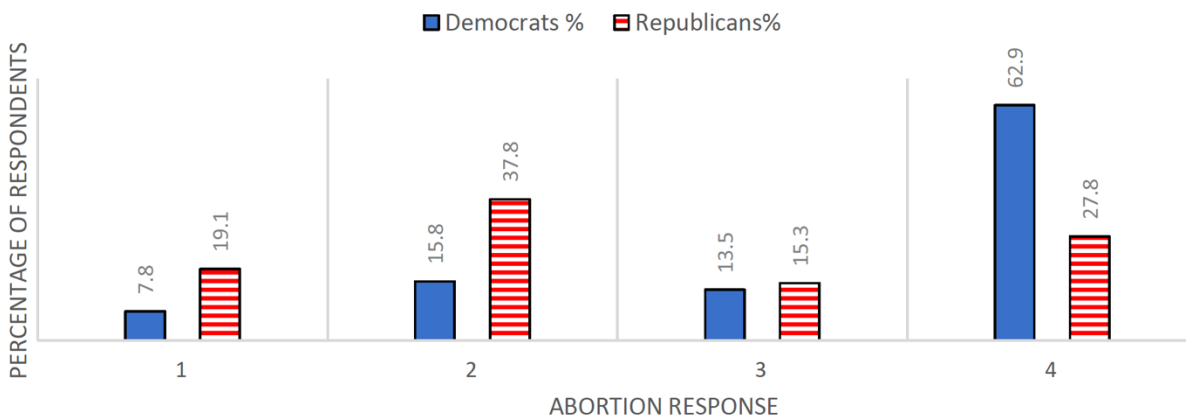
Mean responses for Republicans and Democrats on abortion for each year data is available in the ANES Time Series 1948-2016.
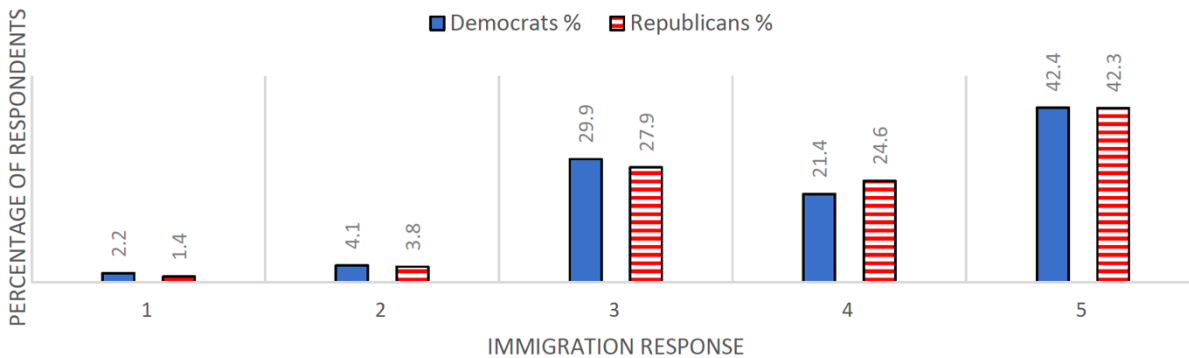
Year	Democrats	Republicans	Year	Democrats	Republicans
1980	2.7953	2.8203	**1996**	3.0387	2.7103
1982	2.7557	2.8519	**1998**	3.0386	2.667
1984	2.8721	2.7442	**2000**	3.0553	2.6988
1986	2.8426	2.8758	**2004**	3.004	2.6988
1988	2.7868	2.7405	**2008**	2.9933	2.6177
1990	2.8902	2.8255	**2012**	3.2197	2.5823
1992	3.0924	2.8092	**2016**	3.3154	2.5184
1994	3.0025	2.751			

Immigration Cross Tabulations for each year data is available from the ANES Time Series 1948-2016
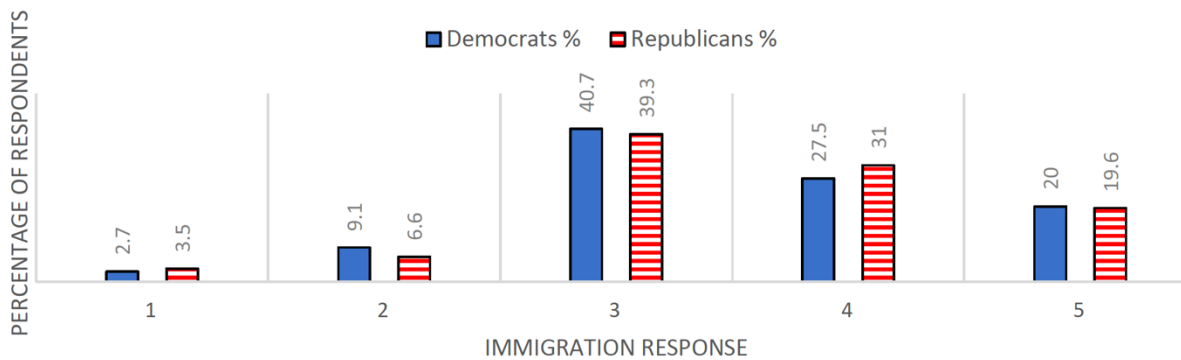
IMMIGRATION OPINIONS BASED ON PARTY ID
1996

Democrats %   Republicans %

Response	1	2	3	4	5
Democrats %	2	3.8	39	28.8	26.4
Republicans %	1.4	32	35.2	32.1	28

PERCENTAGE OF RESPONDENTS

IMMIGRATION RESPONSE

IMMIGRATION OPINIONS BASED ON PARTY ID
1998

Democrats %   Republicans %

Response	1	2	3	4	5
Democrats %	2.7	9.1	40.7	27.5	20
Republicans %	3.5	6.6	39.3	31	19.6

PERCENTAGE OF RESPONDENTS

IMMIGRATION RESPONSE

IMMIGRATION OPINIONS BASED ON PARTY ID
2004

Democrats %   Republicans %

Response	1	2	3	4	5
Democrats %	3.4	9.5	43.7	25.5	17.8
Republicans %	1.6	6.4	43.1	30.1	18.9

PERCENTAGE OF RESPONDENTS

IMMIGRATION RESPONSE

IMMIGRATION OPINIONS BASED ON PARTY ID
2008

Democrats % **Republicans %**

Immigration Response	Democrats %	Republicans %
1	5.5	4.9
2	9.5	9.4
3	42.6	40.4
4	22.1	25.5
5	20.4	19.8

PERCENTAGE OF RESPONDENTS — IMMIGRATION RESPONSE

IMMIGRATION OPINIONS BASED ON PARTY ID
2012

Democrats % **Republicans %**

Immigration Response	Democrats %	Republicans %
1	5.4	2.8
2	12.1	7.4
3	46.2	39.5
4	19.4	22.2
5	16.8	28.1

PERCENTAGE OF RESPONDENTS — IMMIGRATION RESPONSE

IMMIGRATION OPINIONS BASED ON PARTY ID
2016

Democrats % **Republicans %**

Immigration Response	Democrats %	Republicans %
1	8.6	2.2
2	16.7	4.5
3	47.1	31.4
4	15.6	23
5	12	38.8

PERCENTAGE OF RESPONDENTS — IMMIGRATION RESPONSE

Mean responses for Republicans and Democrats on immigration for each year data is available in the ANES Time Series 1948-2016.

Year	Democrats	Republicans	Year	Democrats	Republicans
1992	3.5611	3.6577	**2008**	3.4239	3.4597
1994	3.9779	4.0273	**2012**	3.301	3.6552
1996	3.7363	3.8213	**2016**	3.0577	3.918
1998	3.5321	3.5648			
2004	3.4474	3.5831			

Predictive probability responses for partisans on health insurance for each year data is available in the ANES Time Series 1948-2016.

Year	Mean	1	2	3	4	5	6	7
1970	4.02072	3.56412	3.75141	3.9387	4.126	4.31329	4.50059	4.68788
1972	3.86143	3.38711	3.56454	3.74198	3.91941	4.09685	5.27528	5.54191
1976	4.0471	3.51904	3.72889	3.91876	4.10862	4.29848	4.48834	4.6782
1978	3.77256	3.11695	3.37661	3.63628	3.89594	4.1556	4.41527	4.67493
1984	4.09946	3.76581	3.86243	3.98905	3.9507	4.19307	4.43543	4.49551
1988	3.92	3.22361	3.46597	3.70834	3.9507	4.19307	4.43543	4.67779
1992	3.51703	2.78698	3.05821	3.32944	3.60067	3.87191	4.14314	4.41437
1994	4.19237	3.20984	3.5411	3.87236	4.20363	4.53489	4.86616	5.19742
1996	3.92907	3.09766	3.41394	3.73023	4.04651	4.3628	4.67908	4.99537
2000	3.74947	3.15185	3.38415	3.61645	3.84875	4.08105	4.31355	4.5466
2004	3.6763	2.98251	3.22141	3.46321	3.69923	3.93813	4.17704	4.41595
2008	3.61207	2.92016	3.22644	3.53272	3.839	4.14528	4.45144	4.757783
2012	4.02312	2.95172	3.36717	3.78361	4.20006	4.6165	5.03295	5.4494
2016	4.09234	2.84652	3.26426	3.682	4.09973	4.51747	4.93521	5.35295

Predictive probability responses for partisans on abortion for each year data is available in the ANES Time Series 1948-2016.

Year	Mean	1	2	3	4	5	6	7
1980	2.8079	2.83993	2.82732	2.81471	2.80209	2.78947	2.77686	2.76425
1982	2.78097	2.7834	2.7824	2.7814	2.7804	2.7794	2.7784	2.7774
1984	2.81896	2.96365	2.91136	2.85906	2.80677	2.75447	2.70218	2.64988
1986	2.79532	2.83277	2.82052	2.80527	2.79002	2.77477	2.75952	2.74427
1988	2.81216	2.90975	2.87557	2.84139	2.80721	2.77304	2.73886	2.70468
1992	2.99505	3.2619	3.16277	3.06363	2.9645	2.86537	2.76624	2.66711
1994	2.91239	3.16941	3.08117	2.99293	2.90469	2.81645	2.72821	2.63977
1996	2.88796	3.15502	3.05346	2.9519	2.85034	2.74878	2.64722	2.54566
1998	2.96033	3.22482	3.12499	3.02415	2.92382	2.82348	2.72315	2.62281
2000	2.91772	3.22565	3.11079	2.99592	2.88011	2.76619	2.65133	2.53647
2004	2.79188	3.15634	3.03218	2.90802	2.78386	2.3597	2.53554	2.41139
2008	2.90034	3.19734	3.06747	2.93761	2.80775	2.67789	2.54802	2.41816
2012	2.99137	3.40451	3.24	3.07848	2.91697	2.75546	2.59395	2.43244
2016	2.94985	3.48531	3.30305	3.12079	2.93853	2.75625	2.574	2.39174

Predictive probability responses for partisans on immigration for each year data is available in the ANES Time Series 1948-2016.

Year	Mean	1	2	3	4	5	6	7
1990	3.68521	3.64735	3.66141	3.97548	3.68955	3.70362	3.71769	3.73176
1992	3.68521	3.64735	3.66141	3.67548	3.68955	3.70362	3.71769	3.73176
1994	4.07667	4.05062	4.05062	4.05955	4.06849	4.07743	4.0953	4.10424
1996	3.88122	3.87942	3.8801	3.88078	3.88146	3.88214	3.88282	3.8835
1998	3.63356	3.61845	3.62418	3.62992	3.63565	3.64139	3.64712	3.65283
2000	3.63826	3.52677	3.56466	3.60256	3.64046	3.67835	3.71625	3.75415
2004	3.63826	3.52677	3.56466	3.60256	3.64046	3.67835	3.71625	3.75415
2008	3.53015	3.53116	3.53073	3.53029	3.52986	3.52943	3.52899	3.52856
2012	2.57855	3.43361	3.49071	3.54781	3.60491	3.66202	3.71912	3.77322
2016	3.55882	3.07119	3.23711	3.40503	3.57195	3.73887	3.90579	4.07271

References

Abramowitz, Alan. 2010. The Disappearing Center: Engaged Citizens, Polarization, and American
    Democracy. New Haven, CT: Yale University Press.

Abramowitz, Alan I. 2013. The Polarized Public?: Why American Government is So Dysfunctional. Boston:
    Pearson.

Abramowitz, Alan I., and Kyle L. Saunders. 1998. "Ideological Realignment in the U.S. Electorate." The
    Journal of Politics60(3): 634–52.

Adams, Greg D. 1997. "Abortion: Evidence of an Issue Evolution." American Journal of Political
    Science41(3): 718–37.

"American National Election Studies." 2018. American National Election Studies.
    http://www.electionstudies.org/ (November 26, 2017).

Baldassarri, Delia, and Andrew Gelman. 2008. "Partisans Without Constraint: Political Polarization and
    Trends in American Public Opinion." American Journal of Sociology114(2): 408–46.

Baumer, Donald C., and Howard J. Gold. 2016. Parties, Polarization, and Democracy in the United States.
    London, NY: Routledge, Taylor & Francis Group.

Carsey, Thomas M., and Geoffrey C. Layman. 2006. "Changing Sides or Changing Minds? Party
    Identification and Policy Preferences in the American Electorate." American Journal of Political
    Science50(2): 464–77

Davis, Nicholas T., and Johanna L. Dunaway. 2016. "Party Polarization, Media Choice, and Mass Partisan-
    Ideological Sorting." Public Opinion Quarterly80(S1): 272–97.

Davis, Nicholas T., and Lilliana Mason. 2016. "Sorting and the Split-Ticket: Evidence from Presidential and
    Subpresidential Elections." Political Behavior38(2): 337–54.

Dellavigna, Stefano, and Ethan Kaplan. 2007. "The Fox News Effect: Media Bias and Voting." The Quarterly Journal of Economics122(3): 1187–1234.

Downs, Anthony. 1957. An Economic Theory of Democracy: Anthony Downs. N.Y.: Harper. Farrell, Henry John, Eric Lawrence, and John Sides. 2008. "Self-Segregation or Deliberation?

Blog Readership, Participation and Polarization in American Politics." Perspectives on Politics8(1): 141–57.

Fiorina, Morris P., Samuel J. Abrams, and Jeremy Pope. 2011. Culture War?: the Myth of a Polarized America. Boston, MA: Longman.

Francia, Peter L., and Jody Baumgartner. 2006. "Victim or Victor of the Culture War? How Cultural Issues Affect Support for George W. Bush in Rural America." American Review of Politics26: 349-367.

Geer, John G. 2008. In Defense of Negativity: Attack Ads in Presidential Campaigns. Chicago: University of Chicago Press.

Hill, Seth J., and Chris Tausanovitch. 2015. "A Disconnect in Representation? Comparison of Trends in Congressional and Public Polarization." The Journal of Politics77(4): 1058–75.

Iyengar, Shanto, and Masha Krupenkin. 2018. "The Strengthening of Partisan Affect." Political Psychology39(S1): 201–18.

Iyengar, Shanto, and Sean J. Westwood. 2014. "Fear and Loathing across Party Lines: New

Evidence on Group Polarization." American Journal of Political Science59(3): 690–707.

King, Gary, Michael Tomz, and Jason Wittenberg. 2002. "Making the Most of Statistical Analyses: Improving Interpretation and Presentation." ICPSR Data Holdings: 347–61.

Knobloch-Westerwick, Silvia, and Jingbo Meng. 2009. "Looking the Other Way." Communication Research36(3): 426–48.

Knobloch-Westerwick, Silvia, and Jingbo Meng. 2011. "Reinforcement of the Political Self Through Selective Exposure to Political Messages." Journal of Communication61(2): 349–68.

Layman, Geoffrey C., Thomas M. Carsey, and Juliana Menasce Horowitz. 2006. "Party Polarization in American Politics: Characteristics, Causes, and Consequences." Annual Review of Political Science9(1): 83–110.

Levendusky, Matthew. 2009. The Partisan Sort: How Liberals Became Democrats and Conservatives Became Republicans. Chicago: University of Chicago Press.

Mason, Lilliana. 2014. "'I Disrespectfully Agree': The Differential Effects of Partisan Sorting on Social and Issue Polarization." American Journal of Political Science59(1): 128–45.

Poole, Keith T., and Howard Rosenthal. 1991. "Patterns of Congressional Voting." American Journal of Political Science35(1): 228–78.

Sunstein, Cass R. 2018. #Republic: Divided Democracy in the Age of Social Media. Princeton, NJ: Princeton
        University Press.

Theriault, Sean M. 2008. Party Polarization in Congress. Cambridge: Cambridge University

A Dichotomy in U.S. Politics: Party Loyalty and Values

By Allie Strehle

Abstract

This paper explores the implications that values have on political party composition and loyalty. I examine this relationship by first establishing the connection of sets of values with each political party. Then, I design an experimental survey in which Democrats and Republicans are randomly assigned a mock news article about a political candidate that violates these party values through the lens of their stance on immigration. Finally, I ask questions about perceived candidate values and the subject's anticipated voting patterns. I find that each party does have their own dichotomous values and that voters hope to see these values in the candidates for their party. Subsequently, it is because of these values and the value alignment that Democrats are more likely to deviate from their party. The results suggest Republicans will stay loyal to their party when voting, as seen in the 2016 election, while Democrats will be less tolerant of perceived diversions in the values of those they elect, causing them to be more loyal to their own individual values.

Introduction

An individual that is loyal to their self-identified political party can be characterized by consistent voting patterns and stable support to the party throughout a long period of time. Party loyalty is highly sought after by party leaders as it constructs predictable voting patterns and clearly supportive coalitions that lead parties to success. Often, this party loyalty is derived from an individual's party identification, which originates from social and familial contexts early on in life. This party identification persists through an individual's life and is indicative of their overall voting behaviors (Campbell, Converse, Miller, Stokes 1960). However, despite one individual's stagnant party identification, I argue that party affiliation is also based on values. Each political party is comprised of individuals who hold disparate values, and thus the party as a conglomerate values different principles, concluding that the two major political parties are inherently different. The study of the composition of these two political parties is integral to understanding voting patterns in the twenty-first century.

The idea behind this study came from a research agenda that began in the fall of 2016. In the fall, I created a survey experiment to answer the question: what causes voters to stray from their identified party to vote for a third party? In order to do this, I created two conditions by presenting articles depicting a candidate in the subject's party that was involved in either a tax scandal or a sexual assault scandal. The goal behind this previous research was to measure what impact scandals had on voter loyalty for each party. The results were clear that overall Republicans were more loyal to their party than Democrats, even when presented with

candidates that were involved in a scandal. The research done through that project prompted me to continue to ask myself why Democrats are more likely to deviate from their party than Republicans.

In this study, I hope to answer the following research questions: what impacts party loyalty, and what is the impact of party loyalty on voting behavior? To answer these questions, I explore party composition based on each party's defining values. Next, I evaluate the connection between the respondent and a proposed candidate. Finally, I test party loyalty through voting patterns based on the voter's behavior to uphold or deviate from party values. I will test this through an experimental survey: first by surveying to prove a connection between different values with each party, then by providing an experiment to test the subjects' loyalty to their party.

This research will add to the discussion of party psychology and party composition, as well as create a definitive connection between values and individual party loyalty. This is important to interpreting voting behaviors today. This will notably add to the discussion around party composition and party loyalty by proving a connection between values and voting patterns. By defining the values of each party and the subsequent voting behaviors based on these values, each party and party leaders can better identify with their party members.

In the following analysis, I will first discuss the previous literature pertaining to party loyalty, party composition, and voting behaviors. Then, I will assert my values-based theory that defines both parties based on their core values. The following section will be a discussion of the research design, in which I implemented a survey experiment to connect values to parties as well as party loyalty. Finally, I will examine the results of the experiment with a discussion on the study's implications as well as future studies to be performed.

Literature Review

Party identification is a personal identity that is developed at a young age and is an identity that research has shown is held at a visceral, psychological level, akin to many other social identities (Greene 2004). It is often socialization at a young age that develops this identity, with one's family being the main contributor (Berelson, Lazarsfeld, Mcphee, 1955). Party identification has shown to be more stable than principles such as equal opportunity, limited government, traditional family and moral tolerance (Goren 2005). These studies, as well as others, shown that party identification is an essential aspect of a voters' identity. It is a classification that persists and only changes slowly over time, should any change occur at all (Green, Palmquist, Schickler 2002).

However, other studies have observed the possibility for change and development over time. Shively stated there are five variables that impact one's decision on identifying with a party. These five variables are the strength of feeling that one must participate in politics, the cost of the information pertinent to voting, the

resources available to a party for these costs, concern for the quality of the decision, and finally, availability of other more efficient, decisional costs (Shively 1979). Other scholars have looked at the development and subsequent persistence of political ideology. Jennings and Niemi state that the political life cycle is evident and changes in this cycle can also indicate changes in political ideology (Jennings and Niemi, 1978). While some theories hypothesize that the longer an individual is alive, the longer they identify with their party and thus increase their identification. Others, such as Glenn and Hefner, have disproved this theory through their study on the correlation between age and ties to the Republican Party (Glenn and Hefner, 1972). Campbell, Converse, Miller, and Stokes connect the acquiescence of one's party to voting patterns through their funnel analogy. They argue that party socialization determines party identification, which determines a voter's attitudes, which then determines their vote (Campbell et al., 1960). These Columbia studies make an important qualification by including voter's attitudes as a voting determinant. These attitudes and values define the two parties–as well as individuals within the parties–as distinct bodies with contrasting values.

The two major political parties are distinctly opposite in many cultural, structural, and platform-based aspects. The cultural distinction is proven by Jo Freeman in "The Political Culture of the Democratic and Republican Parties." This article argues that the major difference in the parties lies in their political culture. It designates two ways the parties specifically differ, one of which is the structural differences. More important to this study is the attitudinal differences. This article argues that Democrats see themselves as outsiders, regardless of their position in the party, and Republicans consistently see themselves as insiders in the party (Freeman 1986). Additionally, party composition is different based on the interests of the voters. Grossmann and Hopkins argue that Republicans are united via ideology, whereas Democrats are united through issue-based voting that is rooted in different voting blocs (Grossman and Hopkins 2016, 23). This creates different mentalities in the two political parties. Republicans are more interested in broad conservative stances throughout government, whereas Democrats are typically more interested in certain topics and require immediate discrete action. These two different approaches that lead to party unification cause major differences in voting patterns and behaviors.

As stated previously, voting patterns are typically based on party identification. "The American Voter" clearly correlates the two, stating that very few forces can overcome one's party identity to cause an individual to defect from the voter's identified party. However, newer studies such as "A New Partisan Voter" also assert that voting patterns have become more ideological and issue-based in recent years (Bafumi and Shapiro 2009). Additionally, there are circumstances in which individuals would defect from their identified party in any given election. One such example of this would be the involvement of a party candidate in a major scandal. These discrepancies between party identification and voting patterns imply that

there are other factors involved when determining party loyalty and party identification. What I hope to determine are the values that each individual party identifies with and whether or not this can account for these discrepancies and further explain party identification and voting patterns.

Overall, previous literature has stressed the importance of socialization in the acquisition of a voter's party identification. This party identification is extremely stable and can be a good predictor of party loyalty and voting patterns, although it is not the only factor. Each party is inherently different, with different voters that compose the coalition of identified voters for that party. These party differences and the extraneous factors that impact voting behavior can be accounted for by voter values and are central to my study in connecting party identification, party loyalty, and subsequent voting patterns.

Values-Based Theory

My values-based theory asserts that individuals and parties hold specific values, which are vastly different between the two parties. It is these values that differentiate the composition of each party and thus guide and determine a voter's party loyalty and voting behavior. The values I connect with each party are drawn from studies done by Shalom Schwartz and Ronald Inglehart. First, I combine a few of the values they found in societies around the world, then I connect them with the political party that I find the most connection with. Finally, I show that these values are inherent in the parties and prove they impact voting patterns and behavior.

The first set of defining values was discovered by Inglehart who states a characterizing value of society is the polarization between traditional versus secular-rational values. He asserts that traditional values emphasize views that align with the statements: God is very important in respondent's life, abortion is never justifiable, respondent has a strong sense of national pride, and it is more important for a child to learn obedience and religious faith than independence and determination (Inglehart 2000, 24). Individuals with this value also believe that work is very important, and respect authority. I connect this traditional value with the Republican party due to their relationship with the Christian Coalition, and typically traditional, conservative views. Inglehart contrasts this with the value of secular-rational. This secular-rational value is characterized by a disagreement with the previous statements, as well as an interest in politics, responsibility, views around abortion, and determination (Inglehart 1997, 82). I associate this secular value with that of the Democratic party. These two values are polarized on a scale and associate well with their distinctive parties. These are the first values that characterize each party and explain party composition.

The next value is also described by Inglehart in his various studies. He asserts the contrasting values of survival versus self-expression that are integral in societies. Individuals that value survival empathize with statements such as: priority should be given to economic and physical security over quality of life, homosexuality is never justifiable, and you have to be careful about trusting people (Inglehart, 2000, 24). It is

also characterized by prioritizing technology, money, hard work, and respect. This value of survival is another value I associate with the Republican party. Conversely, the value of self-expression opposes the characteristics stated above. Rather, they prioritize imagination, trust, tolerance, leisure, and imagination. This value of self-expression is another one that I identify with the Democratic party.

The third value comes from another prominent values scholar, Shalom H. Schwartz. The first value category is self-transcendence, which is contrasted to self-enhancement. Self-enhancement combines achievement and power, with the hopes of promoting their own personal interests (Dobewall, Strack 2014, 2). This value is added to the values of traditional and survival to create a trio of values that individualize identity within the Republican party. The value of self-transcendence emphasizes universalism and benevolence to help promote the welfare of others before themselves (Dobewall, Strack 2014, 2). This is added to the values of secular and self-expression for three major values that individuals in the Democratic party hold.

Finally, I use another one of Schwartz's values to describe the last contrasting value between the Republican and Democratic parties. The Republican party most closely identifies with his value of conservation. The value of conservation promotes ideals of tradition, conformity, and security (Dobewall, Strack 2014, 2). This value emphasizes the overall sentiment of the Republican party and this value will dictate the loyalty of individuals to the party, as well as their voting behavior. The Democratic party most closely aligns with his value openness to change. This value prioritizes self-direction and stimulation (Dobewall, Strack 2014, 2). I believe that this is another indicator of the Democratic party. This, combined with the three prior values, create my proposed composition of the Democratic and Republican parties and influence their voters' loyalty and voting patterns.

This values-based theory leads to my first hypothesis. I believe that Republicans demonstrate the values of tradition, survival, self-enhancement, and conservation. Conversely, I believe that Democrats demonstrate the values of secular, self-expression, self-transcendence, and openness to change. This hypothesis can be broken down into four sub-hypotheses as follows:

- The more an individual holds traditional (secular) values, the more likely he/she is to affiliate with the Republican (Democratic) party.
- The more an individual holds survival (self-expression) values, the more likely he/she is to affiliate with the Republican (Democratic) party.
- The more an individual holds self-enhancement (self-transcendence) values, the more likely he/she is to affiliate with the Republican (Democratic) party.

- The more an individual holds conservation (openness to change) values, the more likely he/she is to affiliate with the Republican (Democratic) party.

These values differentiate the two parties by having a core set of beliefs that members of the party identify with. Thus, a voter's party affiliation is based on these described party values.

These four values combine to create two vastly different profiles for each political party. For my second hypothesis, I look at the connection these values have with those that voters see in candidates within their party. Thus, my second hypothesis is that Republicans and Democrats will value candidates that display similar values to those they hold. This hypothesis extrapolates values beyond the individuals in each party to the candidates and party as a whole. This is rooted in the literature that states that political parties are inherently different. By establishing the differences at an individual level in my first hypothesis, I can subsequently hypothesize that these will apply to the party as a whole.

My third hypothesis states that because of the disparate values and connection between the individual and party values, Republicans are going to be less likely to deviate from their party, especially when presented with a candidate that violates one of their core values. Because of my previous two hypotheses, I hope to expand upon my previous literature that Republicans are more loyal by proving this loyalty results from their values. Democrats are less likely to be loyal to their party because they are more loyal to their specific group interests. This is further proven by the idea that the Democratic party is generally made up of voting blocs and is much more of an issue-based party. Thus, if the political candidate violates one of their core values, Democrats will be less likely to stay loyal to their party and are more open to change. Due to the self-interested motivation the Republicans have, they will often partake in pocketbook voting. They will be less likely to change their vote as long as their party stays overall ideologically conservative. Conversely, Democrats are sociotropic voters that will demonstrate less party loyalty due to their group interest. Overall, based on their values and strength of party identification, Republicans will be more loyal to their party in voting than Democrats.

Research Design

In order to test my three hypotheses, I implemented a survey experiment. I designed the experiment through Qualtrics and distributed it through Amazon Mechanical Turk. I was able to use funding to compensate individuals that took my survey. I did this with hopes of getting many quality and diverse answers to represent the voting population as closely as possible. Overall, I obtained 456 subjects.

The survey experiment first asked a variety of pre-test questions. These included demographic information as well as questions about their self-identified party. In order to do this, I used a self-evaluated political ideology 5-point scale as well as a 5-point scale to self-identify with a political party. Additionally, while an Independent option was provided initially, I subsequently asked them which party they most closely

align with. I felt confident doing this because research has shown that generally, people that identify as Independents still have a consistent voting pattern that aligns them with one party or another (Keith, Magelby, Nelson, Orr, Westyle, and Wolfinger). This party identification allowed me to filter them into a survey experiment that was individualized for their party, as well as determine their strength of party identification to use when testing my hypotheses.

After my preliminary questions, I sought to create questions that were targeted to my first hypothesis: Republicans will demonstrate their values of traditional, survival, self-enhancement, and conservatism, while Democrats will demonstrate their values of secular, self-expression, self-transcendence, and openness to change. To do this, I asked subjects to read a variety of statements and determine how much they agreed with the statements on a scale of 1-10. These statements were derived from the initial research done by Schwartz and Inglehart, while modernizing them when needed. Each proposed value had two statements rooted in evaluating how closely they hold any given value. Overall, there were 16 statements.

After determining the subject's self-identified values as outlined in my theory, I tailored the study to investigate my second and third hypotheses. In order to test value alignment and political party loyalty, I designed conditions that would both align with party values and violate the values that I connected to each party. By violating the values that I hypothesize they hold so closely, I was able to identify the validity of the party-value connection and their loyalty to their party.

The condition created was an online news article depicting a candidate running for office. The articles presented were all created as similarly as possible, with only the political stance and party changed. The scenario I used was the prevalent issue of immigration along the southern border of the United States, with conditions created favoring either side of the issue. For example, one Republican subject might have received an article discussing a Republican candidate whose platform included open immigration and opposed the construction of a wall. Not only does this go against their conservation value, but it also goes against their general party platforms. Thus, I was able to measure the values connection and whether this breach in their typical party platform was enough to impact their loyalty through their potential voting behavior. Conversely, I presented a Republican subject with a Republican candidate that favored immigration reform and favored the implementation of a wall. I presented the same two conditions to Democrat subjects with a Democratic candidate running on a platform of favoring/opposing immigration reform. By having four different conditions, I was able to gather results on the strength of party identification and party loyalty for both parties.

After receiving the condition, they were asked a series of questions to operationalize the dependent variable. First, I asked what values the subject thought the candidate displayed in the article they read. This

took the form of corollary values created to reflect the values tested for in the first hypothesis, however this time I chose to focus on just the values of conservation and openness to change. These two values were chosen as they are often connected to each party in their platform, candidates, and overall ideals. Additionally, the scenario presented regarding immigration in the articles put these values very clearly to the test. Subjects were asked to what extent they felt the candidate held the corollary values on a scale of 1-10. This was essential in connecting their self-identified values from hypothesis one to the candidate values in hopes of proving value alignment.

Finally, I asked questions rooted in testing party loyalty. These included feeling, thinking, and action questions intended to test the subject's level of support and party loyalty. Specifically, I was looking for voting behavior, so I asked about their probability to vote for their candidate, a candidate from the opposing major party, and a third-party candidate. All of these questions were measured on a five-point Likert scale. Each question was phrased in a different direction to avoid "gaming" the experiment. For a full view of my experiment, please view Appendix A.

By using a survey experiment, I sought to claim a strong internal validity. The survey used a between-subjects design in which each subject only received one condition. This setup also allows me to infer causation between the conditions and the results. I used the Rubin-Causal model to randomly assign participants to the pro-wall and anti-wall treatments, essentially creating two identical people between the two conditions. While I was unable to randomize the party ID factor due to the dependent nature of the design, by separating them I was able to analyze each party independently and thus make comparisons between the two. Additionally, by keeping the conditions as similar as possible while only manipulating the intent of the condition, I eliminated as many outside influences as possible.

Results and Findings

After distributing my experimental survey, I downloaded the results to analyze the data and evaluate my posed hypotheses. In order to do this, I first needed to clean up the data, eliminating any results that showed attrition and converting the data for analysis in SPSS. The first test run identified the frequencies displayed through different demographics in my survey. Through this, I found that I had 259 females and 195 males. Additionally, based on the initial question asked about party ID, I had the following breakdown of political party identification on a five-point scale. The breakdown of self-identified Independents is also important, as they were then asked to self-identify with one of the two major parties, creating my final groups of Democrats and Republicans used for the experiment. After this analysis, I ended up with 285 Democrats and 170 Republicans.

Upon cleaning up my data and finding my descriptive statistics, I sought to test my first hypothesis that Republicans and Democrats will hold dichotomous values at the individual level. In order to do this, I created new variables that coded the Democratic respondents as "1" and Republican respondents as "0". By doing this, I could run bivariate correlations for the respondents in each party to each value statement created to test my first hypothesis. The following chart displays the statement, value tested, significance level, and Pearson's Correlation when each statement was tested with my new "democratic" variable. This test was highly successful, proving positive correlations with the values I identified with the Democratic party, and negative correlations with values I identified with the Republican party. The only outlier in correlation direction was the statement "I determine my own self direction," though it was also not statistically significant. The other statement that was not statistically significant was "Being wealthy is important to me." This leads me to think that either these statements do not connect well with the values I was trying to test, or they are statements that both parties hold similarly. However, despite these results, all of the other statements were correlated in the direction hypothesized and most were highly significant. Despite two outliers, I feel confident that these results prove my first hypothesis by establishing these values within each party.

Statement	Value:	Pearson Correlation	Sig. Level
I am very interested in politics.	Secularism	.088	.067
Abortion is warranted in certain circumstances.	Secularism	.356	.000
Religion is a very important part of my life.	Traditional	-.267	.000
I am very proud to be an American.	Traditional	-.327	.000
I am supportive of combatting global warming.	Well-being	.486	.000
Homosexuality is not a choice.	Well-being	.269	.000
A child needs a home with both a mother and a father to grow up happily.	Survival	-.375	.000
I would not be happy if my neighbor was an undocumented immigrant.	Survival	-.416	.000
I am passionate about social justice.	Self-transcendence	.333	.000
You should always show compassion toward others.	Self-transcendence	.185	.000
Being wealthy is important to me.	Self-enhancement	-.040	.411
Power is something to be desired.	Self-enhancement	-.176	.000
I appreciate variety in my daily life.	Openness to change	.140	.004
I determine my own self-direction.	Openness to change	-.041	.401
I like to stick to the status quo.	Conservation	-.280	.000
I believe there is a social order to society.	Conservation	-.268	.000

After finding statistically significant results for my first hypothesis, I set out to test my second hypothesis that Republicans and Democrats will value candidates that hold similar values to those they hold. In order to do this, I created new variables to test the difference in the individually held values and the perceived candidate values. I then averaged the two conservation value statements and the two openness to change value statements from the respondents to create the average individual level of conservation and the average individual level of openness to change. Next, I averaged the responses of the three statements that pertained to the conservation of the candidate as well as for their openness to change. Finally, I subtracted the individual conservation average value from the candidate conservation average value and took the absolute value to create a new value called "conservationdifference." I similarly subtracted the individual and candidate averages for openness to change to create a variable called "opennessdifference." Additionally, I created two other variables called "Rep Conditions" and "Dem Conditions" that compared those who got the condition and those who did not within each party. These variables were created to see how different the individual values were from the perceived candidate values were. In order to test this, I ran many bivariate correlations. First, I compared "DemConditions" and conservation difference, which had a -.022 Pearson Correlation and a .713 significance level. However, when I compared "DemConditions" with "opennessdifference," the Pearson Correlation was .393 and the significance level was .000. This relationship shows that Democrats who received a condition that opposes their standard party platform were significantly more likely to have a larger difference in their individual values and the values they viewed in the candidate they viewed, however only in the openness to change value. Additionally, when comparing "RepConditions" and "opennessdifference", the Pearson Correlation was .098 and the significance level was .217. However, when looking at "RepConditions" and conservation difference, the Pearson Correlation was .306 and it was highly significant at the .000 level. This relationship shows that Republicans who received a condition that opposes their standard party platform were significantly more likely to have a larger difference in their individual values and the values they viewed in the candidate they viewed, however, only in the conservation value. This not only emphasizes the previously established values with each individual, but it also emphasizes that voters want to see those values in their party candidates as well. This was an important result because it allows me to extrapolate those values from an individual level to a party level with high confidence.

Finally, after proving my second hypothesis, I sought to prove my third hypothesis that Republicans will be more likely to deviate from their political party because of the core values of each party. In order to do this, I looked specifically at the survey question "I would consider voting for a third party candidate." Initially, I looked at comparisons between the "RepConditions" and "DemConditions" with this statement. Democrats that got the pro-wall candidate were significantly more likely to consider voting for a third party

candidate with the Pearson Correlation being .425 at a significance level of .000. Conversely, this effect was not seen as much with Republicans. Republicans that got an anti-wall condition had a correlation of .173 with a significance level of .029 when compared to Republicans that got the pro-wall condition. While this proved again that Republicans were less likely to deviate from their party, it was the connection to values that I was still looking to prove. To prove the connection between party values and party loyalty, I ran two more bivariate correlations. I compared the statement "I would consider voting for a third party candidate" with the "conservationdifference" variable first, then the same statement with the "opennessdifference." While the "conservationdifference" variable had results of a .021 correlation and a significance level of .656, the "opennessdifference" proved to be highly connected with a correlation of .304 and a significance level of .000. This relationship states that while Republicans want similar values as their candidate (as proved in hypothesis 2), when the difference is large between the individual and candidate values, they still will not consider voting for a third party candidate. Conversely, when Democrats see a wide difference in their individual values and the candidate values, the probability that they will consider voting for a third party candidate increases significantly. This analysis proves not only the disparate loyalty between the two parties, but that their loyalty is rooted in the party values established at the beginning of my research.

In sum, the theories tested with this data supported the presented hypotheses even when varying the significance level. I was able to prove first, that Democrats and Republicans have different values on the individual level. Then, I proved that voters want their values to align with the candidates in their party. Finally, I proved that perceived value alignment with candidates influence willingness to deviate from their own party for Democrats but not for Republicans. These three hypotheses combine to answer my initial question, why are Republicans less likely to deviate from their party than Democrats? Based on the quantitative analysis here, I feel confident in saying the values of conservation and openness to change play a large role. However, I do believe that more broadly, it is values that have major impacts on political party loyalty.

Discussion

While my previous research centered around the 2016 election and the implications that a variety of scandals had on elections, this current research turns to look more broadly at political party loyalty. This research helps explain what happened in the 2016 election, when a political outsider whose victory was hard to predict somehow won the largest office in the world. While many were shocked and confused about the election of Donald J. Trump, it is the loyalty of Republican voters who are willing to turn a blind eye to scandals and disparate values that led him to victory. With his tumultuous presidency and looming reelection campaign, Republican voters will be tested on how far this blind loyalty will extend.

While some may look at this research and think predictions look grim for the Democratic party, I think this research also says a lot about Democratic voters. While they are not as loyal to their party, they are more loyal to their individual values, and that is still key information for the Democratic party to note in the upcoming 2020 election. In order to turn the tide, I believe the Democratic candidates will need to zone in on those issues and values that Democratic voters hold deeply. By finding those positions in their voter block and consistently emphasizing them throughout the campaign period, candidates could build a strong coalition and pose a serious threat to the Republican party. It is clear that they can not campaign solely on the Democratic party name, but rather must differentiate themselves by standing up for those core values that will build a strong connection with voters.

The concept of testing values associated with a party is interesting, though continually changing. Given the extreme party realignments that have occurred throughout history, it is clear that parties and the individuals in each party develop and change over time. It is important to continue researching values to see the overall evolution of parties, particularly in response to current events and a dichotomizing public. Future research should be done to study the evolution of each party and their values up until now, and continue into the future.

This research found many interesting results with clear implications in the current Presidential race. However, more research would be beneficial to better predict the impact of party values on voting patterns prior to the 2020 election. One of the biggest improvements could be the scope and diversity of my study. While this improved upon my first study, getting a more representative sample from across the country with more racial, socioeconomic, and other diversity would better test my hypotheses.

Additionally, this research is difficult to test in the real world. Respondents were in a controlled setting, potentially aware of the experiment ahead of them. This could have resulted in gaming the experiment, or implicit bias by knowing they are not in the real world. This type of experiment worked well for me to prove causality, but I think there is also a great opportunity to expand this research with voters and the 2020 election.

Regardless of potential errors and pitfalls of this experiment, this study provides interesting, significant results that further adds to my research agenda. It begs the question of how else individuals in each party are inherently different. Additionally, what is the implication of all the political party identification literature that has been done in the past? In future research, I hope to look at how party alignment, identification, and loyalty develop over an individual's life and how specific elections impact party loyalty and defection. Overall, I think the 2020 Presidential election will be very telling in this research, and I am looking forward to testing further implications of that election.

Appendix A (experiment mock up)
Pre-test questions
1. What gender do you most closely identify with?
    a. Male
    b. Female
    c. Prefer not to answer
2. What is your age?
    a. Under 20
    b. 20-19
    c. 30-39
    d. 40-49
    e. 50-59
    f. 60-69
    g. 70+
3. What is your highest level of education?
    a. Some high school
    b. High school graduate
    c. Some college
    d. 2 year degree
    e. 4 year degree
    f. Professional degree
    g. Doctoral degree
4. With what race do you identify?
    a. Caucasian
    b. Hispanic
    c. African American
    d. American Indian
    e. Other
    f. Prefer not to answer
5. On a scale ranging from very liberal to very conservative, how would you classify your political ideology?
    a. Very liberal
    b. Liberal
    c. Moderate
    d. Conservative
    e. Very conservative
6. What is your party identification?
    a. Strong Republican
    b. Republican leaning
    c. Independent/third party
    d. Democratic leaning
    e. Strong Democrat
7. Most independents/moderates find themselves relating to one party more than another. If you had to choose, which party do you identify with more?
    a. Republican party
    b. Democratic party

You will now read an article regarding a mayoral election. Please read the article closely and answer the following questions.

POLITICS

Immigration Becoming Key Issue in Mayoral Race

Democratic Mayoral candidate, Tim Shugart reveals pro-immigration stance, emphasizing Democratic party leaders
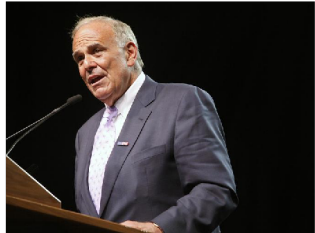
By Paul Johnson | February 17, 2019 – 9:22am

Shugart presents his platform as he announces his candidacy for mayor.

Democratic mayoral candidate Tim Shugart publicly announced his candidacy for Mayor.

In his 20 minute speech, he revealed key issue stances, and strongly emphasized his views on immigration. He emphasized Democratic party stances on open immigration and increased funding for DACA. "The wall should not be funded! Support for immigrants and undocumented citizens in their application process should be a focus of politics today". Democratic party leaders expressed their support with his stance across the country.

TOP STORIES

Iowans have first say in 2020 presidential race

College basketball player drops 55 points

India's fastest train breaks down day after launch

NBA to start African league with 12 teams across the continent

10 best hidden gems to travel to in Europe

POLITICS

Shocking Stance on Immigration Presented by Mayoral Candidate

Democratic Mayoral candidate, Tim Shugart reveals anti-immigration stance, going against Democratic party leaders
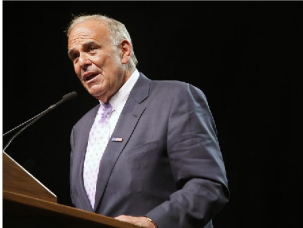
By Paul Johnson | February 17, 2019 – 9:22am

Shugart presents his platform as he announces his candidacy for mayor.

Democratic mayoral candidate Tim Shugart publicly announced his candidacy for Mayor.

In his 20 minute speech, he revealed key issue stances, but most notably his views on immigration. Despite party elders emphasizing open immigration and increased funding for the DACA program, Shugart takes a very different stance. "The wall would be beneficial to solve the current immigration problem. Let's build this wall at the southern border!" Democratic party leaders expressed their discontent with his stance across the country.

TOP STORIES

Iowans have first say in 2020 presidential race

College basketball player drops 55 points

India's fastest train breaks down day after launch

NBA to start African league with 12 teams across the continent

10 best hidden gems to travel to in Europe

POLITICS

Shocking Stance on Immigration Presented by Mayoral Candidate

Republican Mayoral candidate, Tim Shugart reveals pro-immigration stance, going against Republican party leaders
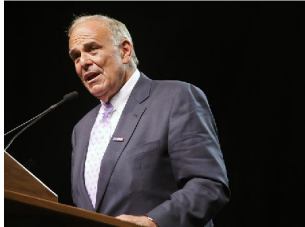
By Paul Johnson | February 17, 2019 – 9:22am

Shugart presents his platform as he announces his candidacy for mayor.

Republican mayoral candidate Tim Shugart publicly announced his candidacy for Mayor.

In his 20 minute speech, he revealed key issue stances, but most notably his views on immigration. Despite party elders emphasizing immigration restrictions and notably calling for a wall along the southern border of the United States, Shugart takes a very different stance. "The wall should not be funded! Support for immigrants and undocumented citizens in their application process should be a focus of politics today". Republican party leaders expressed their discontent with his stance across the country.
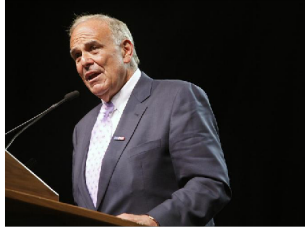
TOP STORIES

Iowans have first say in 2020 presidential race

College basketball player drops 55 points

India's fastest train breaks down day after launch

NBA to start African league with 12 teams across the continent

10 best hidden gems to travel to in Europe

POLITICS

Immigration Becoming Key Issue in Mayoral Race

Republican Mayoral candidate, Tim Shugart reveals anti-immigration stance, emphasizing Republican party leaders

By Paul Johnson | February 17, 2019 – 9:22am

Shugart presents his platform as he announces his candidacy for mayor.

Republican mayoral candidate Tim Shugart publicly announced his candidacy for Mayor.

In his 20 minute speech, he revealed key issue stances, and strongly emphasized his views on immigration. He emphasized Republican party stances on immigration restrictions and defunding the DACA program. "The wall would be beneficial to solve the current immigration problem. Let's build this wall at the southern border!". Republican party leaders expressed their support with his stance across the country.

TOP STORIES

Iowans have first say in 2020 presidential race

College basketball player drops 55 points

India's fastest train breaks down day after launch

NBA to start African league with 12 teams across the continent

10 best hidden gems to travel to in Europe

Please respond to the following questions regarding the candidate in the article.

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
I feel that this candidate is leading the party well.	○	○	○	○	○
I would consider voting for the other major party candidate.	○	○	○	○	○
I don't think this candidate should win the election.	○	○	○	○	○
I feel this candidate reflects the values of his party well.	○	○	○	○	○
I would be very likely to vote for this candidate.	○	○	○	○	○
I do not agree with this candidate's stance on immigration.	○	○	○	○	○
I would consider voting for a third party candidate.	○	○	○	○	○

To what extent do you think the candidate in the article holds the following values?

	(1) Not at all	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10) This is an extremely closely held value
Traditionalism	○	○	○	○	○	○	○	○	○	○
Conformity to political party	○	○	○	○	○	○	○	○	○	○
Adherence to social norms	○	○	○	○	○	○	○	○	○	○
Self-direction	○	○	○	○	○	○	○	○	○	○
Creativity	○	○	○	○	○	○	○	○	○	○
Openness to new ideas	○	○	○	○	○	○	○	○	○	○

Please indicate to what extent you agree with the following statements.

	(1) Totally Disagree	(2)	(3)	(4)	(5) Neither Agree nor Disagree	(6)	(7)	(8)	(9)	(10) Totally Agree
A child needs a home with both a mother and a father to grow up happily.	○	○	○	○	○	○	○	○	○	○
I would not be happy if my neighbor was an undocumented immigrant.	○	○	○	○	○	○	○	○	○	○
I am supportive of combatting global warming.	○	○	○	○	○	○	○	○	○	○
Homosexuality is not a choice.	○	○	○	○	○	○	○	○	○	○
I am very interested in politics.	○	○	○	○	○	○	○	○	○	○
Abortion is warranted in certain circumstances.	○	○	○	○	○	○	○	○	○	○
Religion is a very important part of my life.	○	○	○	○	○	○	○	○	○	○
I am very proud to be an American.	○	○	○	○	○	○	○	○	○	○
I am passionate about social justice.	○	○	○	○	○	○	○	○	○	○
You should always show compassion toward others.	○	○	○	○	○	○	○	○	○	○
Being wealthy is important to me.	○	○	○	○	○	○	○	○	○	○
Power is something to be desired.	○	○	○	○	○	○	○	○	○	○
I like to stick to the status quo.	○	○	○	○	○	○	○	○	○	○
I believe there is a social order to society.	○	○	○	○	○	○	○	○	○	○
I appreciate variety in my daily life.	○	○	○	○	○	○	○	○	○	○
I determine my own self-direction.	○	○	○	○	○	○	○	○	○	○

Appendix B (Regression Analyses)

What gender do you identify with?		Frequency	Percent
Valid	Male	259	56.7
	Female	195	42.7
	Prefer not to answer	2	.4
	Total	456	99.8

What is your age?		Frequency	Percent
Valid	Under 20	1	.2
	20-29	90	19.7
	30-39	187	40.9
	40-49	92	20.1
	50-59	60	13.1
	60-69	22	4.8
	70+	4	.9
	Total	456	99.8

What is your highest level of education?		Frequency	Percent
Valid	Less than High School	2	.4
	High school graduate	55	12.0
	Some college	80	17.5
	2 year degree	50	10.9
	4 year degree	202	44.2
	Professional degree	59	12.9
	Doctorate	8	1.8
	Total	456	99.8

What race do you identify with?		Frequency	Percent
Valid	Caucasian	295	64.6
	Hispanic	22	4.8
	African American	28	6.1
	American Indian	27	5.9
	Other	78	17.1
	Prefer not to answer	6	1.3
	Total	456	99.8
Missing	System	1	.2
Total		457	100.0

On a scale ranging from very liberal to very conservative, how would you classify your political ideology?		Frequency	Percent
Valid	Very Liberal	70	15.3
	Liberal	144	31.5
	Moderate	135	29.5
	Conservative	84	18.4
	Very Conservative	21	4.6
	Total	454	99.3
Missing	System	3	.7
Total		457	100.0

How would you classify your political party affiliation?		Frequency	Percent
Valid	Strong Democrat	109	23.9
	Democratic Leaning	127	27.8
	Independent/Third Party	107	23.4
	Republican Leaning	72	15.8
	Strong Republican	40	8.8
	Total	455	99.6

Most independents/third party identifiers find themselves relating to one party more than another. If you had to choose, which party do you identify with more?		Frequency	Percent
Valid	Republican Party	58	12.7
	Democratic Party	49	10.7
	Total	107	23.4

Correlations

		DemConditions	I feel that this candidate is leading the party well.
DemConditions	Pearson Correlation	1	-.659**
	Sig. (2-tailed)		.000
	N	285	272
I feel that this candidate is leading the party well.	Pearson Correlation	-.659**	1
	Sig. (2-tailed)	.000	
	N	272	432

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		I feel that this candidate is leading the party well.	RepConditions
I feel that this candidate is leading the party well.	Pearson Correlation	1	-.463**
	Sig. (2-tailed)		.000
	N	432	160
RepConditions	Pearson Correlation	-.463**	1
	Sig. (2-tailed)	.000	
	N	160	170

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		DemConditions	I would consider voting for the other major party candidate.
DemConditions	Pearson Correlation	1	.134*
	Sig. (2-tailed)		.027
	N	285	272
I would consider voting for the other major party candidate.	Pearson Correlation	.134*	1
	Sig. (2-tailed)	.027	
	N	272	432

*. Correlation is significant at the 0.05 level (2-tailed).

Correlations

		I would consider voting for the other major party candidate.	RepConditions
I would consider voting for the other major party candidate.	Pearson Correlation	1	-.021
	Sig. (2-tailed)		.793
	N	432	160
RepConditions	Pearson Correlation	-.021	1
	Sig. (2-tailed)	.793	
	N	160	170

Correlations

		DemConditions	I don't think this candidate should win the election.
DemConditions	Pearson Correlation	1	.582**
	Sig. (2-tailed)		.000
	N	285	272
I don't think this candidate should win the election.	Pearson Correlation	.582**	1
	Sig. (2-tailed)	.000	
	N	272	432

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		I don't think this candidate should win the election.	RepConditions
I don't think this candidate should win the election.	Pearson Correlation	1	.446**
	Sig. (2-tailed)		.000
	N	432	160
RepConditions	Pearson Correlation	.446**	1
	Sig. (2-tailed)	.000	
	N	160	170

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		DemConditions	I feel this candidate reflects the values of his party well.
DemConditions	Pearson Correlation	1	-.731**
	Sig. (2-tailed)		.000
	N	285	272
I feel this candidate reflects the values of his party well.	Pearson Correlation	-.731**	1
	Sig. (2-tailed)	.000	
	N	272	432

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		I feel this candidate reflects the values of his party well.	RepConditions
I feel this candidate reflects the values of his party well.	Pearson Correlation	1	-.621**
	Sig. (2-tailed)		.000
	N	432	160
RepConditions	Pearson Correlation	-.621**	1
	Sig. (2-tailed)	.000	
	N	160	170

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		DemConditions	I would be very likely to vote for this candidate.
DemConditions	Pearson Correlation	1	-.564**
	Sig. (2-tailed)		.000
	N	285	272
I would be very likely to vote for this candidate.	Pearson Correlation	-.564**	1
	Sig. (2-tailed)	.000	
	N	272	432

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		I would be very likely to vote for this candidate.	RepConditions
I would be very likely to vote for this candidate.	Pearson Correlation	1	-.427**
	Sig. (2-tailed)		.000
	N	432	160
RepConditions	Pearson Correlation	-.427**	1
	Sig. (2-tailed)	.000	
	N	160	170

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		I do not agree with this candidate's stance on immigration.	DemConditions
I do not agree with this candidate's stance on immigration.	Pearson Correlation	1	.687**
	Sig. (2-tailed)		.000
	N	432	272
DemConditions	Pearson Correlation	.687**	1
	Sig. (2-tailed)	.000	
	N	272	285

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		I do not agree with this candidate's stance on immigration.	RepConditions
I do not agree with this candidate's stance on immigration.	Pearson Correlation	1	.431**
	Sig. (2-tailed)		.000
	N	432	160
RepConditions	Pearson Correlation	.431**	1
	Sig. (2-tailed)	.000	
	N	160	170

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		DemConditions	I would consider voting for a third party candidate.
DemConditions	Pearson Correlation	1	.425**
	Sig. (2-tailed)		.000
	N	285	272
I would consider voting for a third party candidate.	Pearson Correlation	.425**	1
	Sig. (2-tailed)	.000	
	N	272	432

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		I would consider voting for a third party candidate.	RepConditions
I would consider voting for a third party candidate.	Pearson Correlation	1	.173*
	Sig. (2-tailed)		.029
	N	432	160
RepConditions	Pearson Correlation	.173*	1
	Sig. (2-tailed)	.029	
	N	160	170

*. Correlation is significant at the 0.05 level (2-tailed).

Correlations

		DemConditions	conservationdifference
DemConditions	Pearson Correlation	1	-.022
	Sig. (2-tailed)		.713
	N	285	272
conservationdifference	Pearson Correlation	-.022	1
	Sig. (2-tailed)	.713	
	N	272	432

Correlations

		conservationdifference	RepConditions
conservationdifference	Pearson Correlation	1	.306[**]
	Sig. (2-tailed)		.000
	N	432	160
RepConditions	Pearson Correlation	.306[**]	1
	Sig. (2-tailed)	.000	
	N	160	170

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		DemConditions	opennessdifference
DemConditions	Pearson Correlation	1	.393[**]
	Sig. (2-tailed)		.000
	N	285	272
opennessdifference	Pearson Correlation	.393[**]	1
	Sig. (2-tailed)	.000	
	N	272	432

**. Correlation is significant at the 0.01 level (2-tailed).

Correlations

		opennessdifference	RepConditions
opennessdifference	Pearson Correlation	1	.098
	Sig. (2-tailed)		.217
	N	432	160
RepConditions	Pearson Correlation	.098	1
	Sig. (2-tailed)	.217	
	N	160	170

Correlations

		I would consider voting for a third party candidate.	conservation difference
I would consider voting for a third party candidate.	Pearson Correlation	1	.021
	Sig. (2-tailed)		.656
	N	432	432
conservationdifference	Pearson Correlation	.021	1
	Sig. (2-tailed)	.656	
	N	432	432

		I would consider voting for a third party candidate.	opennessdifference
I would consider voting for a third party candidate.	Pearson Correlation	1	.304[**]
	Sig. (2-tailed)		.000
	N	432	432
opennessdifference	Pearson Correlation	.304[**]	1
	Sig. (2-tailed)	.000	
	N	432	432

[**]. Correlation is significant at the 0.01 level (2-tailed).

References

Bafumi, Joseph, and Shapiro, Robert Y. 2009. "A New Partisan Voter." *The Journal of Politics*. 71 (January): 1-24.

Baker, Wayne E., Inglehart, Ronald. 2000. "Modernization, Cultural Change, and the Persistence of Traditional Values." *American Sociological Review*. 65 (February): 19-51.

Berelson, Bernard R., Lazarsfeld, Paul F., McPhee, William N. 1954. *Voting*. Chicago: University of Chicago Press.

Campbell, Angus; Converse, Philip E., Miller, Warren E., Stokes, Donald E. 1960. *The American Voter*. Chicago: University of Chicago Press.

Dobewall, Henrik, Strack, Micha. 2014. "Relationship of Inglehart's and Schwartz's Value Dimensions Revisited." *International Journal of Psychology*. 49(4):240-248.

Freeman, Job. 1986. "The Political Culture of the Democratic and Republican Parties." *Political Science Quarterly*. 101(3): 327-356.

Glenn, N.D., and Hefner, T. (1972) *Future Evidence on Aging and Party Identification*. Public Opinion Quarterly.

Goren, Paul. 2005. "Party Identification and Core Political Values." *American Journal of Political Science*. 49 (October): 881-896.

Green, Donald; Palmquist, Bradley; Schickler, Eric. 2002. *Partisan Hearts and Minds*. Yale University Press.

Greene, Steven. 2004. "Social Identity Theory and Party Identification." *Social Science Quarterly*. 85 (1): 136-153.

Grossmann, Matt, and Hopkins, David A. 2016. *Asymmetric Politics: Ideological Republicans and Group Interest Democrats.* New York City: Oxford University Press.

Hood, Cory, and Strehle, Allie. N.D. "Uneven Partisan Defection: Are Democrats Less Loyal than Republicans?" *Pi Sigma Alpha Undergraduate Journal.* Forthcoming.

Inglehart, Ronald. 1997. *Modernization and Postmodernization: Cultural, Economic, and Political Change in 43 Societies.* Princeton: Princeton University Press.

Keith, Bruce E., Bagelby, David B., Neson, Candice J., Orr, Elizabeth, Westlye, Mark C.,

Jennings K., & Niemi R. (1978). *Generations and politics: A panel study of young adults and their parents*. Place of publication not identified: Princeton Univ Press.

Shively, W.P. (1979). *The Development of Party identification Among Adults: Exploration of a Functional Model*. American Political Science Review

Wolfinger, Raymond E. "The Partisan Affinities of Independent 'Leaners'." *British Journal of Political Science*. 16(2): 155-185).

Political Revolution or Incrementalism? The Battle for the Soul of the Democratic Party[2]

By Eric Ramputh

In the months leading up to the 2020 Democratic Presidential Primary, former President Barack Obama, the man responsible for decisive democratic victories in 2008 and 2012, conveyed a stark warning to his party's field of candidates. In remarks given to the Democracy Alliance, an influential group of democratic donors, President Obama emphasized "this is still a country that is less revolutionary than it is interested in improvement, they like seeing things improved. But the average American does not think that we have to completely tear down the system and remake it. And I think it's important for us not to lose sight of that" (Sullivan, 2019). Succinctly, the former president conveyed a view of political change shared by tens of millions of Americans across the political spectrum, while also inserting himself, at least momentarily, into the ideological debate that has engulfed the Democratic Party since its devastating defeat in 2016. The central question of this debate is straightforward. Should the Democratic Party remain committed to an incremental approach to politics, or should it embrace a wave of progressivism fueled by ideas unrivaled by even The New Deal? The answer to this question, like many that come about in a presidential election year, will not be definitively answered until a Democratic candidate accepts their party's nomination for president on July 16, 2020. Nevertheless, with the ultimate goal of ejecting President Donald Trump from the White House, Democrats cannot risk a second term of the Trump presidency on an ideological shift that has failed to resonate throughout large swaths of the electorate and country. Specifically, Democrats cannot rely on the potential general election candidacy of Senator Bernie Sanders to deliver the electoral coalition that is needed to defeat President Trump.

Retracing a Path to Victory, and the Democratic Primary

To win back the White House in 2020, Democrats will need to re-tread the path that they took during President Obama's reelection campaign in 2012. That year, President Obama won in Florida, Ohio, Pennsylvania, Michigan, Wisconsin, and Virginia, guaranteeing an electoral victory with plenty of margin to spare (Murno, 2012). Conversely, in 2016, President Trump won election by achieving the slimmest of victories in crucial battleground states, flipping the previously democratic won states of Florida, Pennsylvania, Ohio, Michigan, and Wisconsin (Beckwith, 2017). In Pennsylvania, Michigan, and Wisconsin, the renown "blue wall," then candidate Trump won by less than a percentage point in each state, defeating

---

[2] This piece was written in February 2020, and has not been updated to reflect the Democratic Primary process.

Hillary Clinton by a combined 79,646 votes (Bump, 2016). To put that vote total in perspective, President Trump won those three states by a combined vote less than the total capacity of Camp Randall Stadium, the home of the Wisconsin Badgers football team (University of Wisconsin, 2020). Democrats must retake the blue wall states to have any shot at defeating President Trump in 2020. Relying on alternative avenues of victory, either through states like Arizona or Texas, would not yield the necessary returns that Democrats need to win the White House.

In choosing a candidate to take on President Trump, and to recreate the electoral success of the Obama years, Democrats are weaving through a fragmented primary field. In a candidate pool that refuses to winnow, Senator Bernie Sanders has undoubtedly taken advantage of the dynamic and has emerged as a tentative front runner. In February 2020, per FiveThirtyEight's Democratic Primary forecast, Senator Sanders stood at a 41% chance of winning the nomination outright, followed by a brokered convention at 37%, former Vice President Joe Biden at 11%, and former New York Mayor Michael Bloomberg at 7% (FiveThirtyEight, 2020). In a divided primary field riddled with underperforming candidates and surprise ones alike, Senator Sanders' dedicated base of support delivered victories in New Hampshire and Nevada. His policy platform, which has garnered him this support, is arguably the most ambitious and progressive in the history of the modern Democratic Party. As such, the Senator's platform calls for Medicare for All, passage of the Green New Deal, tuition free and debt free public university, a federal jobs guarantee, and a tax on extreme wealth among twenty-eight additional policy priorities that are listed (Bernie 2020 Campaign, 2020).

Senator Sanders' platform performed well among young and progressive democrats, the crux of his popular support. Additionally, Sanders has an innate ability to explain his platform at a kitchen table level, earning him staying power among large swaths of the electorate. In the face of progressive challenges from other candidates, like Senator Elizabeth Warren, and even a mid-campaign heart attack, Sanders has persevered to dominate the progressive lane and tentatively lead the democratic field. Nevertheless, despite Sanders' perceived strength, looks can be deceiving, and a more in-depth look at his potential general election candidacy reveal glaring weaknesses that could play to President Trump's advantage.

A Weak General Election Candidacy

A Sanders primary victory would be a boon for the progressive wing of the Democratic Party and a political shift unforeseeable even a few years ago. Senator Sanders would be the most progressive democratic nominee for president since George McGovern. Yet, much like the late Senator McGovern, Sanders would also come up short in a general election campaign – though not at the historic margin that McGovern lost by. There are three principal reasons why Senator Sanders would not fare well in the general election campaign, and why Sanders would fail to put together the electoral formula to beat President Trump.

First, Sanders' self-styled and described Democratic Socialism would not play well with the general electorate. In reality, compared to the average socialist in Europe or Latin America, Sanders is more of a social democrat than anything else. For example, despite advocating for major public investments, more stringent regulations, and higher taxation, Sanders does not advocate for nationalization of large swaths of the American economy. Nevertheless, the die is cast, and Sanders' embrace of Democratic Socialism, compared to just styling himself more accurately as a Social Democrat, will come at a cost. While a recent Gallup poll found that 76% of Democrats would vote for a "socialist" candidate for president, only 45% of Independents and 17% of Republicans would do so as well (Saad, 2020). To win in 2020, Democrats must win back independent voters that they lost during the 2016 campaign. Key to President Trump's upset victory on election night 2016 was a victory among independent voters, who Trump won nationwide by 4% (CNN, 2016). More important though was the president's win among independent voters in the "blue wall" states, where he beat Hillary Clinton by at least 7% among the crucial block of voters (CNN, 2016). For supporters of Senator Sanders, they will refer back to polling data, such as a recent Ipsos/Reuters poll, showing Sanders leading President Trump by 18% among independents (Ipsos, 2020). The same poll also found former Vice President Joe Biden, Former Mayor Michael Bloomberg, Senator Elizabeth Warren, and former Mayor Pete Buttigieg winning independents, though by smaller margins.

Nevertheless, in 2016, President Trump was able to overcome deficits upwards of 10% among independent voters, less than a month out from election day, to win the crucial block of voters (Graham, 2016). This was against candidate Hillary Clinton who was certainly viewed as less ideologically radical than Senator Sanders. In a general election, the Trump campaign would have ample time to target those 53% of independent voters who would not vote for a socialist candidate for president, making the argument that the president represented a less ideological and safer choice for those voters (Saad, 2020). While the president's campaign will undoubtedly try to falsely cast any democratic candidate as socialist, the argument would have more staying power against Sanders, as the Senator has embraced the moniker. A win among independent voters for President Trump would likely ensure his reelection, and Democrats cannot risk nominating a candidate whom a majority of independent voters would not consider supporting.

Subsequently, second among the reasons why Senator Sanders would come up short in a general election campaign is the lack of consistent success that the progressive approach has in winning competitive elections. In the aftermath of the 2016 election, the consensus among progressives like Senator Sanders was that democrats did not excite or turn out their base in 2016, due to the democratic platform's insufficient ambition and stagnation. The thinking was that a progressive candidacy would lead to higher voter turnout across the board, thus leading to a democratic victory. Nevertheless, that theory has not proven to be

successful, especially in the crucial 2018 Midterm Elections where Democrats regained control of the House of Representatives. In highly competitive districts that President Trump won during his 2016 campaign, districts that were essential to the Democrats victory in the House, candidates from Sanders and progressive-aligned groups—such as Our Revolution, Justice Democrats, and Brand New Congress—went a combined 0-44 (Chait, 2020). The political revolution that Senator Sanders and his supporters touted did reach fruition, and "89 percent of the Democrats' improved performance came from persuasion—from vote-switchers—not turnout" (Teixeira, 2020). Democrats did not win forty House seats and flip seven Republican governorships off of the approach that would be utilized by Senator Sanders in a general election versus President Trump. Rather, Democrats won by convincing independent voters and even former Trump voters to protect and expand the Affordable Care Act, oppose tax cuts for the wealthy, and to put a check on President Trump's executive power.

Coupled with the previous paragraph is the third principal reason why Senator Sanders would struggle in a general election campaign: the rigidity of Sanders' policy platform. To be clear, the goals set out in the senator's platform are admirable and focused on the issues of our time. Climate Change, for example, is the largest non-military existential threat to humanity. Furthermore, income inequality, affordable healthcare, affordable housing, comprehensive immigration reform, and a number of other issues that the senator focuses on are preeminent challenges in American life. Nevertheless, the senator's policy positions do little to persuade the voters that will be needed to win in 2020, much like Republicans persuaded swing voters to in 2018. For example, Sanders' "Medicare for All" proposal, while popular on the surface, would provide a political opening for Republicans and would be an easy target for the Trump campaign. While surveys show that a large number of voters would support a Medicare for All health care system, an equally large number of respondents also report that they are satisfied with their own health care coverage. In fact, a Kaiser Family Foundation (KFF) poll conducted in July 2019 found that "86 percent of Americans with insurance rate their personal coverage positively" (Thomson-DeVeaux, 2019). This is in line with a September 2019 KFF poll that "found that when asked to choose, a majority (55 percent) prefer a candidate who would build on the ACA, while 40 percent favor a candidate who would replace the ACA with Medicare for All" (Thomson-DeVeaux, 2019).

Considering that Senator Sanders' Medicare for All proposal would eliminate private insurance, except for some circumstances, Republicans would have the political opening on healthcare that they have been desperately waiting for. Having lost on the issue of healthcare for the better part of a decade, and having created no alternative to the Affordable Care Act, Republicans would be able to distract from their record by focusing on the ambiguous and costly policy position proposed by Senator Sanders. The Medicare for All position, alone, presents a number of political and fiscal challenges. That is not accounting for Senator

Sanders' other policy priorities, such as a federal jobs guarantee, which would balloon federal spending and the deficit. While it is evident, as shown by the Trump Administration's record, that the Republican Party cares little about deficits when in power, at least one party must care about the deficit and national debt. Additionally, though Senator Sanders has a talent for explaining complex political issues at a kitchen table level, he has yet to adequately explain the revenue model which would support his policy platform.

Therefore, considering the aforementioned reasons, Democrats cannot rely on Senator Sanders' political revolution to deliver the necessary coalition to defeat President Trump this November. To win, Democrats must focus on a platform which appeals to a broad swath of the electorate, and that can attract voters in key battleground states that pulled the lever for President Trump last time around. While Senator Sanders has built a remarkable political movement, which inspires millions of Americans across this country, this movement is not yet ready to win hotly contested elections, as demonstrated in 2018. Additionally, America remains extremely divided, with Republicans and Democrats alike viewing the opposing party as unpatriotic, immoral, and a number of other negative connotations (Pew Research Center, 2019). Democrats need a candidate that can reach across the political divide and sway enough voters in the crucial battleground states needed to win the presidency. A candidate whose platform, while ambitious though an incremental policy approach, will not box the party and its down ballot candidates into an unwinnable position. While Senator Sanders has almost single handedly led the revival of the progressive wing of the Democratic Party, it will take another candidate to convince the necessary voters to make President Trump a one-term president.

References

Beckwith, D. C. (2017, February 2). *United States Presidential Election of 2016*. Encyclopædia Britannica. https://www.britannica.com/topic/United-States-presidential-election-of-2016

Bernie 2020 Campaign. (2020). *Bernie Sanders on the issues*. Berniesanders.com. https://berniesanders.com/issues/

Bump, P. (2016, December 1). *Donald Trump will be president thanks to 80,000 people in three states*. The Washington Post. https://www.washingtonpost.com/news/the-fix/wp/2016/12/01/donald-trump-will-be-president-thanks-to-80000-people-in-three-states/

Chait, J. (2020, January 28). *Running Bernie Sanders Against Trump Would Be an Act of Insanity*. New York Magazine. https://nymag.com/intelligencer/2020/01/bernie-sanders-electable-trump-2020-nomination-popular-socialism.html

CNN. (2016, November 23). *Exit Polls*. CNN Politics. https://www.cnn.com/election/2016/results/exit-polls

FiveThirtyEight. (2020, February 18). *Who Will Win The 2020 Democratic Primary?* FiveThirtyEight. https://projects.fivethirtyeight.com/2020-primary-forecast/

Graham, D. A. (2016, October 11). *Independents and Women Bail on Trump, Giving Clinton a Double-Digit Lead*. The Atlantic. https://www.theatlantic.com/politics/archive/2016/10/prri-atlantic-poll-trump-plummets/503561/

Ipsos. (2020, February 11). *Reuters/Ipsos Poll: 2020 Democratic Primary Tracker.* Ipsos https://fingfx.thomsonreuters.com/gfx/mkt/13/1950/1919/Topline%20Reuters%202020%20Election%20Tracker%2002%2010%202020.pdf

Murno, A. (2012, November 19). *United States Presidential Election of 2012*. Encyclopædia Britannica. https://www.britannica.com/event/United-States-Presidential-Election-of-2012

Pew Research Center. (2019, October 10). *Partisan Antipathy: More Intense, More Personal*. Pew Research Center. https://www.people-press.org/2019/10/10/partisan-antipathy-more-intense-more-personal/

Saad, L. (2020, February 11). *Socialism and Atheism Still U.S. Political Liabilities*. Gallup. https://news.gallup.com/poll/285563/socialism-atheism-political-liabilities.aspx

Sullivan, S. (2019, November 15). *Obama tells Democratic candidates to ease off talk of revolution*. The Washington Post. https://www.washingtonpost.com/politics/obama-tells-democratic-candidates-to-ease-off-talk-of-revolution/2019/11/15/93569ddc-07fd-11ea-924a-28d87132c7ec_story.html

Teixeira, R. (2020, February 14). *No, radical policies won't drive election-winning turnout*. The Washington Post. https://www.washingtonpost.com/outlook/no-radical-policies-wont-drive-election-winning-turnout/2020/02/14/07a0b602-4e97-11ea-b721-9f4cdc90bc1c_story.html

Thomson-DeVeaux, A. (2019, December 19). *Americans Want The Health Care System To Change. Just Not Their Own Health Care.* FiveThirtyEight. https://fivethirtyeight.com/features/americans-want-the-health-care-system-to-change-just-not-their-own-health-care/

University of Wisconsin. (2020). *Camp Randall Stadium*. University of Wisconsin - Sports. https://uwbadgers.com/sports/2015/8/21/GEN_2014010132.aspx

Assessing Congress's Role in Human Rights Policy: What is the Fate of Human Rights with a Populist Presidency?

By Hannah Gavin, Advised by Professor Gerry Warburg

The United States Congress led the push to incorporate human rights standards into U.S. diplomacy, trade, and foreign aid practices as a response to the abuse of executive authority in the 1970s from the Vietnam War and the Watergate Scandal. The legislative branch leveraged its constitutional powers of the purse and power to declare war so that the U.S. could use its influence to be a force for good in the world. This paper will explore the evolution of Congress and human rights. Congress legislated itself the ability to promote international human rights in the 1970s in the context of other congressional reforms to give it greater authority in foreign policy, the budget process, and international trade. It wrote laws committing the U.S. to combatting genocide, prohibiting military funding to countries that commit human rights abuses, and making foreign aid conditional on countries making efforts toward democratic reform and improving human rights practices. A frustrated Congress, unable to press the executive branch on the Vietnam War policy, resorted to cutting off funding for the Vietnam war through the appropriations to finally bring it to an end. From anti-war protests to the feminist movements, American society in the 1970s was pushing the government for change toward greater respect of individuals.

From a man-made famine in Yemen, bombing of civilian infrastructure in Syria, ethnic cleansing in Burma, concentration camps in China, and an unprecedented refugee crisis in Venezuela — today, there is no shortage of human rights violations on Congress's radar. With the strongest military, economy, and diplomatic influence in the world, why does the U.S. government often achieve so little when it has the power to do so much more? In the age of a populist presidency and growing populist sentiments around the world, commitment to a human rights-centric foreign policy in the U.S. is vital for ensuring global security and prosperity.

Following institutionalization of human rights standards at the international level following World War II with the establishment of the United Nations (UN) in 1945 and the Universal Declaration of Human Rights (UDHR) in 1948, Capitol Hill took the lead in ensuring the U.S. was a major player in trying to uphold these new standards, especially throughout the 1970s and 1980s. Today, Congress continues to battle the executive branch to incorporate human rights into U.S. foreign policy, but it has achieved limited success. Authoritarian leaders remain willing to inflict the highest costs on their civilians, inflicting political and ethnic violence in nearly every corner of the globe. This reality requires a new examination of what today's Congress can learn from the past and can do in the future to uphold international human rights.

Following an account of the 1970s congressional reforms on human rights, three present-day case studies will assess the current state of Congress's role in international human rights. These include Saudi Arabia's role in the Khashoggi murder and Yemeni crisis, the Kurdish crisis in northeast Syria, and China's treatment of pro-democracy protestors in Hong Kong and ethnic minorities in Xinjiang.

What Powers Does Congress Have at Its Disposal to Influence Human Rights?

The institutionalization of human rights in U.S. foreign policy is a relatively modern concept, as evidenced in the legislative reforms of the 1970s. The incorporation of human rights into U.S. foreign policy occurred in the context of post-Watergate congressional reforms to strengthen the role of Congress relative to the President. Also, during this time, the distinction between domestic and foreign issues became less stark with factors such as the rising influence of ethnic lobbies and media developments, which allowed Americans to see more coverage of world events (Keys, 2010). Congress's push for human rights dealt with both cooperative and uncooperative executive branches throughout the presidencies of Richard Nixon and Jimmy Carter. President Nixon's Secretary of State Henry Kissinger (1973-1977) once stated, "I hold the strong view that human rights are not appropriate in a foreign policy context" (Keys, 2010). Congress took up legislative battles with Kissinger throughout his government service in the fight to give the U.S. a stronger role in promoting human rights. Ironically, it was Kissinger's tenure that started the push by Congress to institutionalize human rights in U.S. foreign policy through the State Department. Below are some of the most successful tools used by Congress in the 1970s to leverage control over human rights policy.

Congressional hearings

Congress utilized its authority to conduct hearings as a way to advance human rights issues. Rep. Donald Fraser (D-MN) in 1973 was Chair of the Subcommittee on International Organizations and Movements (within the House Foreign Affairs Committee) and transformed the position "into a major vehicle for the advancement of human rights"(Keys, 2010). The subcommittee held 15 hearings on human rights in 1973. It produced a report in 1974 recommending human rights be a more important consideration in U.S. foreign policy and is both "morally and practically necessary" (Keys, 2010). Hearings serve a public education function and convey the policy priorities of the current Congress, some of which set a precedent for future handling of these issues by successive Congresses. Fraser successfully used hearings in the mid-1970s to make important future advances on human rights.

Human rights reports

Since 1979, the State Department has been required to submit to Congress human rights reports on all United Nations (UN) Member States. Initial State Department human rights reports were not very specific in order to maintain good relations with countries (Keys, 2010). Kissinger also delayed the release of these early reports to Congress, and certain countries were not included. Kissinger would also withhold annual

State Department human rights reports, at times for citing security reasons. Initially, the Bureau possessed limited influence in U.S. foreign policy. But it did help to educate lawmakers on human rights and started the process of establishing human rights as a routine foreign policy consideration (Keys, 2010). Now, the reports are substantive, comprehensive, routine publications covering all 193 UN Member States. Notably, the Trump administration reduced references to reproductive rights and violence against women in some of its recent human rights reports indicating a lesser concern in this administration for enforcing the full scope of human rights (Human Rights Watch, 2018).

State Department

As a result of Congressional human rights activists' efforts, the State Department added the Bureau of Human Rights and Humanitarian Affairs in 1977. Congress made the Director of the Human Rights Bureau a political appointment, nominated by the President and subject to nomination by the Senate. The State Department Bureau of Human Rights and Humanitarian Affairs was established to work with Congress's efforts to tie foreign aid to a country's human rights records pursuant to section 502B of the Foreign Assistance Act, which said that the U.S. (22 U.S. Code § 2304, Human rights and security assistance) could not provide security assistance to countries that commit gross violations of human rights. The Department has not always complied with this section 502B provision often justifying aid for security purposes.

Foreign aid

Congress passed a number of other provisions during this period that linked foreign aid provision to a country's human rights records. During the 1970s, Congress cut off or restricted foreign aid to Uruguay, Angola, Indonesia, and Chile citing human rights violations despite President Gerald Ford's opposition (Lawrence, 2018). Some of the mechanisms used include (Keys, 2010):

- *Foreign Assistance Act of 1973, Section 32:* Prohibits economic or military aid to governments that hold political prisoners.
- *Foreign Assistance Act of 1974, Section 502B:* The President should reduce or terminate aid to governments that commit gross violations of human rights.
- *Harkin Amendment (International Development and Food Assistance Act of 1975, Section 116):* Economic assistance is tied to human rights standards and subject to annual human rights reports.

Jackson-Vanik amendment

Through the Jackson-Vanik amendment, normal trading status with the U.S. is denied to non-market economies that restrict emigration in their country (Ginsburg, 2009). It was an amendment of the U.S. Trade Act of 1974, signed by President Gerald Ford in 1975. The Cold War propelled the passage of this provision, since it put pressure on the Soviet Union and other communist countries. In particular, the amendment

responded to the USSR's "diploma tax" which fined individuals with higher education trying to leave the country, and particularly affected Jews ("Jackson-Vanik Amendment, Jewish Virtual Library"). The bill received support from anti-communist congressional Republicans because the legislation linked cooperation with the Soviets to the issue of Jewish emigration. The passage of the Magnitsky Act, which focused just on Russia, replaced the Jackson-Vanik amendment ("Jackson-Vanik Amendment, Jewish Virtual Library").

The reforms Congress helped make during Kissinger's time as Secretary of State laid the groundwork for President Jimmy Carter's administration (1977-1981) to advance human rights issues more vocally than any previous U.S. president had. In a 1977 speech at the University of Notre Dame, Carter proclaimed, "It is a new world that calls for a new American foreign policy—a policy based on constant decency in its values and on optimism in its historical vision" where there is a "commitment to human rights as a fundamental tenet of our foreign policy" (Carter, 1977) Then, following Carter's tenure, President Ronald Reagan's administration further institutionalized human rights via democracy promotion organizations, such as the National Endowment for Democracy, the National Democratic Institute, and the International Republican Institute—all established in 1983. Reagan's efforts confirmed the bipartisan support for the U.S.'s role in human rights promotion with the creation of these programs, instead of rolling back the initiatives made by his predecessor. Other notable human rights reforms were made from there, including:

- The Proxmire Act (1987): To prevent and punish genocide (Power, 2013)
- The Leahy law (1999): To cut-off security assistance to countries that commit gross violations of human rights ("Leahy Law Fact Sheet"), and
- The Global Magnitsky Act (2016): To place economic sanctions on foreign individuals engaged in human rights violations or corruption around the world, expanding on its 2012 predecessor that focused just on Russian nationals (Rennack, 2018).

How Is the U.S. Doing Currently on Human Rights Promotion?

This next section will look at three present-day case studies to assess Congress's role in human rights promotion: Saudi Arabia, the Kurds, and China. In each of these cases, Congress vocalized stronger opposition to these human rights abuses than the Trump administration. In his decision-making, the President neglects protection of civilians under the guise of promoting national security. Congress faces fewer constraints in negotiating arms deals and negotiating one-on-one with world leaders, but it still carries a responsibility of shaping U.S. foreign policy. Ultimately, Congress has been unable to rein back President Trump's use of executive action, which prevents the U.S. from pressuring regimes to address their human rights records. Sanctions remain stalled in Congress, and President Trump ignores some of the other laws that have been enacted. The result is inconsistent messages emanating from the U.S. about where it draws the

line regarding human rights abuses in other countries. These mixed signals suggest to authoritarian leaders that they can act with impunity when they assume the U.S. does not honor its commitments.

Saudi Arabia

The U.S. considers Saudi Arabia to be a strategic geopolitical ally in the Middle East for security and counter-terrorism initiatives as well as an important counter-balance to Iran as an increasingly expansionist regime. The U.S.-Saudi relationship, however, has always had contentious moments, dating back to the controversial sale of Airborne Warning and Control System (AWACS) aircraft to the kingdom under the Reagan administration despite Congressional opposition and pressure from pro-Israel advocates to cancel the deal (Mohr, 1981). The U.S. continues to justify its partnership with Saudi Arabia on national security grounds, but recent human rights violations by the Saudi regime have made the relationship even more tenuous.

The present concerns regarding Saudi Arabia's human rights are two-fold: the murder of Jamal Khashoggi and the humanitarian crisis in Yemen. In the fall of 2018, Saudi agents brutally murdered American resident and *Washington Post* journalist Jamal Khashoggi inside the Saudi consulate in Istanbul (Hubbard, 2018). While President Trump remained hesitant to take firm action against U.S. allies Saudi Arabia, Congress more forcefully vocalized their condemnation of the crime. Since 2015, Saudi Arabia has used U.S. weaponry and intelligence for its military involvement in Yemen creating one of the world's worst humanitarian crisis today. In Yemen, more than 24 million civilians require humanitarian assistance, 10 million civilians are at risk of starvation, and over 7,000 civilians have been killed due to armed conflict (Blanchard, 2019).

During the summer of 2019, Congress battled the President to cancel an $8.1 billion arms sales to Saudi Arabia (Zengerle, 2019). Opponents of the deal see it as a betrayal of U.S. interests because of the Saudi's role in Khashoggi's murder, and it makes the U.S. complicit in the Yemeni humanitarian crisis. Both the House and the Senate passed a series of resolutions of disapprovals. Senate Foreign Relations Committee Ranking Member Bob Menendez (D-NJ) introduced the measures in the Senate, and they passed in late June with a vote of 53-45 (Zengerle, 2019). Seven Republicans broke rank to support Menendez's bill (Edmondson, 2019). Senate Foreign Relations Committee Chairman Jim Risch (R-ID) offered alternative measures which he believed Trump would more readily support since they offer the Saudi government more leniency. His bills would direct Secretary of State Pompeo to review the U.S.-Saudi relationship and withhold or revoke visas of certain officials responsible for human rights abuses (Edmondson, 2019). Ultimately, Risch withdrew these measures after Republican members of the committee, Senators Lindsey

Graham (SC), Rand Paul (KY), and Todd Young (IN), shifted their support to Menendez's bill (Edmondson, 2019). These measures would block the sales pursuant to the Arms Export Control Act.

In turn, President Trump vetoed the Senate's bill to block arms sales and a Senate bill to end U.S. military involvement in the war in Yemen (Blanchard, 2019). Trump invoked his emergency powers granted in the Arms Export Control Act citing an urgency for delivering arms—a claim many Members and Senators doubted and criticized for abuse of executive authority. While the Trump Administration has stopped refueling of Saudi aircraft used in Yemen, it still provides other military support, including the deployment of thousands of U.S. troops to Saudi Arabia over the summer (Blanchard, 2019). As a result of Trump's defying congressional pushback, the Saudi regime can continue its assault on Yemen with the material and diplomatic support of the U.S.

Kurds

In October 2019, the Trump Administration announced it would remove the approximately 1,000 troops stationed in Northeastern Syria. The region is home to Kurds, who have fought alongside the U.S. against the Islamic State since 2015 and are one of the strongest U.S. allies in the Middle East. Almost immediately after Trump withdrew troops, Turkish President Recep Tayyip Erdogan sent his own troops to the area and opened fire against the Kurds, who Turkey view as a threat to its legitimacy, as Kurd leaders advocate for Kurdish independence. As a direct result, 150,000 Kurds fled their homes. Trump ignored warnings that this decision would put Kurdish civilians in immediate danger, and the result was deadly. General Mazloum Kobani Abdi of People's Protection Units (YPG), a U.S.-backed Kurdish militia, told an American diplomat in Syria, "You are leaving us to be slaughtered" (Wright, 2019).

The recent example of President Trump's decision to withdraw its military presence from Northern Syria clearly demonstrates where U.S. values and security interest intersect. Iran, Russia, and ISIS eagerly acted to fill the vacuum left by the U.S. Not only did this decision betray the Kurds, a loyal U.S. ally, but it also directly harmed U.S. security interests. Powers such as Iran and Russia, allies of the Assad regime in Syria, strive for domination in the Middle East in a way that is contrary to U.S. values and interests. U.S. withdrawal from the region opens up the doors to further regional instability.

Democratic leadership in the House Foreign Affairs (Engel, 2019) and Senate Foreign Relations Committees (Menendez, 2019) introduced resolutions to condemn the Trump Administration's withdrawal from northeast Syria and Turkey's successive invasion. Notably, two traditional supporters of President Trump led the push on the bills: Rep. Liz Cheney (R-WY) and Sen. Lindsey Graham (R-SC). The bill in the House passed overwhelmingly in a vote of 354-60 sending a strong message to the Kurdish allies that Congress intends to use its power to continue to advocate for their safety. Another measure in the House to

sanction Turkish officials passed 403-16, and the Senate is currently considering a similar measure (Flatley, 2019).

After congressional criticism of the Trump Administration's decision, Vice President Mike Pence took a jab at Congress, in turn, during a trip to Iraq to reassure Kurdish allies. "We need Congress to do their job" (Callahan, 2019). The resolutions passed by Congress sent a strong message of support to the Kurds more so than any message that emanated from the White House, such as Trump's statement about the Kurds, "They're no angels" ("Trump Says…" 2019). Still, Congress's resolution of disapproval could only go so far. The Trump administration shifted blame to Congress for not passing funding measures to support Kurdish allies. And, it is true, that while Congress vocalized its opposition, it did not take a step further using its power of the purse to influence U.S. military involvement in that capacity.

China

Addressing the Chinese government's human rights record has been complicated for the U.S. as American policymakers try to balance their relationship with a country that holds so much economic and security import. Despite repeated attempts by the U.S., China has also been unwilling to respond to U.S. pressure to improve human rights. Since the People's Republic of China's (PRC) deadly suppression of pro-democracy protests in Tiananmen Square in 1989, U.S. policymakers expanded their attempts to pressure China on human rights issues. Most attempts have failed, including President Bill Clinton's administration's unsuccessful attempt to condition China's Most Favored Nation (MFN) trade status with the U.S. on improvements to its human rights record (Mann, 1996). Failure is often attributed to prevailing economic interests and PRC unwillingness to respond to criticism of, what they consider domestic issues. In the U.S. relationship with China, the Trump Administration prioritizes bilateral trade often sidestepping pressing human rights issues (Campbell and Ratner, 2018).

With overwhelming support, Congress recently passed the Hong Kong Human Rights and Democracy Act (Crowley and Swanson, 2019). The bill would sanction Chinese officials responsible for violent suppression of Hong Kong protestors and would remove preferential trading status to Hong Kong. President Trump reluctantly signed the bill, which he was hesitant to do due to his relationship with Chinese Leader Xi Jinping, remaining cautious in order to reach an agreement to end the current tariff war with China, and vocalized support for the pro-democracy protestors in Hong Kong during an appearance on *Fox & Friends* (Crowley and Swanson, 2019a). Regardless, the bill passed in the House with only one dissenting vote and in the Senate with unanimous consent, so Congress would have been able to override a Trump veto. Senate Majority Leader Mitch McConnell (R-KY) even urged the President to support the bill stating, "The world should hear from him directly that the United States stands with these brave men and women"

(Crowley and Swanson, 2019b). Senate Minority Leader Chuck Schumer (D-NY) voiced his opposition to the President's stance saying, "President Trump's words today do not reflect what the American people or the Congress think about President Xi's oppressive policies toward the people of Hong Kong"(Crowley and Swanson, 2019b).

The mass internment and cultural assimilation policies of Uyghur Muslims in Xinjiang, China, have not received as much attention as the protests in Hong Kong, but the situation is perhaps one of the world's worst cases of human rights violations. The Chinese Communist Party has sent nearly one million citizens to live with Uyghur Muslims to evaluate their party loyalty. The Chinese government has also sent 1.5 million Uyghurs to re-education centers. For Uyghur students returning home from university who might have questions about where some of their family members have gone, Chinese officials devised a guide for answering their questions including advice to not prod too deeply or it might affect their disappeared loved one's safety (Ramzy and Buckley, 2019). Secretary of State Mike Pompeo called China's policy against Uyghurs in Xinjiang, "one of the worst human rights crises of our time," and "the stain of the century"(Ramzy and Buckley, 2019). However, President Trump remains hesitant to sanction responsible officials because of ongoing trade concerns (Lum, 2017). In the absence of forceful presidential action, Congress has introduced resolutions and discussed the situation in hearings. The Senate unanimously passed Senator Marco Rubio's (R-FL) Uyghur Human Rights Policy Act, which calls on the U.S. government to produce additional reports on China's treatment of Uyghurs (Rubio, 2019). Its companion bill in the House has been introduced by Rep. Christopher Smith (R-NJ) in the House.

For Trump, the trade deal looms too large in his decisions on the U.S.-China relationship. They take precedent over the human rights concerns voiced by Congress. There is a way to reconcile a stronger stance on China's human rights with other strategic considerations, like security and trade relations. In competition with China as a rising global power, the U.S.'s comparative advantage is that it advocates for a world order based democratic ideals, individual freedoms, and rule of law. This assertion is perhaps less true under the Trump administration, which has overseen an abandonment of many of the U.S. long-held stances on promoting human rights abroad. As Congress continues to hold more hearings and pass more resolutions related to China's human rights record, it should also consider other tools it can use to show the U.S. is serious about human rights even when the executive branch does not.

While these three examples demonstrate how Congress more readily and more forcefully condemns human rights violations around the world than the executive branch, Congress has been ineffectual in utilizing its constitutional authorities to counteract President Trump's actions. Congress has made its voice heard but has not significantly changed the course of U.S. foreign policy. The president retains ultimate

authority in steering foreign policy, and with the current administration, that has meant placing human rights as a low priority.

Another important takeaway is that there seems to be a degree of bipartisan consensus on international human rights issues during a time where Congress seems polarized on nearly every other topic. It offers some hope that there is a way forward in Congress on human rights issues. Measures in Congress to address human rights violations in Saudi Arabia, Hong Kong, and Xinjiang have all received support from Republicans and Democrats alike. Republicans display a willingness to challenge the President of their own party on his relationships with dictators and overlooking of human rights abuses. Bipartisan support for these issues affirms that human rights remains a deeply-held political value that the U.S. seeks to promote in its foreign policy. The challenge moving forward will be to communicate human rights promotion in a way that further strengthens bipartisan cooperation and makes a compelling argument to the American people and presidential administration that human rights are a vital component of U.S. foreign policy.

What Obligation Does Congress Have to Promote Human Rights?

Thus far, this paper assumes that the U.S. should be proactive on international human rights. But what obligation does the U.S. really have on these matters? Is it a constitutional mandate? A moral responsibility? A diplomatic tactic? A bargaining chip?

Arthur Schlesinger Jr. believed promoting human rights is a fundamental value of America established at its founding. He wrote:

> The United States was founded on the proclamation of 'unalienable' rights, and human rights ever since have had a peculiar resonance in the American tradition. … Americans have agreed since 1776 that the United States must be the beacon of human rights to an unregenerate world. The question has always been how America is to execute this mission (Schlesinger, 2009).

Even if the U.S. commitment to human rights dates back to the ideals of the Founding Fathers, lawmakers have not always agreed on what lengths the U.S. should go to in order to honor this commitment. The debate on human rights and U.S. foreign policy has changed over time and taken various forms: from dominating discussions on whether the U.S. should enter World War II to serving as the hallmark of President George W. Bush's "freedom agenda"(McMahon, 2019).

Often human rights are viewed as an ideal rather than an objective of foreign policy. International institutions provide the framework of human rights standards countries ought to abide by. Morton Halperin (2007) challenges this argument stating human rights are not only an ideal to strive for in foreign policy but are also an important practical consideration. He explains where human rights promotion and realist foreign policy can overlap. In testimony to the House Committee on Foreign Affairs' Subcommittee on International Organizations, Human Rights, and Oversight, he stated that a foreign policy solely based on ideals is unrealistic because of limits on U.S. power, yet often human rights are a realist consideration in international

relations. For instance, he argues, "Preventing genocide is no less a 'real' interest than is keeping the price of oil low or reducing the risk of a military attack"(Halperin, 2007). His argument demonstrates how the costs of U.S. disengagement in human rights are too high: the world is safer and more prosperous when countries protect the rights of civilians and uphold the rule of law.

In *A Problem from Hell*, Samantha Power (2013), former war correspondent and UN Ambassador during the second Obama Administration, argues that despite both informal and formal commitments to prevent and punish genocide around the globe, the U.S. does not intervene in humanitarian crises because it is constrained by a variety of domestic political factors. The U.S. as a signatory to UN agreements to prevent and punish genocide, war crimes, ethnic cleansing, and other human rights violations. As a responsible stakeholder of the international community, the U.S. carries an obligation to defend and promote human rights globally. When the U.S. was put to the test with the genocides throughout the 20th century, it is more often the case that political considerations, aversion to utilizing the U.S. military, and other domestic constraints override the U.S.'s responsibility to protect. At the end of the book, Power quotes George Bernard Shaw, who once said, "The reasonable man adapts himself to the world. The unreasonable one persists in trying to adapt the world to himself. Therefore, all progress depends on the unreasonable man" (Power, 2013). She goes on to write, "After a century of doing so little to prevent, suppress, and punish genocide, Americans must join and thereby legitimate the ranks of the unreasonable" (Power, 2013).

Counterarguments state that it might not be worth sacrificing American lives in order to promote human rights as an ideal. However, Power refutes the mutually exclusive distinction between "moral or strategic" arguments for foreign policy. She said that the choice between moral-based arguments to intervene to protect human rights and strategic arguments to only intervene when it directly serves U.S. economic or strategic interests is "not as binary as it can seem from the outside"("Samantha Power's Journey…", 2019). Promoting human rights are part of the national interest, whether or not they are clearly communicated by policymakers as such. The world is safer when governments protect the freedom and safety of its civilians and more prosperous when trade can flourish among conflict-free nations. Human rights champions make their arguments in terms of stability, economic opportunity, and human dignity. A rules-based world order where countries abide by international human rights standards is in the U.S.'s national interest.

Human rights promotion is a practical endeavor for another reason too: expansionist authoritarian countries like China and Russia remain eager to fill the vacuum left by America's retreat. Trump argued he was ending "endless wars" but really, he has, in effect, given a green light to Turkey, Syria, Russia, and even the Islamic State (Sanger, 2019). The Kurdish crisis represents how the U.S. reneged on a commitment it made to an invaluable ally. Innocent lives are lost as a result. The world is too interconnected to choose isolationism and abdicate from the global responsibility to protect civilians from indiscriminate violence and

persecution from their government. When the country which has the power to do the most chooses to do so little, victims of political, ethnic, and religious violence around the world suffer. With the reality of a rising China that will soon surpass the economic strength of the U.S., the U.S. must use human rights promotion as its comparative advantage in its foreign policy. Just as during the Cold War, a human rights, values-based approach can be the U.S.'s qualitative edge in the coming years with increasing global competition from more authoritarian, rogue regimes.

While the U.S. possesses the greatest military, economic, cultural, and political force in the world, there remain limitations to U.S. power. The U.S. cannot effectively be the world's policeman stopping every country that commits human rights in its tracks. Human rights promotion can take a variety of forms, evidenced by the legislative reforms discussed in this paper. Monitoring and reporting on the human rights records of countries alone sends a message that the U.S. is watching and places these records as a priority in its diplomatic relationships. Consistency is another key to U.S. human rights policy: the U.S. cannot intervene the same in every situation, but it should not turn a blind eye to human rights violations in Saudi Arabia, but criticize other countries like Venezuela and Iran (Samantha Power's Journey…", 2019).

Looking Ahead: Recommendations for the Future

Congress has a promising opportunity to take a strong role in human rights promotion under the current Trump Administration. President Trump has praised authoritarian leaders around the world, including Recep Tayyip Erdogan, Saddam Hussein, Vladimir Putin, Rodrigo Duterte, and Xi Jinping (Margon, 2018). Under Trump, the U.S. has abandoned international commitments to human rights, including withdrawing from the UN Human Rights Council. America's retreat from the world is leaving a vacuum that authoritarian powers will likely fill (Margon, 2018). Congress can recover its authority on human rights policy to push back on the president's attempts to abandon many of the U.S.'s human rights commitments around the world.

Many leaders in Congress clearly demonstrate a receptiveness to championing human rights issues. So the task now is how to translate these intentions into concrete action that reshapes U.S. foreign policy. The following recommendations provide ideas for how Congress can do this, based on an analysis of the success of Congress in the 1970s, and given the current global human rights issues at stake. They offer ways Congress can better defend human rights around the world as a means of national security—to foster safety and stability around the world.

Defend human rights at home

The U.S. needs to be a credible negotiator if it is going to criticize the human rights records of other countries. With its own human rights abuses—impeding voting access of minorities and African Americans, hosting the highest incarceration rate in the world, detaining children at the U.S.-Mexico border, and more—

the U.S. often lacks authenticity and legitimacy as an advocate for human rights. Countries like China often respond to U.S. critiques of Chinese human rights by pointing to human rights abuses in the U.S. If human rights promotion is the U.S.'s comparative advantage, then the U.S. government has to take measures to improve its own practices, as well. When the U.S. is honest about its human rights records, then other countries might be more receptive to criticism the government has about their records. The U.S. should be mindful of its complicity in human rights abuses internationally too, such as its assistance to Saudi Arabia in the Yemeni war.

Strengthen international institutions

The concept of human rights is a product of international institutions that created a standard for all countries to follow in how they treat and protect the freedoms of individuals. Because of their universal nature, human rights require bodies such as the UN along with various UN bodies agreements to enforce. Although the U.S. can play a strong role in the process, no single country can be the determiner or guarantor of human rights around the globe. The U.S. should reverse course in its current posture toward international institutions and instead work to use its vocal leadership to strengthen international mechanisms that enforce human rights standards around the world. Working through the UN Security Council also helps the U.S. build coalitions of international support for its policies and provides legitimacy to U.S. actions. Congress should vocalize its commitment to advocating for human rights through UN bodies. In addition, the Senate should move to ratify the six of the nine core human rights treaties that the U.S. has still not signed (Weber n.d.). Those not yet signed onto include international treaties to protect cultural rights, women's rights, children's rights, migrant workers' rights, the rights of persons with disabilities, and protection of missing persons. Ratifying these treaties provides further credibility to the U.S. on promoting human rights internationally.

Enforce legislation in place

The current Congress can learn from the 1970s reforms that achieved a certain degree of success. Because the executive branch wields a significant amount of power regarding foreign policy, Congress remains limited in what it is able to achieve. However, the 1970s reforms offer a model of how Congress can use its own constitutional authorities to push back on excessive executive authority and executive actions that harm U.S. national security and are against the nation's core values. Some of the practices used in the 1970s that can be applied now include:

- Functionalize the use of hearings to educate the public on global human rights issues and to make the case for human rights as a viable national security strategy. Framing the argument strategically can help prompt change through the actions of the presidential administration and institutionally through the State Department.

- Back up predictable, limited Congressional actions, such as sanctions and resolutions, with concrete actions. While sanctions and resolutions might seem to only communicate a message, that message can be a powerful one if followed up with action. It conveys that the U.S. government is watching and will not condone human rights violations and can work to deter further human rights abuses. Informed by media coverage of the issues and State Department annual human rights reports, Congress should use laws in place to restrict foreign aid to countries and sanction officials responsible for gross violations of human rights.

Congress possesses immense opportunity to champion human rights during a time when so few countries, and when the current U.S. president, remain unwilling to do so. Such actions would signal strategic foresight on the part of Congress when they communicate human rights causes in terms of our national security—it is a viable strategy that should be a pillar of U.S. foreign policy. Congress can send a message to the international community that Americans remain committed to human rights, and will not tolerate indiscriminate killings and persecution from other countries. The lessons learned since the inception of congressional human rights reforms in the 1970s provides a useful framework that can guide policymakers looking to use U.S. strength to advance human rights around the world today. The human rights champions of the 1970s, who institutionalized these principles in U.S. foreign policy, demonstrate how the U.S. can use its voice, material support, and other measures to shape a more humane world.

References

Blanchard, Christopher M. (2019) Saudi Arabia: Background and U.S. Relations. Congressional Research Service.

Callahan, Michael, Veronica Stracqualursi, and Nikki Carvajal. (2019).Vice President Mike Pence Takes Swipe at Congress during Unannounced Visit to Iraq. CNN.https://www.cnn.com/2019/11/23/politics/mike-pence-iraq/index.html.

Campbell, Kurt M., and Ely Ratner (2018). The China Reckoning. Foreign Affairs. https://www.foreignaffairs.com/articles/china/2018-02-13/china-reckoning.

Crowley, Michael, and Ana Swanson (2019a). Trump Says He's 'Standing' With Xi (and With Hong Kong's Protesters). The New York Times.https://www.nytimes.com/2019/11/22/us/politics/trump-hong-kong-protests-xi.html.

White House Won't Say If Trump Will Sign Hong Kong Bill That Has Angered China. (2019) The New York Times. https://www.nytimes.com/2019/11/21/us/politics/trump-hong-kong-china.html.

Edmondson, Catie (2019). Senate Fails to Override Trump's Veto on Saudi Arms Sales. The New York
        Times. https://www.nytimes.com/2019/07/29/us/politics/trump-veto-saudi-arms-sales.html.

Engel, Eliot (2019). Opposing the decision to end certain United States efforts to prevent Turkish military
        operations against Syrian Kurdish forces in Northeast Syria., Pub. L. No. H.J.Res.77.
        https://www.congress.gov/bill/116th-congress/house-joint-resolution/77.

Flatley, Daniel (2019). Turkey Sanctions Pass U.S. House as Lawmakers Press Trump. Bloomberg.
        https://www.bloomberg.com/news/articles/2019-10-29/turkey-sanctions-get-u-s-house-vote-despite-
        pence-s-cease-fire.

Halperin, Morton H. (2007). Human Rights and U.S. Foreign Policy. Center for American Progress.
        https://www.americanprogress.org/issues/courts/news/2007/07/12/3282/human-rights-and-u-s-
        foreign-policy/.

Hubbard, Ben (2018). Saudi Arabia Says Jamal Khashoggi Was Killed in Consulate Fight. The New York
        Times. https://www.nytimes.com/2018/10/19/world/middleeast/jamal-khashoggi-dead-saudi-
        arabia.html.

Human Rights Watch (2018). World Report 2019: Rights Trends in the United States. Human Rights Watch.
        https://www.hrw.org/world-report/2019/country-chapters/united-states.

Jackson-Vanik Amendment| Jewish Virtual Library (2019). https://www.jewishvirtuallibrary.org/jackson-
        vanik-amendment-jewish-virtual-library.

Jr, Arthur M. Schlesinger (2009). Human Rights and the American Tradition Foreign
        Affairs.https://www.foreignaffairs.com/articles/1979-02-01/human-rights-and-american-tradition.

Keys, Barbara (2010). Congress, Kissinger, and the Origins of Human Rights Diplomacy. The Journal of the
        Society of Historians for American Foreign Relations.Lawrence, John (2018).. The Class of '74:
        Congress after Watergate and the Roots of Partisanship. Johns Hopkins University Press.

United States Department of State. "Leahy Law Fact Sheet." https://www.state.gov/key-topics-bureau-of-
        democracy-human-rights-and-labor/human-rights/leahy-law-fact-sheet/.

Lum, Thomas (2017). Human Rights in China and U.S. Policy: Issues for the 115th Congress. Congressional
        Research Service.

Mann, Jim (1996). China Called Clinton's Bluff on Human Rights. The LA Times.
        https://www.latimes.com/archives/la-xpm-1996-09-10-mn-42270-story.html.

Margon, Sarah (2018). Giving Up the High Ground: America's Retreat on Human Rights. Foreign Affairs.
        https://www.foreignaffairs.com/articles/united-states/2018-02-13/giving-high-ground.

Mahon, Robert (2019). Council on Foreign Relations. "Human Rights Reporting and U.S. Foreign Policy." Council on Foreign Relation. Accessed September 8, 2019. https://www.cfr.org/backgrounder/human-rights-reporting-and-us-foreign-policy.

Menendez, Bob (2019). A joint resolution opposing the decision to end certain United States efforts to prevent Turkish military operations against Syrian Kurdish forces in Northeast Syria.https://www.congress.gov/bill/116th-congress/senate-joint-resolution/57.

Mohr, Charles (1981). Saudi AWACS Deal Passes $8 Billion. The New York Times. https://www.nytimes.com/1981/08/22/world/saudi-awacs-deal-passes-8-billion.html.

Power, Samantha (2013). A Problem from Hell: America and the Age of Genocide. New York, NY: Basic Books.

Ramzy, Austin, and Chris Buckley (2019). 'Absolutely No Mercy': Leaked Files Expose How China Organized Mass Detentions of Muslims. The New York Times. https://www.nytimes.com/interactive/2019/11/16/world/asia/china-xinjiang-documents.html.

Ginberg, Julie (2009). "Reassessing the Jackson-Vanik Amendment." Council on Foreign Relations. https://www.cfr.org/backgrounder/reassessing-jackson-vanik-amendment.

Rennack, Dianne E (2018). The Global Magnitsky Human Rights Accountability Act. Congressional Research Service.

Rubio, Marco (2019). Uyghur Human Rights Policy Act of 2019. https://www.congress.gov/bill/116th-congress/senate-bill/178?q=%7B%22search%22%3A%5B%22Uyghur+Human+Rights+Policy+Act%22%5D%7D&r=1&s=1.

Sanger, David E (2019). Trump Followed His Gut on Syria. Calamity Came Fast. The New York Times. https://www.nytimes.com/2019/10/14/world/middleeast/trump-turkey-syria.html.

Carter, Jimmy (1977). Text of President's Commencement Address at Notre Dame on Foreign Policy. The New York Times. https://www.nytimes.com/1977/05/23/archives/text-of-presidents-commencement-address-at-notre-dame-on-foreign.html.

The Ezra Klein Show. Samantha Power's Journey from Foreign Policy Critic to UN Ambassador..

Trump Says Kurds 'Not Angels', Dubs PKK 'worse than ISIL'. (2019). Al Jazeera.. https://www.aljazeera.com/news/2019/10/trump-kurds-angels-dubs-pkk-worse-isil-191017081803445.html.

22 U.S. Code § 2304. Human Rights and Security Assistance

U.S. Senate Rejects Arms Sales to Saudi Arabia, Rebuking Trump (2019). Reuters.
https://www.reuters.com/article/us-usa-saudi-arms-vote-idUSKCN1TL24K.

Weber, Michael A. Global Human Rights: Multilateral Bodies & U.S. Participation. n.d., 3.

Wright, Robin (2019). America's Ally in Syria Warns of Ethnic Cleansing by Turkey. The New Yorker.
https://www.newyorker.com/news/q-and-a/americas-ally-in-syria-warns-of-ethnic-cleansing-by-turkey.

U.S. Energy and Global Climate Solutions

By Miles Moren

Abstract

For decades, American energy policy was driven by a bipartisan ambition to reduce our dependence on foreign natural gas and oil. Today, the paradigm has shifted as the U.S. is now the world's leading producer of energy, and the proposals addressing our nation's energy future instead prioritize either energy security or environmental protections. But these false choices overlook America's ongoing progress toward both energy production and emissions reductions. Sound policies – in federal and state legislatures, Virginia included – and private-sector innovations are accelerating domestic energy development and enabling climate solutions, which are increasingly important given the projected rise in global energy demand. At this defining moment, America's natural gas and oil industry is uniquely positioned to deliver economic growth and emissions reductions with cost-effective, forward-looking approaches.

American politics during the 2010s challenged long standing partisan relations in Washington, D.C. and in state capitals – Richmond included. Anti-establishment rhetoric, particularly on the national stage, has inspired Virginians to organize around a variety of issues across the political divide – from immigration and trade policy, to economic and healthcare inequality, to energy and environmental regulation.

When it comes to that final pairing, it's instructive to recall key policy realities. A deep dive reveals an industry-led focus on good-paying jobs, affordable energy, and progress toward a cleaner planet.

America's natural gas and oil industry is a familiar talking point – and occasional scapegoat – for local, state, and federal office-seekers crafting messages focused on stimulating the nation's economy and improving the standard of living for U.S. families. American energy producers serve as a target to some politicians. But because Virginia voters understand the importance of energy abundance – and scarcity – politicians often champion the strength of the industry as evidence of economic prosperity.

There are many reasons for that. To name a few:

- Natural gas use in the Commonwealth has increased greatly over the last decade, and by the end of 2017, it fueled 53% of Virginia's electricity net generation (EIA, 2019).
- Despite the increasing demand for the fuel, between 2008 and 2018 prices fell nearly 25% for Virginia residents (EIA, *Virginia Price of Natural Gas Delivered to Residential Consumers*, 2019) due to an abundance of affordable natural gas resources in the Appalachian region.

- About one-third of Virginia households rely on natural gas for home heating, and the jobs of some 125,000 Virginians (PricewaterhouseCoopers, 2017) are supported by the natural gas and oil industry, which represents nearly $12 billion of the state's economy (PricewaterhouseCoopers, 2017).

- Reliable energy resources are foundational to the significant military presence in Virginia Beach and the Hampton Roads region. That's why Naval Station Norfolk has proposed developing a natural gas-fired cogeneration facility to reduce emissions while increasing energy security and strategic flexibility (warwickmechanical, 2019).

These facts reflect Virginia's key role in a nationwide energy resurgence. For decades, American energy producers have maintained bipartisan support for reducing the nation's dependence on foreign oil, with every president since Jimmy Carter acknowledging the link between energy independence and national security. Despite all that presidential solidarity, today's political divisions are shifting this paradigm and polarizing the conversation around energy and the environment. It is either alarmists or deniers, regulations or rollbacks, energy or the environment.

But these are false choices that ignore our progress to date and reject common-sense solutions when the demand for both emissions reductions and energy has never been greater.

Given this growing demand, sound policymaking that complements private-sector innovation is essential to an ever-cleaner energy future, and the natural gas and oil industry is poised to accelerate this ambition in Virginia and beyond. Radical political positions serve only to block true progress.

Last year, the U.S. continued its role as the world's leading natural gas and oil producer (EIA, 2019) and in 2014 it became a net exporter of total energy (EIA, 2020) for the first time in more than 60 years. At the same time, nationwide greenhouse gas emissions fell by about two percent in 2019, according to reports by the Rhodium Group (Houser & Pitt, 2020) and the U.S. Energy Information Administration (EIA, 2019), and the latter agency projects carbon dioxide emissions will continue to decrease annually through 2021 (EIA, *EIA Expects U.S. Energy-Related CO2 Emissions to Decrease Annually Through 2021*, 2020).

These analyses are consistent with the years-long trend in U.S. emissions reductions, and the data clearly demonstrate that energy security and environmental progress can be achieved in tandem. In fact, the growth in domestic natural gas production – driven by horizontal drilling and hydraulic fracturing – has contributed to fuel switching in electricity generation, displacing carbon intensive coal-fired power plants.

Between 2005 and 2018, carbon dioxide emissions from the U.S. power sector declined 27% (EIA, *Carbon Dioxide Emissions From Energy Consumption: Electric Power Sector*, 2020) with coal-to-natural gas switching accounting for more than half of the reductions (EIA, *2018*, 2019) – and this same trend has played out at the state level. Between 2008 and 2017, power generation from natural gas in Virginia

increased from 13% to 50% (EIA, 2020), while statewide emissions of carbon dioxide from the sector decreased by more than 20% (EIA, *State Carbon Dioxide Emissions Data*, 2019).

The modern technologies and economic conditions that have enabled this decline in emissions were unimaginable nearly a decade ago, but the increased availability of cleaner natural gas suggests that progress toward climate solutions requires an innovation-driven approach rather than extreme political posturing.

As our state, nation, and society demand energy services and emissions reductions, natural gas and oil companies are uniquely positioned to address this dual challenge. Contrary to what you might hear on the campaign trail, this industry is committed to mitigating the risks of climate change while meeting the world's growing energy and economic needs.

By advocating for sensible policies and deploying new technologies – like carbon capture, utilization, and storage – natural gas and oil companies can ensure the development of sustainable energy and facilitate conservation in all sectors of the economy. Furthermore, industry-led initiatives, like The Environmental Partnership, are continuously improving performance and reducing emissions of methane and volatile organic compounds in energy production.

The expansion of natural gas and oil infrastructure alongside other resources, including wind and solar, will enable the growth of cost-effective opportunities for an ever-cleaner fuel mix. As Virginia transitions to lower-carbon energy options, it's important to acknowledge the ongoing role of natural gas in reducing emissions, supporting grid resiliency, and facilitating the growth of renewables.

The risks of climate change are real, and more than ever, the U.S. needs solutions that realistically address it. This involves tempering hyper-partisan positions and populist messages related to energy and the environment, striking a balance between economic progress and emissions reductions, and recognizing the potential of the private sector in achieving these ambitions.

American energy powers the products and processes that get Virginians from point A to point B, and serve as building blocks for the materials, products, and tools that keep our Commonwealth prosperous and more connected than ever before. The natural gas and oil sector supports good-paying jobs, contributes to lower electricity costs for American families, and generates revenues that fund education, infrastructure, and conservation projects across the nation.

To write off the value of the products and people of the natural gas and oil industry, as some lawmakers are prepared to do, is a misguided approach to America's energy future. Instead, in Virginia and beyond, let's offer proven solutions – not empty rhetoric – to continue to deliver U.S. energy and environmental progress.

References

Cogeneration facility Norfolk Naval Station. (2017, September 01). Retrieved from
    https://warwickmechanicalgroup.com/portfolio-posts/cogeneration-facility-norfolk-naval-station/

Houser, T., & Pitt, H. (2020, January 6). *Preliminary U.S. Emissions Estimates for 2019*. Retrieved January
    28, 2020.

PricewaterhouseCoopers. (2017). *Impacts of the Oil and Natural Gas Industry on the Us Economy in 2015*.
    American Petroleum Institute. Retrieved from https://www.api.org/~/media/Files/Policy/Jobs/Oil-
    and-Gas-2015-Economic-Impacts-Final-Cover-07-17-2017.pdf

U.S. Energy Information Administration. (2019, August 20). *The U.S. Leads Global Petroleum and Natural
    Gas Production with Record Growth in 2018*. Retrieved January 28, 2020, from
    https://www.eia.gov/todayinenergy/detail.php?id=40973&src=email

U.S. Energy Information Administration. (2019, September 19). *State Profile: Virginia*. Retrieved January
    28, 2020, from https://www.eia.gov/state/?sid=VA

U.S. Energy Information Administration. (2019, October 23). *State Carbon Dioxide Emissions Data*.
    Retrieved January 28, 2020, from https://www.eia.gov/environment/emissions/state/

U.S. Energy Information Administration. (2019, November 14). *U.S. Energy-Related Carbon Dioxide
    Emissions, 2018*. Retrieved January 28, 2020, from
    https://www.eia.gov/environment/emissions/carbon/

U.S. Energy Information Administration. (2019, December 30). *EIA Expects U.S. Energy-Related CO2
    Emissions to Fall in 2019*. Retrieved January 28, 2020, from
    https://www.eia.gov/todayinenergy/detail.php?id=42339

U.S. Energy Information Administration. (2019, December 31). *Virginia Natural Gas Total Consumption*.
    Retrieved January 28, 2020, from https://www.eia.gov/dnav/ng/hist/na1490_sva_2a.htm

U.S. Energy Information Administration. (2019, December 31). *Virginia Price of Natural Gas Delivered to
    Residential Consumers*. Retrieved January 28, 2020, from
    https://www.eia.gov/dnav/ng/hist/n3010va3a.htm

U.S. Energy Information Administration. (2020, January). *Carbon Dioxide Emissions From Energy
    Consumption: Electric Power Sector*. Retrieved January 28, 2020, from
    https://www.eia.gov/totalenergy/data/monthly/pdf/sec11_9.pdf

U.S. Energy Information Administration. (2020, January). *Net Generation for Electric Power, Annual*.
    Retrieved January 28, 2020, from
    https://www.eia.gov/electricity/data/browser/#/topic/0?agg=2,0,1&fuel=vtvv&geo=00000001&sec=0

08&linechart=ELEC.GEN.ALL-VA-98.A&columnchart=ELEC.GEN.ALL-VA-
98.A&map=ELEC.GEN.ALL-VA-98.A&freq=A&ctype=linechart

U.S. Energy Information Administration. (2020, January). *Primary Energy Exports by Source and Total Net
Imports*. Retrieved January 28, 2020, from
https://www.eia.gov/totalenergy/data/monthly/pdf/sec1_11.pdf

U.S. Energy Information Administration. (2020, January 17). *EIA Expects U.S. Energy-Related CO2
Emissions to Decrease Annually Through 2021*. Retrieved January 28, 2020, from
https://www.eia.gov/todayinenergy/detail.php?id=42515

Gerrymandering: The Dilution of America's Right to Vote

By Morgan Smith

Executive Summary

Throughout the history of the United States, our democracy's free and fair elections have been plagued with varying types of voter suppression. Prior to the passage of the Voting Rights Act of 1965, we saw literacy tests and the grandfather clause that suppressed votes based on racial characteristics.[3] Following attempts to curb voter disenfranchisement, gerrymandering has been adopted as a less conspicuous means of voter suppression. Gerrymandering is defined as, "the act of drawing electoral district lines in order to favor one political party, individual, or constituency over another."[4] This paper will evaluate gerrymandering and present practical policy alternatives to prevent it. These alternatives include mandated independent commissions;, commission auditors, and mandated use of technology. I recommend mandated independent commissions as the most equitable, effective, and politically viable option to curb gerrymandering across the United States.

Historical Background

The term "gerrymander" is derived from the name of the Governor of Massachusetts in 1812, Elbridge Gerry.[5] His administration signed into law a map outlining newly designed state senatorial districts. While these districts were supposed to be drawn to be compact and equally sized, members of the Federalist Party were consolidated into a few districts to give a larger amount of representation to Democratic-Republicans. The map broke both basic tenets of electoral apportionment: compactness and equality of size of constituencies. The term "gerrymander" was coined by the Boston Gazette, who combined Gerry and the shape that the district resembled, a salamander, as shown in Figure 1 below.

---

[3] "Voting Rights Act (1965)." *Our Documents – Interstate Commerce Act (1887)*.
https://www.ourdocuments.gov/doc.php?flash=false&doc=100
[4] "Gerrymandering." *Ballotpedia*. https://ballotpedia.org/Gerrymandering
[5] "Gerrymandering." *Ballotpedia*. https://ballotpedia.org/Gerrymandering

Figure 1: Political Cartoon from March 1812 of the salamander-resembling district[6]

Originally, Southern states worked to deny votes to nonwhite citizens by implementing various voter registration procedures. These came in the form of literacy tests, reading tests which allowed registrars to deem whether an individual had "passed" or "failed" on a whim, and poll taxes, which required a fee to vote and disenfranchised poor voters broadly.[7] They also allowed police intimidation, economic retaliation, and white terrorism to ensure nonwhite citizens remained marginalized and considered refraining from registering to vote.[8]

In 1965, President Lyndon B. Johnson, with the help of Congress, enacted the Voting Rights Act. It both outlawed literacy tests and appointed registrars to assist qualified citizens in registering to vote. Section 2 prohibited the denial of an individual's right to vote based on their race. Section 5 allowed the District Court for the District of Columbia or the U.S. Attorney General to require "preclearance" for a state with a history of discriminatory action to adopt new voting practices or procedures.[9] Following its implementation, many cases emerged challenging the Act due to the perceived overreach of the federal government. Despite

---

[6] "Gerrymandering." *Ballotpedia*. https://ballotpedia.org/Gerrymandering

[7] "Voting Rights Act (1965)." *Our Documents – Interstate Commerce Act (1887)*. https://www.ourdocuments.gov/doc.php?flash=false&doc=100

[8] "Voting Rights Act (1965)." *Our Documents – Interstate Commerce Act (1887)*. https://www.ourdocuments.gov/doc.php?flash=false&doc=100

[9] "Voting Rights Act (1965)." *Our Documents – Interstate Commerce Act (1887)*. https://www.ourdocuments.gov/doc.php?flash=false&doc=100

these cases, it was upheld by the Supreme Court. This law provided for 25,000 new Black voters to be registered to vote and has only been strengthened with its re-adoption in 1970, 1975, and 1982.[10]

To some civil rights advocates, gerrymandering has the implication of replacing other outdated versions of diluting votes, such as literacy exams or intimidation tactics. However, it can also take other forms. While "racial gerrymandering" refers to electoral districts that work to condense or widely dilute the vote of racial groups, "partisan gerrymandering" refers solely to electoral district maps that are drawn to intentionally favor one political party over another.[11]

Gerrymandering occurs when politicians are in control of drawing district lines and work with partisan intent. States utilize three types of bodies to draw electoral boundaries: legislatures, politician commissions, and independent commissions. When legislatures are in charge of creating redistricting maps, politicians in both the House and Senate draw the maps on their own.[12] On the other hand, politician redistricting commissions are often filled with governors, secretaries of state, or various other appointed legislators. Finally, independent redistricting commissions are nonpartisan bodies who draft and implement electoral district maps. There are 32 states where legislatures are in charge of drawing congressional districts and 34 in which legislatures draw legislative districts.[13] Politician commissions are used for congressional districts in two states, while seven states use them for legislative districts. Lastly, independent commissions are utilized in four states for congressional redistricting, while six employ independent commissions for legislative redistricting.[14]

Recent Court Cases

In 1964, a group of registered voters residing within the 17th, 18th, 19th, and 20th congressional districts of Manhattan sued New York state officials over the drawing of their districts. In *Wright v. Rockefeller*, voters claimed that congressional apportionment presented by the officials "establish[ed] irrational, discriminatory and unequal congressional districts in the county of New York and segregate[d] eligible voters by race and place of origin."[15] This implies that the congressional districts in question violated the 14th and 15th Amendments, which protect rights of due process, equal protection, and equal right to vote regardless of race, color, or previous condition of servitude. The Supreme Court of the United States

---

[10] "Voting Rights Act (1965)." *Our Documents – Interstate Commerce Act (1887)*.
https://www.ourdocuments.gov/doc.php?flash=false&doc=100

[11] "Thornburg v. Gingles." *Ballotpedia*. https://ballotpedia.org/Gerrymandering#Thornburg_v._Gingles_.281986.29

[12] "Who Draws the Lines?" *All About Redistricting – Illinois*. http://redistricting.lls.edu/who.php

[13] "Who Draws the Maps? Legislative and Congressional Redistricting." 2018. *Brennan Center for Justice*.
https://www.brennancenter.org/analysis/who-draws-maps-states-redrawing-congressional-and-state-district-lines

[14] "Who Draws the Lines?" *All About Redistricting – Illinois*. http://redistricting.lls.edu/who.php

[15] "Wright v. Rockefeller, 376 U.S. 52 (1964)." *Planning D-Day (April 2003) – Library of Congress*. https://www.loc.gov/item/usrep376052/

(SCOTUS) decided that racial considerations had not motivated the New York state legislature. This set the precedent that, in cases involving allegations of racial gerrymandering, a lack of persuasive evidence regarding racial considerations would cause a deference to the findings of the district court.

In the case of *Karcher v. Daggett*, a congressional redistricting plan was drawn by the New Jersey legislature and approved by the governor, which were all under Democratic control.[16] Karcher alleged that it violated the Equal Representation Clause of the Constitution due to the variability of the average population of each district and questioned the plan's validity. The Supreme Court held the ruling from the district court, which stated the apportionment plan was unconstitutional because its variations from equal population could not be adequately justified. The Court further determined that the "equal representation" standard required congressional districts to be drawn as close as possible to population equality but to ensure a good faith effort was put forth to achieve a nondiscriminatory legislative plan.[17] Additionally, it suggested that, no matter how small the deviations of population of the districts were, a "good faith effort to achieve population equality" could still be determined.[18] It reaffirmed its ruling in *Kirkpatrick v. Preisler,* which set the precedent that the establishment of a "de minimis" variance range would not meet the "as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's" standard set forth by Art. I, § 2 of the United States Constitution and that the congressional districts created in the case were not unavoidable.[19] It stated any allowed "de minimis" variance would cause legislators to strive to meet bare minimum requirements rather than equal districts. Furthermore, the Court insisted that the census numbers be used as the benchmark for creating districts of equal size. *Karcher v. Daggett* set the precedent that congressional districts must be drawn to be "mathematically equal" and insinuated that, in some cases, this requirement causes districts to appear gerrymandered.[20]

In 1986, a group of Indiana Democrats alleged the apportionment of Indiana's State Legislature curbed the impact of their votes in Davis v. Bandemer.[21] They alleged that the plan was in violation of the Equal Protection Clause of the 14th Amendment because it aimed to dilute the vote of Democrats using both

---

[16] "Karcher v. Daggett (1983)." *The Rose Institute of State and Local Government*. http://roseinstitute.org/redistricting/karcher/

[17] "Karcher v. Daggett (1983)." *The Rose Institute of State and Local Government*. http://roseinstitute.org/redistricting/karcher/

[18] "Redistricting and The Supreme Court: The Most Significant Cases." 2018. *National Conference of State Legislatures*. http://www.ncsl.org/research/redistricting/redistricting-and-the-supreme-court-the-mostsignificant-cases.aspx

[19] "Redistricting and The Supreme Court: The Most Significant Cases." 2018. *National Conference of State Legislatures*. http://www.ncsl.org/research/redistricting/redistricting-and-the-supreme-court-the-mostsignificant-cases.aspx

[20] http://www.ncsl.org/research/redistricting/redistricting-and-the-supreme-court-the-most-significant-cases.aspx

[21] Davis v. Bandemer, 478 U.S. 109, 106 S. Ct. 2797, 92 L. Ed. 2d 85 (1986). https://scholar.google.com/scholar_case?case=16393705826542726377&hl=en&as_sdt=6&as_vis=1&oi=scholarr

single- and multi-member districts. They took their case to the United States District Court for the Southern District of Indiana, which invalidated the redistricting plan. The Indiana General Assembly appealed the case to the Supreme Court and, on June 30, 1986, the Supreme Court of the United States ruled that the district plan was not an illegal gerrymander.22 This case upheld the precedent that partisan gerrymandering claims were not justiciable under the Equal Protection Clause by federal courts.

"In 1982, the North Carolina state legislature approved redistricting plans created by both the North Carolina State Senate and House of Representatives." The appellants of Thornburg v. Gingles challenged the redistricting plans under the allegation they "impaired Black citizens' ability to elect representatives of their choice" through dilution.23 They also claimed it violated Section 2 of the Voting Rights Act of 1965, with which the local District Court agreed. Thornburg v. Gingles was appealed to the SCOTUS by the North Carolina State Legislature and, on June 30, 1986, they ruled that five out of six newly redrawn districts discriminated against Black citizens by diluting the power of their collective vote.24 This case allowed the Supreme Court to establish three criteria for determining cases of vote dilution as it relates to Section 2 of the Voting Rights Act. These include: "the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district," that "a minority group must be able to show that it is politically cohesive," and a "minority must be able to demonstrate that the white majority vote sufficiently as a bloc to enable it usually to defeat the minority's preferred candidate."25

Following the 1990 Census, the North Carolina General Assembly was required to redraw congressional districts to reflect a change in population.26 This new map featured a single "majority-minority" district. Majority-minority districts are those which are primarily composed of a minority population. Janet Reno, the Attorney General at the time, rejected the district plan, instructing the North Carolina General Assembly to comply with the Voting Rights Act of 1965 and allow for another majority-minority district.27 However, the new district that was proposed was oddly-shaped and followed the length of a highway for practically the entire length of the state. Ruth O. Shaw sued Attorney General Reno with a group of white voters by alleging that the district was an unconstitutional gerrymander and drawing districts

---

[22] Davis v. Bandemer, 478 U.S. 109, 106 S. Ct. 2797, 92 L. Ed. 2d 85 (1986).
https://scholar.google.com/scholar_case?case=16393705826542726377&hl=en&as_sdt=6&as_vis=1&oi=scholarr

[23] Thornburg v. Gingles." *Ballotpedia*. https://ballotpedia.org/Gerrymandering#Thornburg_v._Gingles_.281986.29

[24] Thornburg v. Gingles." *Ballotpedia*. https://ballotpedia.org/Gerrymandering#Thornburg_v._Gingles_.281986.29

[25] Thornburg v. Gingles." *Ballotpedia*. https://ballotpedia.org/Gerrymandering#Thornburg_v._Gingles_.281986.29

[26] "Shaw v. Reno, 509 U.S. 630 (1993)." 1992. *Planning D-Day (April 2003) – Library of Congress*. https://www.loc.gov/item/usrep509630/ (November 1, 2018).

[27] "Shaw v. Reno, 509 U.S. 630 (1993)." 1992. *Planning D-Day (April 2003) – Library of Congress*. https://www.loc.gov/item/usrep509630/ (November 1, 2018).

solely based on race violated the Equal Protection Clause of the 14th Amendment. In a 5 to 4 decision, the Supreme Court ruled that due to the shape of the district, the predominating factor in the drawing of the district was race.28 It also ruled that any law that results in classification by race must have compelling government interest, be narrowly tailored to meet that goal, and be the least restrictive means for achieving that interest – also known as being held to a standard of "strict scrutiny." Despite this decision, there are two important dissents to note. First, white voters who brought the suit could not prove they were injured in any way. Second, the redistricting plan was an attempt to equalize treatment by providing minority voters with an effective voice in the political process rather than stripping voting power.

Georgia's General Assembly was allowed an additional congressional seat, but created a redistricting plan based on racial considerations. The 11th district was redrawn in order to produce a third majority-minority district, which is allowed to be racially motivated as long as it is supported by a compelling state interest. However, in Miller v. Johnson, the District Court held the drawing to be unconstitutional and coined the district a "geographic monstrosity" due to the district extending from Atlanta to the Atlantic Ocean for 6,784.2 square miles.29

Another case referencing the 1990 census and the Texas redistricting plan was Bush v. Vera. It created three new majority-minority districts – two Hispanic and one African American.30 There was obviously little consideration for other factors besides race. Despite the map being cleared by the Department of Justice and being used for the 1992 election, the plan was challenged. The district court said the three districts were not unconstitutional gerrymanders. The Supreme Court reaffirmed the holdings of Miller v. Johnson, which stated, "strict scrutiny applies where race was the 'predominant factor' motivating the drawing of district lines," and the "traditional, race-neutral districting principles were subordinated to race."31 It was clear that racial considerations were the primary motivation, as Texas ignored compactness requirements to create the majority-minority districts. The Court held Shaw's finding that creating a majority-minority district cannot be a justifiable reason for gerrymandering alone. The district must prove that it meets certain criteria for preventing vote dilution under Article 2 of the Voting Rights Act.

Following the 2000 United States Census, Pennsylvania lost two seats in the United States House of Representatives. The legislative district lines were drawn by a politician commission composed of the majority and minority leaders of the Senate, the majority and minority leaders of the House of

---

28 "Shaw v. Reno, 509 U.S. 630 (1993)." 1992. *Planning D-Day (April 2003) – Library of Congress*. https://www.loc.gov/item/usrep509630/ (November 1, 2018).

29 "Miller v. Johnson." 2018. *Oyez*. https://www.oyez.org/cases/1994/94-631

30 "Bush v. Vera, 517 U.S. 952 (1996)." *Planning D-Day (April 2003) – Library of Congress*. https://www.loc.gov/item/usrep517952/

31 "Bush v. Vera, 517 U.S. 952 (1996)." *Planning D-Day (April 2003) – Library of Congress*. https://www.loc.gov/item/usrep517952/

Representatives, and the commission chair, who was appointed by the previous four commissioners.32 They were tasked with drawing new district lines based on the rules outlined in the Pennsylvania Constitution, which requires that state legislative districts be "contiguous and compact" and "respect county, city, incorporated town, borough, township and ward boundaries."33 The redistricting plan was signed into law by the Pennsylvania General Assembly on January 7, 2002 but then struck down by a federal court in April. Pennsylvania Democrats alleged that the Republican-controlled state legislature had created a congressional district map that featured an illegal partisan gerrymander in Vieth v. Jubelirer.34 When the case was appealed to the Supreme Court of the United States, they came to a split decision with no majority opinion. This case sparked the question: can voters affiliated with a political party sue to block implementation of a congressional redistricting plan by claiming it was manipulated for purely political reasons? The 1990 census allowed the 27-seat Texas congressional delegation to increase by three seats.35 At the time, the Democrats controlled 19 of 27 congressional seats, both legislative chambers, and the governorship. The legislature drew a congressional redistricting plan that favored the Democratic candidates to ensure the GOP would not gain traction in the upcoming election. A challenge by the GOP was fruitless against the Democratically-controlled legislature. In 2000, a federal court drew a redistricting plan for Texas, as their legislature could not agree on a new map.36 This redistricting plan gave more control to Republicans. Following 2002 elections, in 2003, the GOP took control of both legislative chambers and adopted their own congressional districting map. The League of United Latin American Citizens sued Governor Perry for violating their rights under Equal Protection. The Supreme Court held that an equal protection challenge to a political gerrymander presents a justiciable case or controversy but did not provide a substantive standard.37 Each appellant would need to offer a manageable, reliable measure of fairness for determining whether a partisan gerrymander is unconstitutional. One congressional district was struck down on behalf of the Latino/Hispanic Voters. LULAC v. Perry introduced a suggestion of minimal national standards to govern how district lines are drawn.

---

[32] "Vieth v. Jubelirer." 2004. *Legal Information Institute*. https://www.law.cornell.edu/supct/html/02-1580.ZS.html

[33] "Vieth v. Jubelirer." 2004. *Legal Information Institute*. https://www.law.cornell.edu/supct/html/02-1580.ZS.html

[34] "Vieth v. Jubelirer." 2004. *Legal Information Institute*. https://www.law.cornell.edu/supct/html/02-1580.ZS.html

[35] LULAC v. Perry (Sup. Ct. consolidated cases) Session v. Perry (E.D. Tex.) Brennan Center for Justice." 2006. *Improving Judicial Diversity*. *Brennan Center for Justice*. https://www.brennancenter.org/legal-work/lulac-v-perry-sup-ct-consolidated-cases-session-v-perry-ed-tex (September 23, 2018).

[36] LULAC v. Perry (Sup. Ct. consolidated cases) Session v. Perry (E.D. Tex.) Brennan Center for Justice." 2006. *Improving Judicial Diversity*. *Brennan Center for Justice*. https://www.brennancenter.org/legal-work/lulac-v-perry-sup-ct-consolidated-cases-session-v-perry-ed-tex (September 23, 2018).

[37] LULAC v. Perry (Sup. Ct. consolidated cases) Session v. Perry (E.D. Tex.) Brennan Center for Justice." 2006. *Improving Judicial Diversity*. *Brennan Center for Justice*. https://www.brennancenter.org/legal-work/lulac-v-perry-sup-ct-consolidated-cases-session-v-perry-ed-tex (September 23, 2018).

When the Alabama legislature redrew the state's legislative maps in 2011, it adopted a policy requiring the districts with predominately African American populations to be kept at pre-redistricting levels despite the potential to cause significantly reshaped districts in order to equalize population.38 Despite Alabama claiming this redistricting was to avoid retrogression under Section 5 of the Voting Rights Act, the Alabama Legislative Black Caucus and Alabama Democratic Caucus filed a suit in the federal court saying these districts were prohibited due to the precedent set in Shaw v. Reno (1990).39 On April 5, 2013, the federal court ruled against both groups of legislators, who had been consolidated to one case, saying that they did not accurately show that the districts were drawn with race as the predominant factor. In June, the Alabama Legislative Black Caucus took the case to the Supreme Court, and on March 25, 2015, the Supreme Court reversed the district court's decision due to three mitigating factors.40 First, they asked whether race predominated in the drawing of the map as a whole rather than by individual district. Second, they accepted the need to eliminate population deviations as evidence that the map was not drawn "predominately on the basis of race."41 Lastly, the Court concluded that Alabama's use of race was narrowly tailored because it had relied on a "highly mechanistic" reading of Section 5 of the Voting Rights Act.42 The Supreme Court sent the case back to the district court for further proceedings. On December 15, 2017, the District Court looked at each district individually and ruled that, while 24 of 36 districts were fine, 12 would need to be redrawn before the 2018 elections would be held. There is no data to suggest this redrawing has taken place.

More recently, the United States Supreme Court vacated a United States District Court decision in Gill v. Whitford. The United States District Court struck down a redistricting plan created by the Wisconsin State Legislature in 2011, where the Republican majority attempted to dilute the voting strength of the population by creating districts that either condensed Democratic voters into few districts or dispersed Democratic voters among many districts.43 This subsequently reduced the number of districts with the ability to elect Democrats, thus limiting their representation in the legislature and maintaining Republican control. Initially, the district court for the Western District of Wisconsin ruled the plan an unconstitutional partisan gerrymander, but the case was appealed to the Supreme Court, which decided the Democratic voters

---

[38] "Alabama Legislative Black Caucus v. Alabama." 2017. *Brennan Center for Justice*. https://www.brennancenter.org/legal-work/alabama-legislative-black-caucus-v-alabama (November 1, 2018).

[39] "Alabama Legislative Black Caucus v. Alabama." 2017. *Brennan Center for Justice*. https://www.brennancenter.org/legal-work/alabama-legislative-black-caucus-v-alabama (November 1, 2018).

[40] "Alabama Legislative Black Caucus v. Alabama." 2017. *Brennan Center for Justice*. https://www.brennancenter.org/legal-work/alabama-legislative-black-caucus-v-alabama (November 1, 2018).

[41] "Alabama Legislative Black Caucus v. Alabama." 2017. *Brennan Center for Justice*. https://www.brennancenter.org/legal-work/alabama-legislative-black-caucus-v-alabama (November 1, 2018).

[42] "Alabama Legislative Black Caucus v. Alabama." 2017. *Brennan Center for Justice*. https://www.brennancenter.org/legal-work/alabama-legislative-black-caucus-v-alabama (November 1, 2018).

[43] Gill v Whitford. 2018. https://www.supremecourt.gov/opinions/17pdf/16-1161_dc8f.pdf

lacked evidence to prove "specific, direct, and significant injury" that would be resolved through an appropriate court decision.44 Gill v. Whitford proved to be a monumental case of its time, because prior to this case, SCOTUS usually did not include partisan gerrymandering cases on their docket.

As explained above, the Supreme Court of the United States has historically refused to allow partisan gerrymandering cases on their docket. This is primarily to avoid the public perception that the SCOTUS favors a political party. After hearing the case put forth in Gill v. Whitford (2018), the Supreme Court set the precedent that, if a plaintiff presents a solid argument regarding specific "injury," they might finally rule to restrict a partisan gerrymandering case. Such jurisprudence has legitimate potential to change the legality of gerrymandering as an institution.

Problem Definition

Gerrymandering has the implications of creating political dysfunction and increasing polarization in congressional districts. It also has the potential to dilute the votes of a constituency and prevent accurate representation. This is often achieved through "packing" and "cracking" of districts. Packing refers to a redistricting plan that concentrates a group's members into a minimal number of districts to lower the number of districts voting for a specific type of candidate. Cracking is the spreading of a group's members into many districts to dilute their vote and provide that their candidates cannot win an election. This is an issue because it creates an artificial representation of varying populations of people within any given district. It can also provide an advantage to a partisan candidate who does not accurately represent a community that is voting for them.

Occasionally, gerrymandering can be utilized positively. There are certain districts drawn to give a minority population a majority within an area to provide them with a voice. The Voting Rights Act of 1965, which provided more rights to those marginalized based on race, allows legislators to create majority-minority districts under the guise of preventing disenfranchisement. More often, and especially in the cases of packing and cracking, gerrymandering ensures the voice of these populations is reduced or taken away.

Current Efforts

Independent Commissions

Many states require independent commissions to either oversee or determine electoral boundary lines. Rather than have congressional district lines drawn by legislators who have their own self-interests in mind, some states have implemented independent bodies who draw nonpartisan lines behind closed doors. For instance, California created the California Citizens Redistricting Commission (CCRC) in 2008 following the passage of the Voters First Act.45 This is the only commission in the United States which is completely

---

44 Gill v Whitford. 2018. https://www.supremecourt.gov/opinions/17pdf/16-1161_dc8f.pdf

45 "California Citizens Redistricting Commission." 2018. https://ballotpedia.org/California_Citizens_Redistricting_Commission

devoid of "legislative influence."[46] This commission consists of fourteen members. Of those, five are Democrats, five are Republicans, and four are unaffiliated with a major political party. Together, they have been tasked with draw[ing] the district lines in conformity with strict, nonpartisan rules designed to create districts of relatively equal population that will provide fair representation for all Californians.[47] In order to achieve this goal, the commission is required to hold public hearings to take comments from the residents of California. Furthermore, any map drawn must receive three affirmative votes from each of the Democrat, Republican, and Unaffiliated groups of commissioners, or nine votes total. According to FairVote, California's congressional elections are more legitimate in terms of protecting the interests of voters but have not led to more competitive districts or more accountable legislators.[48] While politicians are no longer choosing their voters, debate exists regarding whether California's independent commission will be successful in ensuring diverse, competitive representation.

Other countries are implementing independent commissions, as well. In 1964, Canada introduced independent, non-partisan commissions called electoral boundary commissions to draw districting maps, which aim to eliminate the rampant occurrence of gerrymandering across their nation. There are ten commissions operating under a common framework for creating districts. However, due to the discretion allotted to each commission for the means in which they concoct these districts, they are often at odds with one another. They disagree on the meaning and scope of fundamental principles, such as definitions of "representation by population" and "communities of interest," or what constitutes proper "minority representation."[49] Scholars argue that the commission's use of discretion has fractured the right to vote of the constituency and diminished the equity and fairness of elections. Due to the statutory rules, vague constitutional framework for electoral boundaries, and uncertainty about how to turn principles into practice, commissions disagree on the approaches they take to draw new redistricting maps. While independent commissions have proved to end weirdly shaped districts, oftentimes, the voting strength of individuals is still diluted. Proposed solutions to fix this are changes in the institutional makeup and procedures of commissions to preserve democratic values.

---

[46] "California Citizens Redistricting Commission." 2018. https://ballotpedia.org/California_Citizens_Redistricting_Commission
[47] "Background on Commission." 2018. https://wedrawthelines.ca.gov/commission/
[48] "Did the California Citizens Redistricting Commission Really Create More Competitive Districts?" 2013. https://www.fairvote.org/did-the-california-citizens-redistricting-commission-really-create-more-competitive-districts
[49] Pal, Michael. 2015. "The Fractured Right to Vote: Democracy, Discretion, and Designing Electoral Districts." https://www.erudit.org/en/journals/mlj/2015-v61-n2-mlj02616/1037248ar.pdf

Technological Advances

In the past 30 years, technological advances have begun to emerge as a redistricting tool. Those who are in charge of redistricting can utilize demographic databases to assist in manipulating large swaths of land in short spans of time. Computers can be utilized in redistricting in various ways such as tabulation, the running tally of district populations; thematic mapping, color-coded overlays triggered by density and set to show areas of concentrated partisanship, racial themes, or other categorizing populations; geographic reports and error checking to show continuities or holes in the districts; and automatic redistricting based on set criteria. However, the ease of redistricting that computers allow has the implication of being used negatively. Altman et. al argue that, "computers enable the creation of finely crafted redistricting plans that promote partisan and career goals to the detriment of electoral competition."[50] Partisan individuals drawing district lines can utilize criteria to obtain a certain outcome and therefore "generate maps custom-fitted to meet any group's needs."[51] While technology could significantly aid in creating nonpartisan, equal districts, scholars are concerned that computers have the implication of being used to the detriment of electoral competition.

Outlined Constitutional Framework

Each state constitution outlines specific guidelines for creating voter districts. They require that districts be continuous and compact as well as respecting other pre-existing outlines such as towns, city lines, or counties. Oftentimes, however, these specified definitions are not strictly adhered to by electoral boundary creators.

Policy Alternatives

Mandated Independent Commissions

First, I suggest mandated independent commissions to draw congressional district lines rather than having them drawn by legislators. This would prevent the legislature from drawing biased districts based on their own self-interest. Currently, there are 37 states who allow their legislatures to compose new district lines following the United States Census every year.[52] With the legislature in primary control of redesigning electoral boundaries, this has the implication of a skewed map when one party controls both chambers and the governorship. An independent commission would replace both legislative control and politician commissions, be comprised of non-legislators or public officials, and limit direct participation by elected

---

[50] Altman, M. "From Crayons to Computers: The Evolution of Computer Use in Redistricting." 2005. *Social Science Computer Review*, *23*(3), 334-346. http://journals.sagepub.com/doi/abs/10.1177/0894439305275855

[51] Altman, M. "From Crayons to Computers: The Evolution of Computer Use in Redistricting." 2005. *Social Science Computer Review*, *23*(3), 334-346. http://journals.sagepub.com/doi/abs/10.1177/0894439305275855

[52] "Who Draws the Lines?" *All About Redistricting – Illinois*. http://redistricting.lls.edu/who.php

officials. This would limit commission members' link to the legislature and secure the redistricting process as purely nonpartisan.

Commission Auditors

Secondly, I suggest adopting an auditing body to oversee both politician commissions and the process the legislature uses to draw electoral boundary maps. The auditing body must be an independent, nonpartisan group who reviews the newly drawn redistricting map. Their primary goal would be to ensure that the two basic tenets of electoral apportionment, compactness and equality of size of constituencies, are upheld.

Use of Technology

Lastly, I suggest the mandated use of technology to create all further redistricting maps. If all states used computer software to redistrict following changes in congressional seats, it would equalize the means in which these districts were composed across the nation.

Policy Analysis

Mandated Independent Commissions

Requiring each state to adopt a framework for an independent commission to draw electoral boundaries would prove to be equitable. These nonpartisan bodies would not discriminate based on race, gender, religion, or political party, because they would receive no benefit in doing so.

As we have seen both in Canada's federal electoral map and various states across the United States who utilize independent commissions for voting districts, these commissions would prove to be effective in preventing the creation of weirdly shaped districts. Not only would they achieve the outlined goal of creating compact, continuous districts that respect pre-existing boundaries, but we could learn from the troubles faced in Canada's case with commissions being at odds with one another by ensuring our framework is detailed and specific. Specificity with the outlined rules for redistricting would prevent the fracturing or dilution of votes.

Lastly, mandated independent commissions would prove to be a politically viable option. Despite pushback due to perceived government overreach, this alternative is both legal and appropriate, would not cause a significant difference financially, and would benefit both constituents and politicians in having free and fair elections.

Commission Auditors

Simply adding an auditing system to the pre-existing commission would not be equitable. Some states operating with independent commissions do not need further government oversight, as they are already nonpartisan. Thus, only politician commission states would need to add an auditing body, which would further the difference between state electoral boundary drawing framework. It may increase the operating

budget for the states who would be required to adopt this body, as they would have to be paid and funded. Furthermore, the legislative or politician commission would still know more about the constituents and areas in which they would be drawing district lines for in comparison to the independent commissions who are nonpartisan and not as informed.

Having an auditing body would be equally as effective as the mandated independent commissions. They would still be able to reach the goal of creating compact, equally sized constituencies. However, finding these equally sized constituencies may take longer, as they oversee political or legislative commissions who might be tempted to try to gerrymander districts despite the oversight.

While this policy alternative would prove to be legal, as many auditing bodies already operate for use by state and local governments, politicians may not be accepting of the idea of further government oversight. There would be pushback due to politicians wanting to keep the boundary drawing as an individual task.

Use of Technology

Requiring redistricting bodies to adopt technology would not be equitable to each state. It has the implication of increasing the operating budget for the state, which would pose a fiscal burden that states, districts, or commissions may not be able to withstand. Additionally, the cost of updating technology or operating systems would become a continuous payment after the initial cost of both the purchase and installation of said technology. If mandated broadly across the nation, the federal government may need to fund this adoption, which might not be feasible. Furthermore, due to the potential for legislatures and politician commissions to use technology to more quickly and conspicuously gerrymander, mandated use of technology may not benefit all constituents.

While mandating technology would be effective in equalizing the means by which districts are created, it could also contribute to further gerrymandering, which would compound the problem. It is likely that this alternative may not be completely effective.

Lastly, this alternative might not be accepted by state governments due to the increase in funds that would need to be allocated to adopt the technology. While this alternative may be appropriate due to the negative problems associated with gerrymandering, the legality of this alternative is questionable. Can states be forced by the government to adopt technological means of redistricting?

<div align="center">

Recommendation

</div>

Overall, I recommend mandated independent commissions as the strongest mechanism for combating gerrymandering across the United States. If mandated independent commissions were adopted as the national standard for creating electoral boundaries, a national framework would then exist, as there is no existing policy. Populations of voters affected by gerrymandering, which are often specific groups of people such as nonwhites, non-Christians, and the poor, would have the strength of their individual vote restored. This has

the implications of restoring trust in the electoral system, allowing for proper representation, and allowing voters to choose their representatives rather than the other way around. Mandated independent commissions are equitable, as properly drawn electoral boundaries equalize the strength of an individual's vote. Additionally, as seen in states who currently utilize nonpartisan commissions, they are effective in drawing compact, equally sized constituencies and succeed in creating new district maps efficiently. Finally, while politicians who often use gerrymandering to their benefit would disapprove of this plan, independent commissions are widely politically viable, as they are both legal and already being utilized by many states across the U.S.

Conclusion

Gerrymandering continues to weaken the voting strength or voice of populations of individuals across our nation each election cycle. Despite efforts to curtail voter suppression, oddly drawn district lines have the implication and often the intention of diluting the strength of a population whose majority is of a particular race, political party, or other characteristic. Mandating independent commissions for drawing redistricting maps will provide marginalized populations with increased opportunities to vote on legislation that directly affects them and legislators who will work for their benefit and prove their vote holds the same weight as their neighbors. Policy solutions such as mandating independent commissions have the most promising chance of being equitable, effective, and politically viable across state lines.

References

"Alabama Legislative Black Caucus v. Alabama." 2017. *Brennan Center for Justice.*
https://www.brennancenter.org/legal-work/alabama-legislative-black-caucus-v-alabama (November 1, 2018).

Altman, M. "From Crayons to Computers: The Evolution of Computer Use in Redistricting." 2005. *Social Science Computer Review*, *23*(3), 334-346.
http://journals.sagepub.com/doi/abs/10.1177/0894439305275855

"Background on Commission." 2018. https://wedrawthelines.ca.gov/commission/

Barrow, J. "A Way Out of the Political Thicket: The Simple Solution to Partisan Gerrymandering." 2017. *Harvard Journal on Legislation.* 55(1). https://eds-b-ebscohost-com.proxy-sm.researchport.umd.edu/eds/detail/detail?vid=4&sid=5c08608f-a666-45e7-b93a-ac71c5bb8a0c%40sessionmgr104&bdata=JnNpdGU9ZWRzLWxpdmU%3d#AN=128715006&db=a9h

"Bush v. Vera, 517 U.S. 952 (1996)." *Planning D-Day (April 2003) – Library of Congress.*
https://www.loc.gov/item/usrep517952/

Carole Levine. "Cracking and Packing: Reluctant Supreme Court Takes Up Gerrymandering Again." 2017.
https://nonprofitquarterly.org/2017/10/06/cracking-packing-reluctant-supreme-court-takes-gerrymandering/

"California Citizens Redistricting Commission." 2018.
https://ballotpedia.org/California_Citizens_Redistricting_Commission

Davis v. Bandemer, 478 U.S. 109, 106 S. Ct. 2797, 92 L. Ed. 2d 85 (1986).
https://scholar.google.com/scholar_case?case=16393705826542726377&hl=en&as_sdt=6&as_vis=1&oi=scholarr

"Did the California Citizens Redistricting Commission Really Create More Competitive Districts?" 2013.
https://www.fairvote.org/did-the-california-citizens-redistricting-commission-really-create-more-competitive-districts

FairVote.org. "Gerrymandering." *FairVote.*
https://www.fairvote.org/gerrymandering#gerrymandering_key_facts

"Gerrymandering." *Ballotpedia.* https://ballotpedia.org/Gerrymandering

Gill v Whitford. 2018. https://www.supremecourt.gov/opinions/17pdf/16-1161_dc8f.pdf

"Karcher v. Daggett (1983)." *The Rose Institute of State and Local Government.*
http://roseinstitute.org/redistricting/karcher/

LULAC v. Perry (Sup. Ct. consolidated cases) Session v. Perry (E.D. Tex.) Brennan Center for Justice."
2006. *Improving Judicial Diversity. Brennan Center for Justice.*
https://www.brennancenter.org/legal-work/lulac-v-perry-sup-ct-consolidated-cases-session-v-perry-ed-tex (September 23, 2018).

"Miller v. Johnson." 2018. *Oyez.* https://www.oyez.org/cases/1994/94-631

Pal, Michael. 2015. "The Fractured Right to Vote: Democracy, Discretion, and Designing Electoral
Districts." https://www.erudit.org/en/journals/mlj/2015-v61-n2-mlj02616/1037248ar.pdf

"Redistricting and The Supreme Court: The Most Significant Cases." 2018. *National Conference of State
Legislatures.* http://www.ncsl.org/research/redistricting/redistricting-and-the-supreme-court-the-most-significant-cases.aspx

"Shaw v. Reno, 509 U.S. 630 (1993)." 1992. *Planning D-Day (April 2003) – Library of Congress.*
https://www.loc.gov/item/usrep509630/ (November 1, 2018).

Stephanopoulos, N., and McGhee, E. "The Measure of a Metric: The Debate over Quantifying Partisan
Gerrymandering." 2018. *Stanford Law Review*, *70*(5), 1503-1568. https://eds-b-

ebscohostcom.proxysm.researchport.umd.edu/eds/pdfviewer/pdfviewer?vid=2&sid=5c08608f-a666-45e7-b93a-ac71c5bb8a0c%40sessionmgr104

"The Politics of Gerrymandering: Overview of Supreme Court Precedent." *Supreme Court Debates* 20, no. 8 (November 2017): 5. https://eds-b-ebscohost-com.proxy-sm.researchport.umd.edu/eds/pdfviewer/pdfviewer?vid=3&sid=5c08608f-a666-45e7-b93a-ac71c5bb8a0c%40sessionmgr104

"Thornburg v. Gingles." *Ballotpedia.* https://ballotpedia.org/Gerrymandering#Thornburg_v._Gingles_.281986.29

"Vieth v. Jubelirer." 2004. *Legal Information Institute.* https://www.law.cornell.edu/supct/html/02-1580.ZS.html

"Voting Rights Act (1965)." *Our Documents – Interstate Commerce Act (1887).* https://www.ourdocuments.gov/doc.php?flash=false&doc=100

"Who Draws the Lines?" *All About Redistricting – Illinois.* http://redistricting.lls.edu/who.php "Who Draws the Maps? Legislative and Congressional Redistricting." 2018. *Brennan Center for Justice.* https://www.brennancenter.org/analysis/who-draws-maps-states-redrawing-congressional-and-state-district-lines

"Wright v. Rockefeller, 376 U.S. 52 (1964)." *Planning D-Day (April 2003) – Library of Congress.* https://www.loc.gov/item/usrep376052/

"Wright v. Rockefeller and Legislative Gerry-Manders: The Desegregation Decisions Plus a Problem of Proof." 1963. *The Yale Law Journal, 72*(5), 1041-1061. Doi: 10.2307/794658

Protecting Voter Information After Cambridge Analytica: A Review of the Voter Privacy Act

By Dana Holmstrand

Introduction

Cambridge Analytica became shorthand for political exploitation of user data in 2018. When the *New York Times* first broke the story of a nefarious foreign data company exploiting Americans' information, it sounded like the work of an evil mastermind intent on disrupting American elections. However, as more information about Cambridge Analytica has come to light, it sounds more like a series of snake oil salesmen got lucky. Using just five factors present in all personalities, a company promised it would serve the exact right advertisement to Americans they had not even surveyed in order to manipulate them into voting for your candidate.

While neither political targeting nor advertising is particularly new, what likely made this action feel so slimy or egregious to the average American was its perceived underhanded use of social media. Cambridge Analytica contracted a Russian-American researcher to access not just the data of the people who consented to be surveyed but the online friends of those users. This was not the work of great hackers: Facebook's terms and conditions at the time explicitly allowed users to consent to giving up their friends' data to third parties.

In response to public outrage and in preparation for the 2020 Presidential election, Senator Diane Feinstein (D-California) introduced the Voter Privacy Act of 2019.[53] Designed to protect voters from psychological manipulation online,[54] the bill takes aim at a broad range of "covered entities" by restricting their ability to target specific individuals and providing individuals with more ownership over their data and how it is used by campaigns. Or so the bill and its supporters claim. The bill didn't stop the collection of data unless explicitly prohibited by an individual principle in conjunction with its toothless notice requirements—similar to other so-called privacy regimes in the United States—do little actually protect the data of consumers. Additionally, the bill's narrow definitions of covered entities and targeting services represent a lackluster attempt to tackle the larger problem of data collection and use under the guise of voter protection.

If Congress wants to avoid another data debacle during the 2020 presidential election, a regulation or law must be passed to require disclosure of data collection and use practices coupled with a broader

---

[53] Voter Privacy Act, S.2398, 116th Cong. (2019).
[54] Press Release, Sen. Dianne Feinstein, Feinstein Bill Would Give Voters Control Over Personal Data (Jul. 31, 2019), https://www.feinstein.senate.gov/public/index.cfm/press-releases?ContentRecord_id=B4FBA307-B050-4623-8EAF-841DCDCAFDA4.

regulation on all microtargeting advertisements. The Voter Privacy Act, while a valiant effort, is neutered out of the gate by focusing too narrowly on political speech such that it opens the bill up to First Amendment challenges. Part I of this paper provides a history of the Cambridge Analytica scandal and its connection to the 2016 United States presidential election. Part II reviews the Voter Privacy Act and its intended effects. Part III critiques the Voter Privacy Act and identifies potential legal challenges. Finally, Part IV argues that, in order to avoid the First Amendment challenges that the narrow targeting of the bill introduces and to actually be effective at its stated mission of deterring use of voter data for "manipulation" purposes, a bill must be written to broadly regulate all uses of microtargeting—not just political ones—as well as introduce data use disclosure requirements for political actors. Without such reforms, this bill's lax requirements and narrow targeting will leave it—like so many before it—an empty attempt to protect privacy through procedure.

Part I: Cambridge Analytica and the 2016 Election

Cambridge Analytica has been referred to as a "voter profiling company,"[55] a "data analytics firm,"[56] and a "political data analysis firm"[57] in the press, and its role in the 2016 election has been overestimated in the popular imagination. What was not overestimated, however, is the amount of data Cambridge Analytica was able to collect from 2013 to 2015 using an application called This is Your Digital Life.[58] According to Facebook's own internal estimates, Cambridge Analytica collected information on approximately 87 million users during the two years the company had access to Facebook application data.[59] How Cambridge Analytica accessed and used this data has been the subject of public misconception since the story first broke. To call their actions a data breach would improperly ignore Facebook's own role in granting third parties unauthorized access to user information and data. To clear these misconceptions, we begin by first looking at the company itself and its business model. Second, we look to its connection to Facebook and user

---

[55] Matthew Rosenberg, Nicholas Confessore and Carole Cadwalladr, *How Trump Consultants Exploited the Facebook Data of Millions*, NEW YORK TIMES (Mar. 17, 2018), https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump-campaign.html [hereinafter *NY Times March 2018*].

[56] Aja Romano, *The Facebook Data Breach wasn't a Hack. It was a Wake-Up Call*, VOX (Mar. 20, 2018), https://www.vox.com/2018/3/20/17138756/facebook-data-breach-cambridge-analytica-explained.

[57] *The Cambridge Analytica Story,* Explained, WIRED, https://www.wired.com/amp-stories/cambridge-analytica-explainer/ (last visited Jan. 12, 2020).

[58] Aja Romano, *Facebook warns "most users" have had their data harvested by third-party apps*, VOX (Apr. 5, 2018), https://www.vox.com/technology/2018/4/5/17201946/facebook-warns-most-users-had-data-scraped.

[59] *Id.*; Press Release, Facebook, An Update on Our Plans to Restrict Data Access on Facebook (Apr. 4, 2018), https://about.fb.com/news/2018/04/restricting-data-access/.

data. Third, we examine how Cambridge Analytica actually operated during the 2016 election and the attendant fallout.

Part A: Who was Cambridge Analytica?

Cambridge Analytica could best be described as a political consulting firm.[60] Originally founded in Britain as a subsidiary of the Strategic Communication Laboratories (SCL) Group,[61] a private British strategic communications and behavioral research group that worked primarily in government and military contract work, Cambridge Analytica effectively acted as a shell [62] for SCL's US political communications and elections operations work.[63]

SCL made a name for itself in Indonesia and the South Pacific with "influence operations" and "psychological warfare" based on an understanding of human psychology that it claimed would allow it to persuade people of a client's preferred messaging.[64] In 2013, SCL caught the eyes of Steve Bannon, then editor-in-chief of *Breitbart News*, and Robert and Rebekah Mercer, conservative mega-donors.[65] SCL pitched the Mercers on expanding its operations into the world of US elections.[66] Mr. Mercer agreed to finance a $1.5 million pilot project during the 2013 Virginia gubernatorial race that would allow SCL to poll voters and test psychographic messaging.[67] While the Mercers' preferred candidate did not win, they agreed to put forward $15 million for SCL's political targeting project.[68] They set up a company, Cambridge Analytica, primarily owned by Robert Mercer with Rebekah Mercer on the Board of Directors and Alexander Nix, an SCL executive, as the CEO.[69] Though a separate legal entity, almost all of Cambridge Analytica's work would be carried out by SCL Group.[70]

---

[60] Andrew Prokop, *Cambridge Analytica Shutting Down: The Firm's Many Scandals, Explained*, Vox (May 2, 2018), https://www.vox.com/policy-and-politics/2018/3/21/17141428/cambridge-analytica-trump-russia-mueller.

[61] *NY Times March 2018*.

[62] SCL was hardly considered a clean group even before Cambridge Analytica. The company had previously boasted of its ability to stir up coups. Sharon Weinberger, *You Can't Handle the Truth*, Slate (Sept. 19, 2005), https://slate.com/news-and-politics/2005/09/psy-ops-propaganda-goes-mainstream.html.

[63] *NY Times March 2018*.

[64] Prokop, *supra* note 8. Upon further investigation, the work ended up looking more like standard public relations and political messaging work for various regimes. *Id.*

[65] *NY Times March 2018*.

[66] Prokop, *supra* note 8

[67] *NY Times March 2018*.

[68] *NY Times March 2018*; Prokop, *supra* note 8.

[69] *NY Times March 2018*.

[70] *Id.*

SCL Group claimed to have a unique way of political targeting that went beyond traditional heuristics like gender, age, and race.[71] Relying on the Big Five, or "OCEAN" traits, SCL Group said they were able to create psychographic profiles of voters that it could use to win over voters with microtargeted messaging.[72] The Big Five traits are typically used in psychology research and are measured through survey questions along a spectrum.[73] These traits are Openness, Conscientiousness, Extroversion, Agreeableness, and Neuroticism.[74] SCL asserted they were building models that would allow them to extrapolate these traits about a potential voter even when it had not directly surveyed them.[75] Delivering on this kind of claim would require a vast amount of data about millions of people, which would reveal intimate details about their likes, dislikes, and habits.[76]

Enter Facebook. Microtargeting of voters is nothing new — the Obama campaign perfected this is 2008.[77] But while traditional political data analysis firms rely on public voting records and consumer purchase histories which can be easily acquired,[78] Cambridge Analytica's model required more information and more intimate information than traditional models. Initially, Cambridge Analytica hoped to work with Cambridge University's Psychometrics Centre.[79] The Centre developed a method to map personality traits to what people had "liked" on Facebook.[80] Users took a quiz and downloaded an app, which then scraped their private information from their profiles and also of their friends.[81] The Psychometrics Centre declined to work with the firm, but Dr. Aleksandr Kogan, a Russian-American academic working at Cambridge University, agreed to the partnership.[82] Using techniques he had learned as a professor at Cambridge University, Dr. Kogan built a similar app, This is Your Digital Life, and began gathering data for Cambridge Analytica.[83]

---

[71] Prokop, *supra* note 8.

[72] Prokop, *supra* note 8.

[73] Prokop, *supra* note 8.

[74] Prokop, *supra* note 8.

[75] Prokop, *supra* note 8.

[76] SCL Group claimed it could discern whether someone was "a neurotic introvert, a religious extrovert, a fair-minded liberal or a fan of the occult." *NY Times March 2018*.

[77] Angela Chen and Alessandra Potenza, *Cambridge Analytica's Facebook Data Abuse Shouldn't Get Credit For Trump*, THE VERGE (Mar. 20, 2018), https://www.theverge.com/2018/3/20/17138854/cambridge-analytica-facebook-data-trump-campaign-psychographic-microtargeting.

[78] *NY Times March 2018*.

[79] *NY Times March 2018*.

[80] *NY Times March 2018*. "The Centre claimed their method could reveal more about a person than their parents or romantic partners knew; this claim that has since been disputed." *NY Times March 2018*.

[81] *NY Times March 2018*.

[82] *NY Times March 2018*.

[83] *NY Times March 2018*.

Part B: Cambridge Analytica's Connection to Facebook

Contrary to popular understanding, Cambridge Analytica did not "hack" Facebook. Rather, Cambridge Analytica exploited an intentional feature of the Facebook web application, which allowed them to access information about the friends of users who used This is Your Digital Life. Facebook offers a number of tools for developers, called Application Programming Interfaces (APIs), which allow them to connect their applications to the Facebook application and its attendant data.[84] One of the most popular is "Facebook Login."[85] Facebook Login allows users to log in to an application or website using their Facebook credentials, obviating the need for new login information.[86] However, at the cost of convenience, users grant developers information permissions they may not be aware of, like name, location, email, and—relevant for Cambridge Analytica—their friends list.[87] When This is Your Digital Life went live in 2014, Facebook's Terms of Service permitted a developer to access information not just about the user who used Facebook Login but also about their entire friends list and their friends' data.[88] This networked effect meant that the 270,000 people[89] that used Facebook Login to access This is Your Digital Life were not the only ones who had their data exposed. 87 million Facebook users had their data vacuumed up by Dr. Kogan for Cambridge Analytica's dataset.[90] Information included not just locations and interests, but more intimate information like photos, status updates, and location check-ins.[91]

What should be immediately apparent is in granting Dr. Kogan access to this vast trove of information, Facebook's API was acting exactly as the company intended. Indeed, after it was published that Cambridge Analytica had collected this information, Facebook's Chief Security Officer's first response was to ensure the public this was not a data breach,[92] that there were no security vulnerabilities,[93] and that Dr. Kogan's only transgression was in sharing the information with Cambridge Analytica in violation of Facebook's policies for developers.[94] What is also important to note is Facebook changed its terms of service in 2015 to curtail developer data collection and prohibit granting users permission to share information on

---

[84] Kurt Wagner, *Here's How Facebook Allowed Cambridge Analytica to Get Data for 50 Million Users*, Vox (Mar. 17, 2018), https://www.vox.com/2018/3/17/17134072/facebook-cambridge-analytica-trump-explained-user-data.

[85] *Id.*

[86] *Id.*

[87] *Id.*

[88] *Id.*

[89] Romano, *supra* note 4.

[90] *Id.*

[91] Wagner, *supra* note 32.

[92] *Id.*

[93] *Id.*

[94] *Id.* Third-party developers could collect data from users with the restriction that the information could not be marketed or sold. Romano, *supra* note 4.

behalf of their friends.[95] Taken together, Facebook was aware this kind of information exploitation was possible and, in fact, intended for it to happen, but perhaps not at this scale or outside its control.

Part C: Cambridge Analytica and the 2016 Election

With a dataset of millions of adults, Cambridge Analytica set to work creating the psychographic profiles it had promised the Mercer family. After working for a series of low level campaigns in 2014, Cambridge Analytica got its big break when it was contracted by the Ted Cruz 2016 presidential campaign.[96] As the Mercers' preferred candidate going into the 2016 election,[97] Senator Cruz's campaign seemed like the perfect place to utilize their investment. The Cruz campaign did not find this investment to be particularly useful. In a test of the psychographic models Cambridge Analytica had developed for likely Cruz supporters, more than half of the voters they identified were committed to supporting other candidates.[98] The Cruz campaign stopped using Cambridge Analytica's data in February 2016.[99] When the Cruz campaign folded, Cambridge Analytica moved to the Trump campaign.[100] Despite Cambridge Analytica's statements to the contrary, it is unlikely any of their psychographic profiles were used by the Trump campaign.[101] At best, Cambridge Analytica acted like any other political consultancy working on targeting digital ads, doing television ad buys, and polling in swing states—hardly the work of psychological masterminds.[102] Donald Trump won the presidency, but it is not clear that Cambridge Analytica had anything to do with it.[103]

The famed New York Times article brought Cambridge Analytica to the public eye and added to Facebook's slate of troubles regarding the 2016 election. First, the Federal Trade Commission (FTC) announced[104] it would be investigating whether Facebook violated a 2011 consent agreement to keep users'

---

[95] Josh Constine, *Facebook is Shutting Down its API For Giving Your Friends' Data to Apps*, TECHCRUNCH (Apr. 28, 2015), https://techcrunch.com/2015/04/28/facebook-api-shut-down/.

[96] Prokop, *supra* note 8.

[97] Prokop, *supra* note 8.

[98] Nicholas Confessore and Danny Hakim, *Data Firm Says 'Secret Sauce' Aided Trump; Many Scoff*, NEW YORK TIMES (Mar. 6, 2017), https://www.nytimes.com/2017/03/06/us/politics/cambridge-analytica.html.

[99] *Id.*

[100] *NY Times March 2018.*

[101] Confessore and Hakim, *supra* note 46. According to three former Trump campaign staffers, tests showed Cambridge's data and models were slightly less effective than existing Republican National Committee models. *Id.*

[102] Prokop, *supra* note 8.

[103] Chen and Potenza, *supra* note 25.

[104] Press Release, Federal Trade Commission, Statement by the Acting Director of FTC's Bureau of Consumer Protection Regarding Reported Concerns about Facebook Privacy Practices (Mar. 26, 2018), https://www.ftc.gov/news-events/press-releases/2018/03/statement-acting-director-ftcs-bureau-consumer-protection.

data private.[105] Then, two members of the Senate Judiciary Committee, Sen. Amy Klobuchar (D-Minnesota) and Sen. John Kennedy (R-Louisiana) asked to hold a hearing to determine Facebook's ties to Cambridge Analytica[106] and what Facebook knew about attempts "to target political advertising and manipulate voters."[107] Finally, the Attorney General of Massachusetts announced she would be opening an investigation into Facebook and Cambridge Analytica.[108] As of January 2020, the FTC had concluded enforcement actions against Cambridge Analytica[109] and Facebook[110] for deceptive practices in their data collection and use.

Despite the fervor of lawmakers and the questionable actions of both Facebook and Cambridge Analytica's actions, it is not clear that any laws were actually broken.[111] So why the buzz? Perhaps after President Trump's surprise victory, Americans were looking for a way to explain it, and a team of data science super nerds using psychological manipulation techniques seemed like the way to make sense of it. But this was not new news. Cambridge Analytica and its so-called manipulation techniques had been reported by various outlets beginning in 2014.[112]

Vox, an online news source, speculated that what caught the public's attention was not just Cambridge Analytica's behavior but also Facebook's.[113] Yes, Cambridge Analytica had exploited user data, but Facebook had to collect such data and grant third parties access. Users might consent the use of their own individual data, whereas Facebook was probably comfortable with researchers and developers gathering some data. For Facebook to allow a researcher to continue collecting data at the size and scale of Cambridge Analytica would be unthinkable because their monopoly on the dataset would then be lost. Additionally,

---

[105] Press Release, Federal Trade Commission, Facebook Settles FTC Charges That It Deceived Consumers By Failing To Keep Privacy Promises (Nov. 29, 2011), https://www.ftc.gov/news-events/press-releases/2011/11/facebook-settles-ftc-charges-it-deceived-consumers-failing-keep

[106] Matthew Rosenberg and Sheera Frenkel, *Facebook's Role in Data Misuse Sets Off Storms on Two Continents*, NEW YORK TIMES (Mar. 18, 2018), https://www.nytimes.com/2018/03/18/us/cambridge-analytica-facebook-privacy-data.html.

[107] *Id.*

[108] *Id.*

[109] Press Release, Federal Trade Commission, FTC Issues Opinion and Order Against Cambridge Analytica For Deceiving Consumers About the Collection of Facebook Data, Compliance with EU-U.S. Privacy Shield (Dec. 6, 2019), https://www.ftc.gov/news-events/press-releases/2019/12/ftc-issues-opinion-order-against-cambridge-analytica-deceiving.

[110] Press Release, Federal Trade Commission, FTC Imposes $5 Billion Penalty and Sweeping New Privacy Restrictions on Facebook (Jul. 24, 2019), https://www.ftc.gov/news-events/press-releases/2019/07/ftc-imposes-5-billion-penalty-sweeping-new-privacy-restrictions.

[111] Andrew Keane Woods, *The Cambridge Analytica-Facebook Debacle: A Legal Primer*, LAWFARE (Mar. 20, 2018), https://www.lawfareblog.com/cambridge-analytica-facebook-debacle-legal-primer.

[112] There was a 2015 article in *Guardian*, a 2016 article published by *Vice*, and a 2017 article by *The Intercept*. Aja Romano, *The Facebook Data Breach wasn't a Hack. It was a Wake-Up Call*, VOX (Mar. 20, 2018), https://www.vox.com/2018/3/20/17138756/facebook-data-breach-cambridge-analytica-explained.

[113] *Id.*

politicians and others spoke out against Cambridge Analytica because it seemed that Facebook was not acting as the stewards of data they had expected. The Cambridge Analytica scandal demonstrated that big companies are perhaps not the best protectors of our data (and our democracy), and that our own information can be weaponized against us in ways that we cannot predict.

<div align="center">

Part II: Voter Privacy Act

</div>

The Voter Privacy Act of 2019 attempts to address gaps in the law in order to provide users more control over the collection and use of their data. First, we will look at the history of the Voter Privacy Act including why it was introduced. Second, we will look to what the bill's sponsors and advocates claim the bill will do. Third, we will conduct a section-by-section analysis of the bill looking at what it actually does.

Part A: History of the Voter Privacy Act

Senator Dianne Feinstein introduced S.2398, the Voter Privacy Act, on July 31, 2019[114] to amend the Federal Election Campaign Act of 1971[115] by adding a section governing the privacy of voter's personal information.[116] In response to claims of Russian "hacking" in the 2016 presidential election and the revelation that the Republican National Committee had collected data on 198 million American citizens and subsequently exposed that data to hackers,[117] Senator Feinstein introduced this bill to curtail the collection and use of this before unregulated data.[118] "Political candidates and campaigns shouldn't be able to use private data to manipulate and mislead voters," Senator Feinstein said.[119] "This bill would help put an end to such actions. Today, campaigns are legally able to conduct sophisticated online surveillance of everyone in our country in order to influence individuals based on their unique psychological characteristics."[120] This manipulation language suggests that the bill is intended to curtail the use of data to create psychological profiles which "manipulate" voters into voting for particular candidates.

---

[114] Voter Privacy Act, S.2398, 116th Cong. (2019); Press Release, Sen. Dianne Feinstein, Feinstein Bill Would Give Voters Control Over Personal Data (Jul. 31, 2019), https://www.feinstein.senate.gov/public/index.cfm/press-releases?ContentRecord_id=B4FBA307-B050-4623-8EAF-841DCDCAFDA4 [hereinafter *Feinstein VPA Press Release*].

[115] 52 U.S.C. 30101.

[116] Voter Privacy Act, § 4.

[117] *Feinstein VPA Press Release;* Patrick Howell O'Neill, *A New Bill Aims to Protect US Voters from the Next Cambridge Analytica,* MIT TECHNOLOGY REVIEW (Aug. 1, 2019), https://www.technologyreview.com/f/614048/a-new-bill-aims-to-protect-us-voters-from-the-next-cambridge-analytica/.

[118] *Feinstein VPA Press Release*.

[119] *Id.*

[120] *Id.*

Part B: What Do Supporters Claim the Voter Privacy Act Does

The bill claims to curtail voter manipulation in a variety of ways. Advocates for the Voter Privacy Act say the bill is rooted in five principles.[121] The first is "Right of Access:" voters can review their own personal information collected by a campaign, candidate or political organization.[122] The second is "Right of Notice:" any campaign that receives an individual's personal information from a data broker must notify those individuals that their data was obtained.[123] The third is "Right of Deletion:" voters can instruct a campaign, candidate or political organization to delete their personal information.[124] The fourth is "Right to Prohibit Transfer:" voters can prohibit a campaign, candidate or political organization from selling their data to a third party.[125] The fifth, and most relevant to Cambridge Analytica, is the "Right to Prohibit Targeting:" voters can prohibit websites, like Google and Facebook, from using their data profiles to help political groups target them with "psychologically engineered" political ads.[126] These provisions do not apply to information obtained from publicly available state and local voter registration databases, including names, addresses, and party affiliations, or to anonymous polling information.[127] Campaigns would maintain access to sufficient data in order to communicate with voters.[128]

Part C: Section by Section Analysis of the Voter Privacy Act

The Voter Privacy Act applies only to "covered entities" and "targeting services." A "covered entity" is defined as any "candidate, political committee, national committee, connected organization, or political party;"[129] any IRS defined political organization;[130] and any persons who obtain an individual's personal information in order to conduct 1) "public communications,"[131] 2) an electioneering communication,[132] 3) an independent expenditure, or 4) a generic campaign activity.[133] The bill also introduces the term "targeting

---

[121] *Id.*
[122] *Id.*
[123] *Id.*
[124] *Id.*
[125] *Id.*
[126] *Id.*
[127] *Id.*
[128] *Id.*
[129] Voter Privacy Act, § 351 (1).
[130] 26 U.S.C. 527.
[131] Voter Privacy Act, § 351 (1). This is expanded from the current FECA definition to include electronic and digital communications. *Id.*
[132] Voter Privacy Act, § 351 (1). This expands the definition of "electioneering communication" to mean account communications made over the internet by treating the facilities of any online or digital communication as similar to a broadcasting station. *Id.*
[133] Voter Privacy Act, § 351 (1).

service," defined as any "interactive computer service"[134] that allows a third party to target communications to an individual based on that individual's personal information.[135]

Personal information is broadly defined to include information identifying, relating to, describing, capable of being associated with, or that could be reasonably linked to a particular individual or household.[136] This definition notably includes "internet or other internet or other electronic network activity information, including browsing history, search history, and information regarding consumer's interaction with an internet website, application, or advertisement"[137] as well as "inferences drawn from any of the information identified… to create a profile regarding an individual reflecting the individual's preferences, characteristics, psychological traits, psychographic modeling, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes."[138] This appears to be the bill's attempt at capturing Cambridge Analytica-style voter profiling. Notably, personal information does not include publicly available information, deidentified information, or aggregate polling information.[139]

The bill also distinguishes between information collected and information received. Information "collected," with respect to an individual, is any personal information gathered directly from the individual.[140] Information "received" is an individual's personal information not collected by a covered entity directly from that individual and includes personal information bought, rented, acquired, licensed or accessed by a covered entity from any third party.[141] "Obtained" encompasses both to mean any personal information either coll.[142]

We look first to Section 352, Voter's Right of Access. This section introduces a somewhat high burden on the individual in acquiring their own information. Individuals have the right to direct a covered entity to disclose the categories of personal information and specific pieces of information the covered entity has obtained with respect to that individual.[143] This must come in the form of a verifiable request as later defined by the Federal Election Commission (FEC).[144] Covered entities are required to comply with the

---

[134] Voter Privacy Act, § 351 (2); 42 U.S.C. 230(f)(2).
[135] Voter Privacy Act, § 351 (2).
[136] Voter Privacy Act, § 351 (4)(A).
[137] Voter Privacy Act, § 351 (4)(A)(v).
[138] Voter Privacy Act, § 351 (4)(A)(xi).
[139] Voter Privacy Act, § 351 (4)(B).
[140] Voter Privacy Act, § 351 (9).
[141] Voter Privacy Act, § 351 (10).
[142] Voter Privacy Act, § 351 (11).
[143] Voter Privacy Act, § 352 (a).
[144] Voter Privacy Act, § 352 (b).

request no later than 10 calendar days after receipt.[145] In responding to the request, covered entities must include the categories and specific sources of information obtained, third parties to whom personal information has been transferred or disclosed, the period of time the information will be stored, and a statement disclosing an individual's right to erasure and transfer under the Act.[146] Third parties are not permitted to submit a request on behalf of an individual.[147]

Section 353, Voter's Right of Erasure, is a key component of responding to requests above.[148] Individuals are permitted to direct a covered entity to delete their personal information.[149] This also requires a verifiable request.[150] Upon receipt of a verifiable request, the covered entity must immediately cease processing the personal information and, when practicable, delete the information.[151] Covered entities are then also prohibited from re-obtaining the individual's personal information.[152] However, there are notable exceptions. Such personal information does not include publicly available information.[153] Additionally, covered entities are permitted to maintain such personal information as needed to delete an individual's information or prohibit its transfer.[154]

Section 354, Voter's Right to Prohibit Transfer, is a similarly integral component of Section 352. Individuals are permitted to direct a covered entity not to sell or transfer their personal information to any third party.[155] When a covered entity seeks to sell or transfer an individual's personal information, they are required to provide notice.[156] Where individuals have requested their information not be transferred, the covered entity must retain reviewable records that an individual has requested their information not be transferred.[157] Additionally, the bill adds a criminal penalty for covered entities that transfer an individual's personal information outside the United States.[158] This prohibition applies to personal information, publicly available information, and anonymized information.[159]

---

[145] Voter Privacy Act, § 352 (d).
[146] Voter Privacy Act, § 352 (e).
[147] Voter Privacy Act, § 352 (j).
[148] Voter Privacy Act, § 353.
[149] Voter Privacy Act, § 353 (a).
[150] Voter Privacy Act, § 353 (b).
[151] Voter Privacy Act, § 353 (b)(1).
[152] Voter Privacy Act, § 353 (b)(2).
[153] Voter Privacy Act, § 353 (c).
[154] Voter Privacy Act, § 353 (d).
[155] Voter Privacy Act, § 354(a).
[156] Voter Privacy Act, § 354(c).
[157] Voter Privacy Act, § 354(d).
[158] Voter Privacy Act, § 354(e).
[159] Voter Privacy Act, § 354(e)(1).

Sec. 355 is the linchpin of the entire bill: Notice of Receipt of Voter's Personal Information. Under this section, a covered entity is required to inform an individual when it receives personal information from a third party including the scope and purpose of receiving such personal information.[160] Notice must include the identity and contact information of the covered entity; the categories of personal information received; the purpose for which the personal information was received; the period for which the personal information will be retained; and information on the individual's right to access information, erase it, and limit of transfer.[161] This must be communicated to an individual within a reasonable time period after receiving the information but no later than:

1) 30 days after received or, if received in anonymized format, 30 days after connected to an identified individual;

2) at the time of the first communication with an individual when the personal information is to be used for a communication or targeted advertisement; or

3) 14 days prior to transfer or sale of personal information if the personal information is to be transferred or sold to a third party.[162]

New notice is required each time additional categories of information are obtained; personal information is processed for a purpose inconsistent with what was provided in the original notice; or transfer of personal information is to a party different than articulated in the original notice.[163] Notice is required to be provided in a "concise and easily accessible form."[164]

What makes this bill a response to Cambridge Analytica and the phenomena of campaign microtargeting is Section 356: Voter's Right to Prohibit Targeting Based on Personal Information. Under this section, individuals have the right to prohibit targeting services from using their personal information to deliver "targeted communications"[165] to themselves 1) on behalf of a specific covered entity and 2) on behalf of all covered entities.[166] When an individual has sent a verifiable request to a targeting service prohibiting use of their personal information, the targeting service must cease providing access, use, or processing of that individual's personal information to all covered entities identified in the request.[167] The targeting service

---

[160] Voter Privacy Act, § 355(a).
[161] Voter Privacy Act, § 355(c).
[162] Voter Privacy Act, § 355(b).
[163] Voter Privacy Act, § 355(f).
[164] Voter Privacy Act, § 355(d).
[165] Interestingly, targeted communications are not defined in this bill. See Voter Privacy Act, § 351.
[166] Voter Privacy Act, § 356(a).
[167] Voter Privacy Act, § 356(b)(1).

must also not provide future access or use of an individual's information pursuant to the same request[168] Under this provision, covered entities are required to provide notice of their status as a covered entity to a targeting service before accessing personal information.[169] Targeting services, in turn, must then provide notice to any individual whose personal information is accessed or used, including, but not exclusively, for use in delivering a targeted communication by a covered entity.[170]

The bill offers two interesting interpretive notes. First, the bill should not be construed as prohibiting a covered entity from using a targeting service to deliver information to an individual that is not based on that individual's personal information.[171] It is not entirely clear, given the broad definition of personal information,[172] how a covered entity could communicate with an individual not based on their personal information. Second, the bill should not be construed as prohibiting a targeting service from using an individual's personal information to deliver targeted communications to that individual on behalf of a third party who is not a covered entity.[173] This is clearly an attempt to explain that microtargeting is not being outlawed or regulated by this bill. There could be an interesting gray area if a non-covered entity attempts to deliver a political message, say about climate change, using microtargeting techniques.[174]

The bill goes on to provide individuals with the right to file a complaint with the Federal Election Commission should they believe there has been a violation of the Act.[175] The punishment for such violation relies on a willful violation and makes individuals punishable by fine and/or imprisonment of up to three years.[176] The bill also grants the Federal Election Commission (FEC) rulemaking authority to implement the bill, including defining a "verifiable request."[177] It is interesting, however, that the bill does not define targeted communication and specifically does not grant the FEC the ability to define targeted communication.

---

[168] Voter Privacy Act, § 356(b)(2).
[169] Voter Privacy Act, § 356(c)(1)(A).
[170] Voter Privacy Act, § 356(c)(1)(B).
[171] Voter Privacy Act, § 356(f)(1).
[172] Recall that personal information includes identifiers such as internet protocol address, email address, account name, social security number, driver's license number, passport number, or other similar identifiers. Voter Privacy Act, § 351(4)(A)(i).
[173] Voter Privacy Act, § 356(f)(2).
[174] This paper does attempt to parse out the definition of political under the FECA or under individual websites terms of service.
[175] Voter Privacy Act, § 357.
[176] Voter Privacy Act, § 358.
[177] Voter Privacy Act, § 359(a).

This bill looks remarkably like former FTC Commissioner Julie Brill's "Reclaim Your Name" proposal, first introduced as a keynote address in 2013.[178] As will be discussed in Part IV of this paper, the "Reclaim Your Name" proposal was not so narrowly tailored, but rather was focused on regulating all big data brokers and imposing requirements and all related to notice, disclosure, access, and right of correction.[179] What was originally introduced to confront challenges in the credit reporting industry, Senator Feinstein and her team appear to have taken the proposal and narrowed it to focus only on political data collection and disclosure. This will ultimately prove to be the bill's downfall. As will be discussed in Part IV, regulating political advertisement targeting alone opens the door to a number of First Amendment challenges that this bill will be unable to meet.

Part III: Practical Implications of the Voter Privacy Act

If the stated aim of this bill is to prevent another Cambridge Analytica-style organization from being able to influence American elections, it is woefully anemic in accomplishing this goal. First, the "opt out" assumption is ineffective at preventing use and access to data because it relies on a model of informed choice that does not work in the privacy context. Second, the narrow nature of the bill opens it up to First Amendment challenges by targeting services.

Part A: An Opt-Out Assumption in the Privacy Context

The Voter Privacy Act's foundational principles rely on granting individuals *rights over their data* rather than *prohibiting behavior* on the part of targeting services or data collectors, like Facebook or Google. Rather, the onus is on individuals to request that their information not be used. This relies on actors — who do not have much incentive to do so — providing adequate or obvious notice that an individual's information has been collected.

It becomes apparent in reading the bill that a number of steps are required before individuals can harness the full power of their "rights," which runs afoul of modern scholarship on what makes users pay attention to their privacy rights.[180] For the first step, notice must be given in a way that is immediately obvious to the individual that their data has been acquired and how it will be used. It is well understood that very few people read privacy notices or understand them because they are fairly long and almost

---

[178] Julie Brill, Comm'r, Fed. Trade Comm'n, Keynote Address at the Twenty-Third Computers Freedom and Privacy Conference: Reclaim Your Name (June 26, 2013).
[179] *Id.*
[180] *See* Fred H. Cate, *The Failure of Fair Information Practice Principles*, in CONSUMER PROTECTION IN THE AGE OF THE 'INFORMATION ECONOMY' 342–43 (Jane K. Winn ed., 2006); Paul M. Schwartz, Privacy and Democracy in Cyberspace, 52 VAND. L. REV.1609 (1999).

incomprehensible,[181] so succeeding under the first step seems highly unlikely. Users who are able to parse the meaning of a Voter Privacy Act notice proceed to the next step: submitting a verifiable request either to request what information has been collected or asking that their data not be used. This likely will take considerable time as the bill allows that no third party be able to submit a request on behalf of an individual. Any rules the FEC develops around what constitutes a verifiable request will likely require individuals to submit sensitive information, like social security numbers, in order to verify their identity. This provides covered entities and targeting services with even more information on an individual at the same time as an individual is attempting to minimize collection of their data.[182] After a user submits a verifiable request, it is then up to the covered entity or targeting service to determine what information must be retained in order to "adequately" communicate with an individual. This seems to be a case of the fox guarding the hen house. Of course a psychographic profile would be "necessary" for future communications—why would it not be? Additionally, there is no prohibition on targeting services retaining the data and using it for other purposes outside of what has been outlined in the bill. Under this regime, targeting services could gather data from campaigns, use it to develop new profiles, and market it as an expansion of their dataset to other entities.

Providing choice is not the same as protecting privacy.[183] The Voter Privacy Act relies on the informed choice model of privacy; it is seen as sufficient that voters know that their data is being collected and used while having the opportunity to opt out. However, this advances procedural rights over data protections and does not advance Federal Information Processing Standards that could actually make a difference in combating microtargeting on a large scale, unlike data mitigation, improved data quality, and avoidance of harm.[184] By placing the barrier to opting out so high and buried in confusing privacy policy notices, voters are likely to ignore them similar to the way they ignore commercial privacy policies moving us no forward in combatting political microtargeting.[185]

---

[181] See, Cate, supra note 128 at 358–61 (critiquing the informed choice model of privacy); Aleecia M. McDonald & Lorrie Faith Cranor, *The Cost of Reading Privacy Policies*, 4 I/S: J.L.&POL. INFO. SOC'Y. 543, 563–66 (2008) (explaining the excessive time it takes consumers to make informed choices about privacy by reading privacy policies).

[182] This does not even begin to address the possible security risks of sharing such sensitive information.

[183] Ira S. Rubinstein, *Voter Privacy in the Age of Big Data*, 2014 WIS. L. REV. 861, 915 (2015); Schwartz, *supra* note 126, at 1660–63, 1681–85.

[184] Rubinstein, *supra* note 131, at 888 (quoting U.S. DEP'T OF HEALTH, EDUC. & WELFARE, DHEW PUB. NO. (OS) 73-94, RECORDS, COMPUTERS, AND THE RIGHTS OF CITIZENS: REPORT OF THE SECRETARY'S ADVISORY COMMITTEE ON AUTOMATED PERSONAL DATA SYSTEMS (1973), available at http://www.justice.gov/sites/default/files/opcl/docs/rec-com-rights.pdf).

[185] Rubinstein, *supra* note 131, at 916.

Part B. First Amendment Challenges

The focused nature of the Voter Privacy Act makes it particularly vulnerable to First Amendment claims of overregulating commercial speech. Regulating election disclosures as speech is not on face unconstitutional. The Supreme Court in *Buckley v. Valeo* upheld the Federal Election Campaign Act's (FECA) contribution limits, disclosure requirements, and the public financing system it introduced.[186] However, the Court struck down spending limits for campaigns, candidates, and individuals, reasoning that the only government interest sufficient to warrant restrictions is the prevention of the appearance of corruption or corruption itself.[187] The Court rejected a government interest in "equalizing" influence as a legitimate reason for restricting contributions.[188] The FECA disclosure and reporting requirements were found constitutionally valid because they did not impose a ceiling on campaign-related speech activities and served an important government interest in reducing corruption.[189] The takeaway for the Voter Privacy Act is there can be no ceilings on political speech.

Microtargeting may be considered commercial speech as it is, on its face, a more targeted form of advertising. Under *Central Hudson Gas and Electric Co. v. Public Service Commission of New York*, commercial speech can be regulated by the government where it 1) concerns a lawful activity; 2) is not misleading; and 3) directly advances a substantial government interest that is not 4) more extensive than necessary to service the government interest.[190] While the Voter Privacy Act will likely be considered a restriction on commercial speech, it is likely not able to meet the standard for *Central Hudson* scrutiny because it restricts the speech of particular advertisers.

Under *Sorrell v. IMS Health Inc.*, the Court struck down a Vermont law as impermissibly regulating commercial speech when the law restricted the transfer and use of pharmacy records on the prescribing history of physicians for marketing purposes unless the physician expressly consented to the transfer.[191] This law had originally been passed to combat the practice of pharmacies selling information to data mining firms who, in turn, processed the data and sold it to pharmaceutical companies.[192] Pharmaceutical companies then used these reports to target physicians who fit the profile of persons they should market their drugs to.[193] Sound familiar? Vermont claimed they had a compelling interest in reducing the state's cost of healthcare by

---

[186] 424 U.S. 1, 143 (1976).
[187] *Id.* at 26–27.
[188] *Id.* at 48–49.
[189] *Id.* at 19.
[190] 447 U.S. 557, 564–66 (1980).
[191] 564 U.S. 552, 579 (2011).
[192] Rubinstein, *supra* note 131, at 931.
[193] *Id.*

curbing the use of brand name prescription drugs.[194] The Court found that this policy was both a content based and viewpoint based restriction and, "burden[ed] disfavored speech by disfavored speakers," meaning it could not receive *Central Hudson* scrutiny.[195] Heightened scrutiny then applied because the state had regulated speech essentially because it disagreed with the message of that speech.[196] Vermont failed to meet the standard of a "substantial government interest" or a "measure drawn to achieve that interest."[197] The Court found that the law sought to diminish drug manufacturers' "too persuasive" influence by curbing their access to prescribing information while leaving access to this information available to others.[198] The Court found that the Vermont law sought to diminish the speech of an unfavored actor in order to shift public debate in the government's preferred direction—an impermissible interest and too broad a measure.[199]

Despite the lessons of *Sorrell*, Senator Feinstein attempts to include findings in the Voter Privacy Act which attempt to distinguish between the speech regulated in Vermont and the speech regulated in the Voter Privacy Act.[200] It is unlikely that a court would find that there is a meaningful distinction between attempts to "persuade" and attempts to "manipulate" as both reference advertisements in this context. The Voter Privacy Act explicitly regulates political speech by referencing campaigns, candidates, and other political organizations. It brings in "targeting services" and explicitly only places restrictions on their ability to deliver speech from political entities. This is hardly speaker or content neutral. The actor, in this case, is a political organization. The content is their advertising. Taken together, the Voter Privacy Act would likely face heightened scrutiny and, similarly to the Vermont law, be unable to show how this bill has been drawn to achieve a substantial government interest.

Part IV: Suggestions for Improvement

This is not to say that there can be no regulation on campaign use of data and advertising. A two-pronged approach, as outlined in *Voter Privacy in the Age of Big Data*, can be used to craft a model bill that protects individual's data and promotes transparency in the democratic system.[201] First, such a bill should

---

[194] *Sorrell*, 564 U.S. at 560–61.

[195] *Id.* at 564.

[196] *Id.* at 565.

[197] *Id.* at 571–72.

[198] *Id.* at 577–78.

[199] *Id.*

[200] "In *Sorrell v. IMS Health Inc.*, the Supreme Court invalidated a Vermont State law regarding restrictions on the use of personal information as violating the First Amendment. The court held that the government's prohibition "disfavor[ed] … speech with a particular content," namely marketing, and "disfavor[ed] specific speakers, namely pharmaceutical manufacturers" because it interfered with the manufacturers' attempts to persuade recipients to use their products. Psychological targeting techniques seek to manipulate, not to persuade." Voter Privacy Act, § 2 (17).

[201] Rubinstein, *supra* note 131, at 910.

include a "Reclaim Your Name—" style comprehensive data privacy regime for all targeting services, not just political ones. Second, this regime should be coupled with a data use and processing transparency requirement for political organizations.

Part A. "Reclaim Your Name"

In *Voter Privacy in the Age of Big Data*, Ira Rubinstein advances the idea of a "Reclaim Your Name"—style privacy regime that would be directed at all types of microtargeting — not just political microtargeting.[202] Under "Reclaim Your Name," Federal Trade Commissioner Julie Brill argued that Congress should "require data brokers to provide notice, access, and correction rights to consumer scaled to the sensitivity and use of the data at issue"[203] as well as urging industry to adopt a voluntary "Do Not Track" standard allowing "consumers to choose when their online data is monitored for marketing purposes."[204]

A "Reclaim Your Name"—style bill should be directed at data brokers and collectors rather than at people using their services (the group the Voter Privacy Act seeks to regulate). Such a bill should require data brokers to 1) implement data minimization standards; 2) provider consumers with notice; 3) allow users the opportunity to access and correct parts of their information; and 4) allow consumers to opt out of certain marketing uses.[205] If Congress developed and passed such standards for data brokers that would require them to disclose in all cases that they are collecting data and serving microtargeted ads, political actors would automatically be swept into those regulated by the bill.[206]

Practically, this could mean that political communications would expand on the disclaimer similarly required under the proposed Honest Ads Act[207] and would have similar disclaimers to the "AdChoices" many consumers are already familiar with (and companies are too).[208] Targeted political communications would then include both who paid for the ad, like radio and television ads already are required to do, and a label or icon, similar to AdChoices, indicating when an ad is targeted.[209] Brill's "Reclaim Your Name" proposal

---

[202] Rubinstein, *supra* note 131, at 910–12.

[203] Brill, *supra* note 126, at 10.

[204] *Id.* at 11.

[205] Rubinstein, *supra* note 131, at 928.

[206] *Id.* at 920.

[207] Honest Ads Act, S.1989, 115th Cong. (2017). This bill expands source disclosure requirements for political advertisements by establishing that paid internet and paid digital communications may qualify as "public communications" or "electioneering communications" that may be subject to such requirements including disclosure of who authorized and paid for digital advertisements. *Id.*

[208] "The Digital Advertising Alliance's AdChoices program offers consumers a limited form of control by enabling them to opt-out of receiving targeted ads." Rubinstein, *supra* note 131, at 916.

[209] *Id.*

relies on simplicity and ease of use for consumers.[210] If her proposal was adopted in its totality, this icon would be hyperlinked to information on how targeting works, what data targeting depends on, and a mechanism by which voters can permit or prevent future collection, use, or disclosure of data for purposes of political microtargeting. As Rubinstein correctly points out, this embeds the choice in voter's decision-making,[211] and if icons were obviously displayed, standardized across campaigns, and meaningful in the choices they offered, voters might actually gain a modicum of control over how their data is used and shared.[212]

This type of regime would avoid many of the First Amendment concerns brought under the currently proposed Voter Privacy Act. Counterintuitively, expanding the number of actors this proposal regulates makes it a less restrictive means of regulating speech because it is content, viewpoint, and speaker neutral. Recall, under *Sorrell*, the problem with the Vermont law was not that it restricted marketing speech. It is that it restricted marketing speech of a particular class of actors — drug advertisers.[213] Under that reasoning, regulating solely political microtargeting would be too restrictive because it is not content neutral. Regulating all microtargeting would be less restrictive enough to put it under *Central Hudson* commercial speech[214] and allow such a bill to withstand a First Amendment challenge.

Part B. Data Use and Collection Transparency Requirement

One of the biggest problems with the Voter Privacy Bill as written is the actual implementation of the bill. In order to be removed from any kind of data processing list, an individual must go out of their way to send verifiable requests to every covered entity that has obtained their data and every targeting service that has their data. The likelihood that anyone outside of conspiracy theorists and hardcore privacy advocates would bother to send in such verifiable requests is highly unlikely. Rather, there is significant evidence to suggest that if politicians actually wanted to address privacy concerns, such decision-making needs to be embedded in users' everyday choices and interactions.[215]

Rubinstein suggests additional political data use and collection disclosures and disclaimers would address this problem. Under such a bill, covered entities, like campaigns, candidates, and political parties,

---

[210] *Id.* (citing Julie Brill, Comm'r, Fed. Trade Comm'n, Keynote Address at the Twenty-Third Computers Freedom and Privacy Conference: Reclaim Your Name (June 26, 2013)).

[211] *Id.*

[212] Much of what Rubinstein suggests would make this an effective proposal has been salient in the last several years. "It seems reasonable to suppose that if a newspaper published a negative story on a campaign's privacy practices and blogs and other news outlets ran this story until it became "viral," the campaign would respond by changing the offending practices rather than risk losing control of the news cycle or, ultimately, the candidate's message." *Id.* at 917.

[213] Sorrell

[214] For a discussion of when *Central Hudson* scrutiny applies see *supra* note 138.

[215] Rubinstein, *supra* note 131, at 915.

which collect personal information for voters or compile voter files from a variety of sources would be required to provide comprehensive notices on their websites of data processing practices.[216] While Rubinstein does not see a role for the FEC in monitoring whether campaigns are complying with this law,[217] I believe the FEC should be granted rulemaking authority, similar to such authority proposed under the Voter Privacy Act, for determining what is sufficient notice from campaigns[218] as well as enforcement authority should voters notice there is noncompliance with the rule. Rubinstein suggests that like campaign finance rules, there is a common thread from *Buckley* of promoting openness and transparency in the democratic process that would likely allow these provisions to be upheld in court.[219]

A transparency requirement would be closer to a campaign disclosure requirement than the Voter Privacy Act as written because it does not prevent anyone from speaking and does not reduce the quantity of expression—the two problems the Voter Privacy Act faces in restricting political targeting speech. As Rubinstein notes, the individual does not suffer privacy burdens associated with the disclosure, but rather political organizations and targeting companies do because there is no personal data at stake when disclosing processing practices.[220] This transparency and regulation of all microtargeting better addresses the problem the Voter Privacy Act seeks to address by bringing to light all use and collection practices and giving voters the opportunity to opt out right from the advertisements they are served.

Conclusion

Cambridge Analytica was hardly the sophisticated, nefarious actor politicians wanted them to be. They are closer to the bumbling henchman who happened to get caught exposing the much more insidious plot behind it. Cambridge Analytica did not exploit Facebook or hack its tools and systems. Rather, Cambridge Analytica and the resulting scandal are exactly what one could predict from a business model

---

[216] *Id.* at 913.

[217] *Id.*

[218] Rubinstein discusses how the Children's Online Privacy Protection Act (COPPA) rule could be translated into the political sphere. Rubinstein, *supra* note 131, at 914. He suggests that such a rule would require political actors to disclose "(1) what personal information they collect from voters or obtain about them from third parties and how they use this data; (2) their data-sharing practices including any transfers of this data for secondary uses; (3) the purposes for which they collect this data (including any use of persistent identifiers in connection with voter microtargeting) and whether the provision of such information for the purposes indicated is voluntary or optional; (4) what opportunities voters have to obtain access to and correct or delete this data and/or to prevent its further use or maintenance, including any choices for limiting the use of this data in voter microtargeting; (5) the length of time they retain this data; (6) relevant security measures applied to this data; and (7) applicable oversight measures including where and how voters may lodge a complaint." *Id.*

[219] Rubinstein, *supra* note 131, at 924.

[220] *Id.*

built entirely on the collection and selling of data. Cambridge Analytica's real crime was in using the tool too well and in getting caught. The Voter Privacy Act as written does not get to the root of the problem. Regulating targeting services and campaigns will not stop a future Cambridge Analytica from siphoning off data to create sophisticated profiles of users. It puts a Band-Aid on a wound where a suture is needed.

If Congress really intended to protect voter data and prevent manipulation of elections, it would start by actually regulating the data collectors. A Facebook, a Google, an Amazon, with their stores of data on the transactions and habits of almost all Americans truly posses the biggest threat to democracy. With their ability to serve ads and information that suit their interests, tailored using the myriad information they have gathered, tech companies can actually manipulate elections without ever actually falling under political speech. What is to stop Facebook from acting as a Cambridge Analytica itself? After all, it already has psychographic profiles of a sort for marketing less impactful products than candidates.

Tools are not neutral. Treating microtargeting services as impartial machines does a disservice to the American people and ignores the power and promise of big data. A bill that actually worked to protect Americans' data from collection without consent and limited the purpose for which information could be used, and would actually provide Americans with a weapon for taking back their data.

Internet Arms Control: Disarming Social Media's Sword and Shield Protections

By Patrick Grant

I. Introduction

The definitive piece of legislation governing the modern internet was signed into law the same year I was born. In 1996, Congress passed the Communications Decency Act to regulate pornographic material on the internet. While the courts struck down most of this law for violating the 1st Amendment, a short provision in the text withstood legal challenge and is now heralded as "the most important law protecting free speech online" (Harmon, 2018). This provision, known as Section 230, states that: *"No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider."* In other words, Section 230 guarantees that internet companies (ICs) cannot be held liable for most user-submitted content hosted on their service. Before the first dot-com bubble burst, this was a reasonable policy to let upstart internet companies get on their feet and not have to worry about moderating rogue actors on the internet. Now, Facebook has more users than China has citizens (Taylor, 2016), and foreign actors use it as their playground to disrupt democracy. The question of whether Facebook should be treated like a public forum where the right to free speech is paramount, or a newspaper where editorial discretion is required, has never been more important.

In this paper, I will describe the policy environment that preceded Section 230 which illustrates why this law is necessary. I will track its policy history through to today, detailing how the courts strengthened the law and Congress has sought to undermine it. Then, I will discuss several policy alternatives to ameliorate problems raised by Section 230, noting which stakeholders stand to gain or lose from each option. I will conclude by issuing a recommendation to Congress on how best to address Section 230 and the internet as a whole.

II. Policy History

Why Do We Have Section 230?

Conflicting rulings produced by two court cases inspired Congress to create Section 230 (Goodman & Whittington, 2019). In 1991, the District Court for the Southern District of New York ruled in *Cubby inc. v. CompuServe inc.* that the internet firm CompuServe would not be held liable for defamatory content hosted on their website because they had a policy not to moderate the content on their message boards. Four years later, the New York Supreme Court ruled in *Stratton Oakmont v. Prodigy Services* that Prodigy was liable for defamatory content posted anonymously on their site because Prodigy actively moderated their forums. The courts treated CompuServe like a newsstand, which sells magazines containing defamatory

content without liability, while they treated Prodigy like a newspaper editor, who exercises control over and is liable for all content within their product.

The legacy of these two cases created perverse incentives for internet companies. If they attempted to remove illegal or objectionable content, they could be held liable for the content they failed to remove. Meanwhile, as long as they did not moderate their content or lift a finger to prevent user law-breaking, they would face no liability for the content they host. While the courts had correctly applied the laws, Reps. Chris Cox (R-CA) and Ron Wyden (D-OR) recognized that the laws were outdated, patchwork, and in need of revision (Zara, 2017). An internet without moderation troubled conservative Cox, while liberal Wyden worried about the chilling of free speech if internet companies over-moderated their platforms in order to avoid liability (Newton, 2020). They saw the fledgling internet as a non-partisan issue ripe for bipartisan compromise. Out of these twin concerns, Section 230 was born.

How Does Section 230 Work?

While Rep. Cox tried to pass the text of Section 230 as a standalone bill – The Internet and Family Empowerment Act of 1995 (H.R. 1978) – Wyden and Cox ultimately found their legislative vehicle as a rider in the Communications Decency Act, which was Title V of the Telecommunications Act of 1996 (S.652) (Newton, 2020). This act overhauled telecommunications law for the first time in 60 years with broad bipartisan support. Most members were likely unaware of Section 230, which occupied less than two pages in the 107 page bill, but its simplicity belies its power (Newton, 2020).

Section 230 provides internet companies with a sword and a shield (Stewart, 2019a). The sword, responding to Rep. Cox's fears of an unmoderated internet, empowers internet companies to take "good faith" actions to moderate and restrict objectionable content without fear of liability. The shield, covering now Senator Wyden's concerns about chilled free speech, ensures that internet companies will not be held liable for third party content found on their website. The law specified protection from all civil torts, even regarding constitutionally-protected matters, but carved out exceptions to this liability shield for violations of federal criminal law or IP law (Goodman & Whittington, 2019). Section 230 made it clear that consequences of speech fall on the speaker rather than the host, and that the government would stay out of internet speech regulation as best it could. As Rep. Cox put it while defending his bill on the House floor, "it will establish as the policy of the United States that we do not wish to have content regulation by the federal government of what is on the internet" (Senate RPC, 2019).

While much of the Communications Decency Act was struck down by the courts, Section 230's first legal test measured quite favorably. In the 1998 case *Zeran v. America Online, Inc.*, the Fourth Circuit ruled that Section 230 granted broad immunity to AOL in the face of accusations that they were negligent in failing to remove defamatory fraud on the platform. Not only did the court side with AOL, but they also

ruled that the intent of Section 230 was to protect against the threat of tort-based lawsuits, suggesting that future lawsuits on such grounds be barred (Carney, 2018).

Not all court rulings have applied the law so broadly. In the 2008 case *Fair Housing Council of San Francisco v. Roommates.com*, the Ninth Circuit heard a case in which the roommate-matching and housing-rental internet service was accused of violating the Fair Housing Act by allowing users to discriminate against protected classes (Defterderian, 2009). The court ruled that Roommates.com acted as a "co-developer" of illegal content by asking users to indicate roommate preferences with regards to sexual orientation and number of children. As a co-developer of this content, Section 230 protections no longer applied, and Roommates.com could be held liable in ways a mere content host would not. Notably, the court ruled that Roommates.com's "additional comments" section would be protected under Section 230 if it had been used for discriminatory practices because the website did not shape people's answers in that section. The line between what counts as Section 230-protected moderation and what counts as unprotected content development is tricky to define but central to the application of Section 230 in law.

Where Does Section 230 Stand with Congress Now?

Section 230 governed the internet for two decades with little to no attention from Congress. Following the 2016 election and the association of social media companies like Facebook with foreign disinformation campaigns, Section 230 has begun to receive increased scrutiny. The first legislative blow to Section 230 aimed not at Facebook, but a more uncontroversial enemy: sex traffickers. The Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA) of 2017 (H.R. 1865), signed into law by President Trump in March 2018, expanded federal criminal liability for sex trafficking against internet companies, targeting websites like backpage.com that notoriously allowed third parties to post ads soliciting prostitution (Romano, 2018). Backpage.com had previously faced charges from then California Attorney General Kamala Harris in 2014, but a California state judge cited Section 230 in dismissing the case (Kutner, 2016). Senator Harris joined 96 other Senators and 388 House members in ending this protection and weakening Section 230 with the passage of FOSTA.

While FOSTA altered what protections Section 230 does or does not provide internet companies, other legislators are re-examining the conditions under which one qualifies for Section 230. Earlier this year, Senator Josh Hawley (R-MO) introduced the Ending Support for Internet Censorship Act of 2019 (S.1914) in accordance with his belief that tech companies are guilty of censoring conservatives and favoring liberals. His bill, which currently has no cosponsors, would require internet companies of sufficient size to prove to the FTC that they do not moderate content in a "politically biased manner" in order to receive a two-year certification that maintains their Section 230 immunity. Hawley's bill has been panned by the media, accused

by fellow conservatives as government overreach, and criticized by legal scholars due to challenges defining "political neutrality" (Coaston, 2019). Nonetheless, the bill sends a message to tech companies like Facebook and Twitter that Congress is taking interest in their behaviors, and indicates that there could be bipartisan support for further changes to Section 230, if the right policy can be created.

Meanwhile, a less grandiose bill put forward by Reps. Ed Case (D-HI) and Peter King (R-NY), the Protecting Local Authority and Neighborhoods Act of 2019 (H.R. 4232), has earned 11 bipartisan cosponsors. Responding to cases where Airbnb hosted rentals on its service that violated lease agreements or local ordinances, the bill would amend Section 230 to allow for a 30-day notice-and-takedown scheme, where a landlord could file a claim against Airbnb for hosting an unlawful listing and Airbnb would have 30 days to remove this listing or else lose their Section 230 immunity (Goldman, 2019). Of course, this bill would apply to more than Airbnb, as any internet service that includes a subleasing market, including Facebook and Craigslist, could lose their Section 230 immunity if they did not properly respond to these claims. As it stands, this bill would primarily benefit landlords and hotel chains while opening up companies like Airbnb to floods of bogus removal notices from competitors. However, a notice-and-takedown scheme, with a more careful design so as not to be gamed and a broader reach than just real estate listings, does have potential for improving upon Section 230.

Finally, the language of Section 230 is making its way through Congress in the form of the United States-Mexico-Canada Agreement (USMCA), which currently includes a provision extending Section 230-like protections to Mexico and Canada. In December 2019, Speaker Pelosi fought to exclude this provision from the final bill as a part of on-going negotiations to bring House Democrats onto the deal (Feiner, 2019). Rep. Frank Pallone (D-NJ) tweeted his support for Speaker Pelosi's objections, and he joined Rep. Greg Walden (R-OR) in writing a letter to US Trade Representative Robert Lighthizer urging the removal of Section 230 from the USMCA in light of the "serious policy discussions" taking place in the US (Feiner, 2019). Their agreement on this subject is notable because they are the chairman and ranking member of the House Energy and Commerce Committee, under whose jurisdiction Section 230 came into law (Feiner, 2019).

III. Stakeholders and Criteria

In the House, the Energy and Commerce Committee handles most matters pertaining to the internet, while in the Senate, the Committee on Commerce, Science, and Transportation (SCCST) oversees the internet. Given that the chairman and ranking member of the House Committee governing Section 230 expressed public doubt regarding extending the provision to other countries, it appears that this committee would consider taking up more legislation to alter Section 230. As for its Senate counterpart, ranking member Sen. Brian Schatz (D-HI) told reporters in September 2019 to expect a Section 230-related bill in the

"next month or so" (i2Coalition, 2019). This bill, which is still forthcoming as of December 2019, is unlikely to move anywhere without a Democratic Senate, as Chairman Wicker of the SCCST stated in a recent hearing an unwillingness to make substantive changes to Section 230 any time soon.

A successful bill improving on Section 230 would have a variety of stakeholders to please. Internet companies want to maintain their tort immunity for fear that exposure to countless lawsuits would drive them out of business. Internet users want an internet full of interactive services, but free from upsetting and objectionable content. Democrats want to reduce disinformation campaigns perpetuated on social media sites like Facebook, while Republicans want guarantees of political neutrality from their social media sites. The best legislative solution will try to appease each of these stakeholders while maintaining the original spirit of Section 230: to induce moderation of objectionable content without sacrificing the innovative spirit of the internet.

IV. Policy Alternatives

This section of the paper will discuss the pros and cons of several options policymakers should consider in reforming Section 230. These alternatives will be grouped based on concepts introduced earlier in the paper. The first group continues in the vein of FOSTA by limiting the protections under the Section 230 liability shield. The second group would borrow from Sen. Hawley's idea to establish preconditions for the liability shield. The third group improves upon the concept in Reps. Case and King's of reintroducing the courts into the Section 230 process. Finally, continuing the status quo will be evaluated as well.

1. Limit the Protections Under the Liability Shield

Lawmakers should consider adding more exceptions to Section 230, similar to how FOSTA exempted the facilitation of human trafficking. One way to extend this carve-out would be to expand the definition of "creation or development," which the Roommates.com court case illustrated to be quite narrow (Goodman & Whittington, 2019). Section 230 already states that platforms which engage in creation or development of unlawful material will not receive liability cover, but courts have ruled that paying users to create content, which YouTube routinely does, or curating and promoting existing content, which all algorithm-based social media platforms do, does not qualify as "creation or development." For example, late YouTuber Machelle Hobson earned from the platform between $100k and $1m annually for her channel Fantastic Adventures, which featured videos where she exploited and abused her children (Altavena, 2019). Prior to her death, she had been arrested for child abuse, and YouTube had taken down her channel, but YouTube cannot be held liable for the content they paid her to make through revenue-sharing agreements with advertisers (Bergmayer, 2019). Broadening Section 230's development clause could induce platforms to scrutinize the behavior of their content creators more carefully.

A second version of this would be to hold internet companies liable for the ads they run, which is a notoriously unmonitored field (Bergmayer, 2019). Internet companies employ complex ad-tech algorithms that result in the companies themselves not knowing what ads their users are seeing. These ads frequently contain malware or misleading content, but a user who falls victim to such an ad cannot hold the platform liable according to Section 230. Lawmakers could change this, and require platforms to clean up their acts when it comes to the advertising they host.

The case for these types of carve-outs based on profit-making content is that they would induce platforms to change their behavior without having a chilling effect on the free speech of non-monetized content. If a platform claims they cannot reasonably screen their revenue-generating content for violations of the law, then they should not make money off this content. Users would benefit from improved moderation of the content they see without sacrificing their freedom to post. On the other hand, content that generates direct revenue for platforms represents a fairly small proportion of the total content online, and added liability in this field would do little to address concerns of disinformation held by Democrats. These proposals also would not address Republican concerns about political neutrality, although it is difficult to address a problem that has little evidence of existing (Tiku, 2018).

2. Establish Preconditions to the Liability Shield

The second way lawmakers could amend Section 230 would be to require internet companies to agree to certain terms in order to enjoy the liability shield Section 230 provides. While Sen. Hawley's bill is a misguided and ineffectual gesture toward this, lawmakers could get useful concessions from internet companies without involving heavy-handed government bureaucracy. To use a term particularly charged in the current political context, reforms of this nature can be thought of as "quid pro quo amendments" (Goodman & Whittington, 2019).

Sen. Mark Warner (D-VA) released a white paper in 2018 suggesting, among other things, a quid-pro-quo amendment to Section 230 where internet companies must agree to become information fiduciaries in order to qualify for the liability shield (Robertson, 2018). Borrowing the concept from law, medicine, and finance, internet companies would agree to never act against the user's interest, and courts would decide the penalties if they do. Requiring internet companies to act as fiduciaries is superior to the user-consent agreements established by the EU's General Data Protection Regulation (GDPR) because it puts the onus on companies, rather than users, to handle user data responsibly (Brandom, 2018).

Asking companies to act as information fiduciaries is one of many 'quids' lawmakers could ask in exchange for the 'quo' of Section 230 protections. Lawmakers could require internet companies to increase transparency by publishing their data or algorithms, create mechanisms for interoperability between various social media platforms, or even contribute a portion of revenue to a fund supporting accountability and better

information journalism (Goodman & Whittington, 2019). Most internet companies view the liability shield provided by Section 230 as so valuable their business could not operate without it. While Sen. Hawley's proposed solution is inadvisable, the former prosecutor was right to identify that tech companies currently enjoy a "sweetheart deal" (Kelly, 2019).

The primary benefit of a quid-pro-quo arrangement is that it is effectively optional to internet companies and therefore would less likely not run into First Amendment concerns (Goodman & Whittington, 2019). Tech companies would have the choice to either adopt additional responsibilities or give up some Section 230 protections. Particular benefits would come down to what demands Congress chooses to make on tech companies. If, for example, they were required to act as information fiduciaries, Democrats could ask Facebook to defend in court its behavior with regards to Cambridge Analytica and their data-sharing practices, while Republicans could take Twitter to court for their alleged impropriety of suppressing conservative voices. The downside of such an arrangement is that it opens the door to judicial activism and a ceding of authority from Congress to the judiciary. Facebook's Mark Zuckerberg has expressed respect for the idea of his company acting as an information fiduciary in theory, but it is likely that internet companies such as his will fight against any legislation that increases their exposure to the justice system (Brandom, 2018). More broadly, while quid-pro-quo amendments have clear promise, the matter of deciding in Congress which 'quids' are most useful would be a contentious affair.

3. Open Section 230 Back up to the Courts

While the information fiduciary concept would eventually involve court rulings, Congress could act to bring the judiciary into the fold more directly. Improving upon the notice-and-takedown system proposed for illegal real estate listings, Congress could create a notice-and-takedown system for certain tortious content (Goodman & Whittington, 2019). Sen. Warner's white paper discussed the idea of making platforms liable via notice-and-takedowns for 'deepfake' content, an up-and-coming technology that allows creators to convincingly fabricate videos of people saying and doing things they have never done (Robertson, 2018). While instances of deepfakes spreading disinformation are rare, their potential for defamatory content is frightening (Turton, 2020). Sen. Warner is wary of creating a notice-and-takedown system that is gameable like the copyright infringement notices in the Digital Millennium Copyright Act, but he believes that a court-based system where victims must prove the content tortious in court prior to the issuance of a takedown request would mitigate frivolous lawsuits (Goodman & Whittington, 2019).

Congress could also reintroduce the judiciary into Section 230 by adding a "reasonable care" standard to Section 230 (Citron & Wittes, 2017). The original Section 230 text includes the heading "Protection for Good Samaritan blocking and screening" and qualifies that the liability shield applies to actions "taken in

good faith." Therefore, a standard requiring internet companies put in reasonable effort to moderate unlawful activity would not conflict with the spirit of the original law. Danielle Citron, the Boston University law professor who proposed this change, notes that while "reasonableness" is a vague term, tort law often hinges on a judge's determination of whether or not a party conducted itself "reasonably" (Most, 2019).

In an ideal world, there would be considerable benefits to holding internet companies to a higher standard and allowing courts to hold them liable when they fail to deliver. Users stand to benefit from suing internet companies for negligence and seeking court rulings for removals of defamatory content. Members of Congress could attempt to hold companies like Facebook liable for not taking greater steps to stop Russian disinformation campaigns. However, we do not live in an ideal world, and any change that opens internet companies up to frivolous lawsuits could potentially ruin them. Many members of Congress would loathe ceding power to the judiciary so directly, and so this option would face significant political obstacles.

4. Status Quo

Congress is not the only actor worried about content moderation on the modern internet. While the world's greatest deliberative body deliberates, tech companies are taking private action to address concerns about disinformation and unlawful content on their platforms. Twitter recently announced a ban on political advertising, although it is now facing difficulties implementing this policy (Stewart, 2019b). Facebook is hiring contractors to screen for objectionable content missed by their algorithms, although these moderators endure horrible working conditions for relatively low pay (Newton, 2019). These steps are small and imperfect, but move the companies in the right direction. Congress should consider the possibility that Section 230 is the least-worst legislation to govern the internet, and work with these companies to address societal concerns within the confines of existing regulation.

The biggest problem with a continuation of the status quo is that these platforms are beholden to shareholders and will only address public concerns that threaten profitability. Facebook profits off the engagement of its users, and their algorithms have discovered that outrage, sensationalism, and fake news are incredibly engaging and profitable (Yglesias, 2018). To the extent that this represents a market failure, Congress itself must rectify the problem.

V. Recommendation

I recommend that the first action Congress takes on Section 230 is to require internet companies to agree to behave as information fiduciaries in exchange for Section 230 protections. While the particular legal details are beyond the scope of this paper, Congress should specify that violations of fiduciary obligations are subject to federal and state, but not civil, prosecution in order to avoid frivolous lawsuits that would ruin many internet companies. The responsibilities of an information fiduciary appeal to Republican concerns about political neutrality, Democratic concerns about improper political advertising, and user concerns about

data misuse. Internet companies already refer to themselves as keepers of the public trust, and so this legal change would require these claims to have teeth. The other alternatives discussed in this paper show promise, but risk killing the internet with the unintended consequences of an overly burdensome regulatory touch.

References

Altavena, L. (2019, March 20). How YouTubers like mom accused of child abuse make money off popular videos. Retrieved December 7, 2019, from Azcentral website: https://www.azcentral.com/story/news/local/pinal/2019/03/20/how-fantastic-adventures-youtube-mom-machelle-hobson-made-money-off-videos/3224280002/

Balkin, J., & Zittrain, J. (2016, October 3). A grand bargain to make tech companies trustworthy. Retrieved December 7, 2019, from The Atlantic website: https://www.theatlantic.com/technology/archive/2016/10/information-fiduciary/502346/

Bergmayer, J. (2019, May 21). How to go beyond section 230 without crashing the internet. Retrieved December 7, 2019, from Public Knowledge website: https://www.publicknowledge.org/blog/how-to-go-beyond-section-230-without-crashing-the-internet/

Brandom, R. (2018, April 12). This plan would regulate Facebook without going through Congress. Retrieved December 7, 2019, from The Verge website: https://www.theverge.com/2018/4/12/17229258/facebook-regulation-fiduciary-rule-data-proposal-balkin

Carney, E. (2018). Protecting Internet Freedom at the Expense of Facilitating Online Child Sex Trafficking: An Explanation as to Why CDA's Section 230 Has No Place in a New NAFTA. *Catholic University Law Review*, *68*(1), 353–378.

Citron, D., & Wittes, B. (2017). The Internet Will Not Break: Denying Bad Samaritans Sec. 230. *Fordham Law Review*, *86*(2). Retrieved from https://heinonline.org/HOL/Page?handle=hein.journals/flr86&id=419&collection=journals&index=

Coaston, J. (2019, June 26). Sen. Josh Hawley wants the government to police Twitter for political bias. Retrieved December 7, 2019, from Vox website: https://www.vox.com/2019/6/26/18691528/section-230-josh-hawley-conservatism-twitter-facebook

Defterderian, V. (2009). "Fair Housing Council v. Roommates.com": A New Path for Section 230 Immunity. *Berkeley Technology Law Journal*, *24*(1).

Feiner, L. (2019, December 5). Pelosi pushes to keep tech's legal shield out of trade agreement with Mexico and Canada. Retrieved December 7, 2019, from CNBC website:

https://www.cnbc.com/2019/12/05/pelosi-pushes-to-keep-section-230-out-of-usmca-trade-agreement.html

Goldman, E. (2019, October 16). The plan act proposes to amend section 230 to "protect"... Landlords and hotel chains? Retrieved December 7, 2019, from Technology & Marketing Law Blog website: https://blog.ericgoldman.org/archives/2019/10/the-plan-act-proposes-to-amend-section-230-to-protect-landlords-and-hotel-chains.htm

Goodman, E., & Whittington, R. (2019). *Section 230 of the Communications Decency Act and the Future of Online Speech*. Retrieved from The German Marshall Fund of the United States website: http://www.gmfus.org/sites/default/files/publications/pdf/Goodman%20%20Whittington%20-%20Section%20230%20paper%20-%209%20Aug.pdf

Harmon, E. (2018, March 21). How congress censored the internet. Retrieved December 6, 2019, from Electronic Frontier Foundation website: https://www.eff.org/deeplinks/2018/03/how-congress-censored-internet

i2Coalition. (2019, October 15). I2coalition october 2019 legislative update. Retrieved December 7, 2019, from Internet Infrastructure Coalition website: https://www.i2coalition.com/i2coalition-october-2019-legislative-update/

Kelly, M. (2019, June 19). Internet giants must stay unbiased to keep their biggest legal shield, senator proposes. Retrieved December 7, 2019, from The Verge website: https://www.theverge.com/2019/6/19/18684219/josh-hawley-section-230-facebook-youtube-twitter-content-moderation

Kutner, M. (2016, December 12). Why Backpage.com keeps beating anti-sex-trafficking advocates in court. Retrieved December 7, 2019, from Newsweek website: https://www.newsweek.com/backpage-sex-trafficking-case-ferrer-harris-531187

Most. (2019, October 16). Who should police the Internet?: BU TODAY. Retrieved from http://www.bu.edu/articles/2019/who-should-police-the-internet/

Newton, C. (2019, February 25). The secret lives of Facebook moderators in America. Retrieved December 7, 2019, from The Verge website: https://www.theverge.com/2019/2/25/18229714/cognizant-facebook-content-moderator-interviews-trauma-working-conditions-arizona

Newton. (2020). Everything you need to know about Section 230. Retrieved from https://www.theverge.com/21273768/section-230-explained-internet-speech-law-definition-guide-free-moderation

Robertson, A. (2018, July 30). Sen. Mark Warner floats major tech company regulations that don't include breakups. Retrieved December 7, 2019, from The Verge website:

https://www.theverge.com/2018/7/30/17629854/mark-warner-tech-company-legislation-white-paper-privacy-misinformation-competition

Romano, A. (2018, April 13). A new law intended to curb sex trafficking threatens the future of the internet as we know it. Retrieved December 7, 2019, from Vox website: https://www.vox.com/culture/2018/4/13/17172762/fosta-sesta-backpage-230-internet-freedom

Senate RPC. (2019, September 16). Is it time to update the internet's "legal cornerstone"? Retrieved December 7, 2019, from Senate Republican Policy Commission website: https://www.rpc.senate.gov/policy-papers/is-it-time-to-update-the-internets-legal-cornerstone

Senator hawley introduces legislation to amend section 230 immunity for big tech companies. (n.d.). Retrieved December 7, 2019, from Senator Josh Hawley website: https://www.hawley.senate.gov/senator-hawley-introduces-legislation-amend-section-230-immunity-big-tech-companies

Stewart, E. (2019a, May 16). Ron Wyden wrote the law that built the internet. He still stands by it—And everything it's brought with it. Retrieved December 6, 2019, from Vox website: https://www.vox.com/recode/2019/5/16/18626779/ron-wyden-section-230-facebook-regulations-neutrality

Stewart, E. (2019b, November 15). Twitter is walking into a minefield with its political ads ban. Retrieved December 7, 2019, from Vox website: https://www.vox.com/recode/2019/11/15/20966908/twitter-political-ad-ban-policies-issue-ads-jack-dorsey

Taylor, H. (2016, April 28). If social networks were countries, which would they be? Retrieved December 6, 2019, from World Economic Forum website: https://www.weforum.org/agenda/2016/04/facebook-is-bigger-than-the-worlds-largest-country/

Tiku, N. (2018, June 28). Most republicans think tech companies support liberal views. *Wired*. Retrieved from https://www.wired.com/story/the-partisan-divide-around-censorship-in-social-media/

Turton, W., & Martin, A. (2020, January 6). How Deepfakes Make Disinformation More Real Than Ever. Retrieved from https://www.bloomberg.com/news/articles/2020-01-06/how-deepfakes-make-disinformation-more-real-than-ever-quicktake

Yglesias, M. (2018, March 21). The case against Facebook. Retrieved December 7, 2019, from Vox website: https://www.vox.com/policy-and-politics/2018/3/21/17144748/case-against-facebook

Zara, C. (2017, January 3). The most important law in tech has a problem | backchannel. *Wired*. Retrieved from https://www.wired.com/2017/01/the-most-important-law-in-tech-has-a-problem/

One Man's Lifelong Nativist Mission

By Hua Hua Kuang

"We are quitting at two," a Northern Michigan doctor named John Tanton told the Alpena News in 1975, referring to his two daughters.

Moving to Petoskey, Mich., in 1964 after a medical residency at the University of Michigan, Tanton had long established himself as a committed — and sometimes eccentric — pillar of the local community (Schudel, 2019). Decades before Roe v. Wade legalized abortion and when birth control was considered taboo, Tanton's wife Mary Lou had been heavily involved in Ann Arbor Planned Parenthood; the couple established the first Planned Parenthood clinic in Northern Michigan and expanded access to family planning services in the regional clinics (Hayes, 2006). However, this was not out of some dedication to liberal politics.

John was a deeply-committed conservationist, heavily involved in nationwide grassroots environmental groups (Deparle, 2011). Heavily influenced by the 1968 book, "The Population Bomb," which warned that exponential population growth would devastate the environment and food security, to Tanton the goals of environmentalism and access to birth control were fundamentally intertwined (Gustavo, 2019). As was the thinking of many other educated minds of the time, environmental preservation meant population control could not be a taboo subject. By this decade, the post-Baby Boom birth rate had tapered off and the immigration restrictions of the early 20th century rolled back; population growth in the United States had come to be driven by immigration (Pew Research Center, 2015).

"Even back in high school, my idea was that man's role was not to multiply and subdue the earth," Tanton recounted in a 1989 interview (Tanton, 1989). "But to exist in easy partnership with it and to study the natural world."

This vision of environmental preservation and population control, combined with a zeal for activism, would ultimately manifest itself in Tanton — himself the son of a Canadian immigrant — as a fervor for restricting immigration into the U.S (Schudel, 2019). In the decade that followed the opening newspaper quote, Tanton became one of the preeminent national voices to limit American immigration, both illegal and legal, and his life's work has made him one of the most consequential figures in shaping the modern anti-immigration movement in this country.

Despite living half a country away from Capitol Hill, Tanton helped establish the Federation for American Immigration Reform and a myriad of other advocacy groups in the late 1970s and 1980s that

would shift the national conversation against both legal and illegal immigration in two subsequent generations (Schudel, 2019).

Largely avoiding the public spotlight and attempting to cast himself as a gentleman doctor, Tanton's detractors — including the Southern Poverty Law Center — have labeled him as a white nationalist, though he himself took offense to the label (Beirich, 2008).

In 2007, pushing the age of 73, he donated 25 boxes filled with his correspondence — dating back from the late 1960s up until the early years of the new millennium — to the University of Michigan's Bentley Historical Library (Meer, 2017). The first 14 boxes are accessible to the public and the remainder are sealed until 2035 per Tanton's request.

In our present political moment, immigration has become perhaps the most bitterly polarizing issue in U.S. politics. A New York real estate developer has ascended to the White House on overtones of racial revanchism and draconian crackdowns on immigration, and many of the current administration's strict immigration agenda originate from groups tied to the Michigan doctor (Goodman, 2019).

Contemporary liberals tend to attribute the anti-immigration politics of the present to an ignorance of America's history as a nation of immigrants. Indeed, it is one of the oldest ironies of this country that the descendents of immigrants — such as Tanton — would reject subsequent generations of arrivals as unable to join the country, be it the Irish and Italian Catholics or Eastern European Jews on the East Coast, or the Chinese on the West Coast.

The Tanton of the 1970s was well aware of this tragic irony in his writings and explicitly warned against repeating the mistakes of the past. Nevertheless, by the 1990s he had evolved to associate with some of the nation's most influential white nationalists (Beirich, 2008). An extension of his decades-held beliefs would ultimately consume his political philosophy with the mission of preserving a homogenous American civilization against the perceived threat of immigrants and diversity.

As his public persona and private writings descended into white nationalism, it remains unclear how much of this transformation reflected a genuine ideological evolution to embrace bigotry, as opposed to long-held prejudices that had been hidden behind his public motives.

In 1956, Tanton — then a senior at Michigan State University — arrived in Chicago alongside eleven other Rhodes Scholarship finalists to compete for roughly half-a-dozen awards to study in Oxford, England that had been set aside for Midwesterners (Tanton, 1989).

Having spent his adolescence on a farm in the rural "thumb" of Michigan and in a country schoolhouse, he credited most of his education to being self-taught, and he had excelled at his studies in

MSU (Tanton, 1989). However, Tanton found himself feeling out-classed by his peers who came from wealthier upbringings and East Coast Ivy Leagues, and he was ultimately not awarded a scholarship.

Still taking pride in how far he had made it in the Rhodes Scholarship process, Tanton entered the University of Michigan Medical School following his graduation from MSU (Tanton, 1989). In Ann Arbor, he continued to excel at his studies, married a fellow student and completed an ophthalmology residency in 1964. Fond of their rural upbringings, the Tantons moved to Petoskey, MI, a small town in the north of the state famed for its freshwater polished stones that bear the town's name, and John Tanton became one of the few ophthalmological surgeons in the region.

Tanton had been a meticulous hoarder of letters, news clippings, and other correspondence that began at this time, and his public file in the Bentley Library paints an incomplete portrait of a dizzyingly busy community activist and outdoors enthusiast (Bentley Historical Library staff, 2013).

According to a résumé he saved in his folder, at the time he held positions including president of the Northern Michigan Planned Parenthood, as well as various state and national positions in the Sierra Club, League of Conservation Voters and other local conservation clubs — all while practicing medicine (Bentley Historical Library staff, 2013). In local news clippings from that time, he is referred to as a prominent local environmentalist. In an article published by North Woodscall in 1977 about Tanton's appointment to the Pictured Rocks National Lakeshore Advisory Commission, he's introduced as a "Petoskey surgeon" and "one of Michigan's leading environmentalists" (Bentley Historical Library staff, 2013)

The doctor considered himself an eccentric philanthropist willing to support causes he felt others were not willing to touch. He once wrote to a medical colleague that despite donating 10 percent of his income to charity, he and his wife chose to "treat (our) contributions as venture capital and put them into high-risk areas that are struggling to get started … where we hope our pittance can make a difference" (Bentley Historical Library staff, 2013).

It was around the mid-1970s that Tanton's interests fixated him on human migration, where he wrote that immigration hurt the economic well-being of developing nations by draining highly-skilled workers and hurt the working class and environment of nations receiving immigrants by straining resources and labor markets (Tanton, 1989). The issue that kept discussions of limiting migration out of mainstream discourse, Tanton would write in a 1975 essay tying migration control and conservationism, was America's unique history as a nation of immigrants (Tanton, 2014). Tanton himself expressed discomfort with the country's history of violent racism and xenophobia.

"This visceral reaction (to immigration restrictions) is understandable, as most of us have immigrant roots, and we feel compromised," Tanton wrote. "An aversion to discussing immigration is also understandable in light of the seamy history surrounding past efforts to limit immigration. These were

marked by xenophobia and racism, and gave rise to the likes of the Know-Nothing political party, and the Ku Klux Klan" (Tanton, 2014).

However, according to Tanton, this unseemly history was insufficient reason for limits to migration to become a fair topic of debate (Tanton, 2014). Nonetheless, his writings would come to exhibit the xenophobia and racism that he noted in 1975.

Sensing that his liberal Planned Parenthood and conservationist colleagues weren't willing to put immigration on the table as a means to control population growth, Tanton struck out with several like-minded associates to raise several thousand dollars and establish FAIR in 1979 as a D.C.-based issues-advocacy group (Deparle, 2011). Tanton would continue practicing medicine in Petoskey, except for a brief hiatus when he and his family moved to Arlington, VA, in 1981. The group drove grassroots and media advocacy campaigns, and took advantage of access with sympathetic policymakers from both parties on Capitol Hill (Tanton, 1989).

"It was great working on the population problem as long as we could flagellate ourselves for being bad people by having too many children," Tanton said in 1989 (Tanton, 1989). "But then the birth rate fell precipitately during the 1970s, at the same time that the immigration rate was going up."

Tanton's entry to this issue was largely reactive to a transformation of U.S. immigration that began the preceding decade. Since 1921, U.S. immigration laws had placed strict limits on the number of people admitted from outside of Northern Europe, crafted specifically to exclude certain groups deemed undesirable and preserve a white anglophone majority in the country (Chishti et al, 2015). This was nullified by the Hart-Celler Act of 1965, which replaced the racially-biased quota system with criteria favoring those with high-value skills and familial ties to U.S. residents.

Simultaneously, the development of the American Southwest created a newfound demand for cheap agricultural labor from Latin America composed of both illegal and legal migrants (Chishti et al, 2015). These two forces would begin driving a demographic change in the U.S.

Tanton's goal wasn't to revert America's immigration policies to the 1921 status quo, which he considered to be too openly prejudiced.

"At times, our immigration policy has actually been rather racist," he told the Houston Chronicle in 1981 (Bentley Historical Library staff, 2013).

In Tanton's words, the early goal of FAIR was to allow immigration restriction to become a socially acceptable topic of political debate (Tanton, 1989). He and his colleagues hoped to also transcend the political spectrum with what he considered a centrist anti-immigration platform that would ostensibly avoid the open bigotry of the past. Of the initial five board members of the organization, he described only one as

"on the conservative side," himself and another board member as centrists and the other two as liberals (Tanton, 1989). On a day-to-day basis FAIR also vocally opposed federal programs for migrants in the courts of law and public opinion.

"You want to appeal to a person's emotions but to do it in a way that's still respectable," Tanton said in 1989 (Tanton, 1989). "We didn't want somebody reading back to us in a Congressional committee something that we didn't want to live with."

In its initial years, FAIR was cautious of its messaging, wary of using "demagogic" appeals that could sully its public image as racist (Tanton, 1989). However, Tanton would note that this allowed parallel groups to emerge to FAIR's right that advocated for similar policies in much more inflammatory terms.

By 1982, Tanton and a subset of his colleagues came to be frustrated with FAIR's moderate messaging points and began exploring the use of inflammatory linguistic and cultural wedge issues to drive their anti-immigration message. By then, his writings increasingly came to reflect a worldview that a culturally diversifying America was leading to a civilizational clash (Beirich, 2008).

"When the question came up of whether we should broaden FAIR's bundle of issues — taking a look at cultural division and bilingualism and the changing composition of the American population and what that might mean — there was a great deal of resistance, as you say, to getting into what seemed like dangerous territory," he said (Tanton, 1989).

Despite the misgivings of some of his fellow anti-immigration activists, Tanton and his associates came to embrace more divisive, high-profile tactics to drive support to their issue. They came to focus on the American Southwest, the prime destination of migrants from Latin America for generations, where Tanton felt the cause of immigration restriction to be the most salient.

"Because the problems of immigration had already become sufficiently acute in areas like California, the political system was already compromised there," he recounted in 1989, (Tanton, 1989). "Politicians could no longer take stands for fear of back pressure from the immigrant populations."

The most provocative push by Tanton was a direct advocacy campaign to enshrine English as the official language of the U.S., in a rebuke of the bilingual English-Spanish society that had been emerging in the Southwest as a result of migration (Schudel, 2019). With several high-profile backers, including former California Republican Sen. Ichiye Hayakawa — who was born in Canada and was of Japanese descent — and former CBS News anchorman Walter Cronkite he helped launch the advocacy group U.S. English to accomplish this, initially by forcing ballot referendums on the issue in states such as California and Arizona (Tanton, 1989).

It was this latest endeavor that finally put Tanton — who did not care much for public appearances — and the true nature of his worldview into the public's eye.

In 1988, the Arizona Republic leaked a memo written by Tanton to an inner circle of his associates just days before the vote on a divisive Arizona ballot proposal to enshrine English as the official language of the state (Southern Poverty Law Center, 2002). In the memo, Tanton had made explicitly racial arguments that large-scale Hispanic migration threatened the foundations of American society.

California, he claimed, would become akin to the South African apartheid by 2030 as a result of Latin American immigration, and he suggested Blacks and Hispanics would form a permanent socioeconomic and cultural underclass (Tanton, 1986).

Furthermore, he insinuated that Latin American immigrants would bring an inherently corruptible civic culture antithetical to American society, and that they were of an inferior intelligence (Tanton, 1986).

The view of growing cultural, linguistic and racial diversity as a threat to the cohesion of American society is consistent with many of Tanton's other private writings that are archived in the Bentley Library around this era. This political philosophy is hardly unique to Tanton, and echo the writings of controversial political scientist Charles Murray, among others (Martin, 2018).

Backlash would be swift, with many of Tanton's prominent allies — including Cronkite — condemning him and resigning from U.S. English (Schudel, 2019). Tanton yielded to public pressure and also resigned from the group. In an interview the following year, Tanton stated that the contents of the memo reflected his sincere beliefs, though they did not reflect the talking points he would use in public (Tanton, 1989). He also stated that he regrets resigning from U.S. English, insisting that he had done no wrong.

"My memo was written for a group of people who were already initiated into immigration, population and language issues," he said (Tanton, 1989). "It was not written for people off the street who'd never heard any of these ideas before and had no background in them."

Despite the Arizona Republic's revelations, the voters of Arizona would go on to narrowly affirm the proposal several days later, banning the state government from offering services in Spanish (outside of several narrow exceptions) by 12,000 votes out of roughly 1.1 million cast (Ballotpedia, n.d.).

The records available to the public in the Bentley Library dating to the early 1990s and later are largely closed until 2035, a precondition of Tanton's 2007 donation (Bentley Historical Library staff, 2013). Nonetheless, there are certain aspects of his life that are public record beyond this point. Remaining in Petoskey and continuing his medical practice, he would still remain active in his network of anti-immigration advocacy groups — including FAIR — though he avoided the limelight.

A year after his donation to the Bentley Library, the Southern Poverty Law Center published a report detailing extensive communications between Tanton and high-profile white supremacists — including Jared Taylor, Peter Brimelow and Kevin MacDonald — throughout the 1990s (Beirich, 2008). In

these communications Tanton regularly expressed sympathy for their views that immigration from non-Western societies would undermine "Western Civilization."

"We're very concerned that his ideologies are at best sympathetic and at worst fully supportive of white nationalists," said Humza Kazmi, one of several Virginia immigration attorneys who has studied Tanton's network. Kazmi and his colleagues sued the University of Michigan in 2017 to release the entirety of Tanton's papers, arguing that the embargoed documents will demonstrate the full extent to which he embraced white nationalism and influenced present-day policymakers (Meer, 2017).

The University has resisted the lawsuit in court, arguing that it is contractually bound to honor Tanton's donation agreement to withhold files until 2035, as is the case with many donors to the library (Meer, 2017). Currently, the case is awaiting appeal by the plaintiffs.

How does one reconcile the racial belief system shown in Tanton's Arizona Republic memo, and the Tanton who warned that America's history of violent racism shouldn't be repeated, who initially shied away from "demagogic" tactics in FAIR's early years, and who himself was the son of an immigrant and expressed a fondness for America's melting pot history? Perhaps he experienced a genuine ideological evolution that led him to embrace a vision of racial exclusion and white nationalism.

But another possibility is that he had always held these views of racial hierarchy, and he advocated for non-racial immigration restrictionism as a ruse to one day normalize his vision. After all, he regularly expressed in his papers that his overarching goal was to bring immigration restriction into the political mainstream without any social stigma (Bentley Historical Library staff, 2013).

In his 1989 oral history, Tanton envisioned "three stages in the immigration debate." The first, which he dubbed the "Statue of Liberty phase," was where any discussion of limiting immigration is viewed as inherently anti-American (Tanton, 1989). The second he dubbed as the "'Yes, but' phase" where limited discussion about immigration would be possible in the political mainstream.

"Then the third stage, which I think we still have yet to move into, is one in which it's accepted as a legitimate topic and you can discuss it without being accused of things, or without first excusing yourself for being concerned about immigration policy," Tanton said in 1989.

In the present day, perhaps we are on the cusp of entering Tanton's third stage of debate. Individuals with ties to white supremacists have held official positions in the current White House, the President of the United States has suggested there is moral equivalency between Nazis and their opponents and prime time Fox News hosts Tucker Carlson and Laura Ingraham regularly go on screeds against "demographic change" and diversity with no professional repercussions (Corbett, 2018; Kludt & Stelter, 2018). It is also a legitimate question how much of the current administration's inhumane immigration crackdown is driven by a

legitimate concern for border security, and how much driven by racial animus against non-white immigration (Newkirk, 2018).

While Tanton's battle to reduce immigration to the United States continues, his more than 16-year battle with Parkinson's disease is over. In July 2019, Tanton died at the age of 85 at a nursing center in Petoskey, Michigan (Schudel, 2019). FAIR and other organizations he helped shape remain outspoken advocates of the president's immigration agenda.

Was Tanton the architect of our divisive political moment, or simply a gadfly who held wildly diverging political views that nonetheless foreshadowed the division that would come decades later? The true extent of his role in shaping the present will continue to be unclear, until perhaps the remainder of the Bentley archives open in 17 years or upon legal repeal. It will be much longer before it will be clear how the demographic identity of our nation and what it means to be an American will change.

References:

Arellano, G. (2019, July 18). *John Tanton, quiet architect of America's modern-day anti-immigrant movement, dies at 85*. Los Angeles Times. https://www.latimes.com/obituaries/story/2019-07-18/john-tanton-dead-anti-immigrant

Ballotpedia. (n.d.). *Arizona English Official Language Amendment, Proposition 106 (1988)*. https://ballotpedia.org/Arizona_English_Official_Language_Amendment,_Proposition_106_(1988)#cite_note-guide-1

Beirich, H. (2008, November 30). John tanton's private papers expose more than 20 years of hate. *Southern Poverty Law Center Intelligence Report*. https://www.splcenter.org/fighting-hate/intelligence-report/2008/john-tanton%E2%80%99s-private-papers-expose-more-20-years-hate

Bentley Historical Library staff. (2013, June 4). *John Tanton Papers: 1960-2007*. Bentley Historical Library; University of Michigan. https://quod.lib.umich.edu/b/bhlead/umich-bhl-861056?byte=54603551;focusrgn=summaryinfo;subview=standard;view=reslist

Chishti, M., Hipsman, F., & Ball, I. (2015, October 15). *Fifty years on, the 1965 immigration and nationality act continues to reshape the united states*. Migration Policy Institute. https://www.migrationpolicy.org/article/fifty-years-1965-immigration-and-nationality-act-continues-reshape-united-states

Corbett, E. (2018, August 29). *Emails reveal another trump staffer with ties to white nationalism*. Fortune. https://fortune.com/2018/08/29/leaked-emails-ian-m-smith/

DeParle, J. (2011, April 17). The anti-immigration crusader. *The New York Times*. https://www.nytimes.com/2011/04/17/us/17immig.html

Donnelly, F. X. (2017, March 15). *Mich. Man who led anti-immigration fight nearly forgotten*. Detroit News. https://www.detroitnews.com/story/news/michigan/2017/03/15/mich-man-led-immigration-fight-nearly-forgotten/99193990/

Goodman, C. (2019, July 18). *John Tanton has died. He made America less open to immigrants—And more open to Trump.*Washington Post. https://www.washingtonpost.com/outlook/2019/07/18/john-tanton-has-died-how-he-made-america-less-open-immigrants-more-open-trump/

Hayes, C. (2006, April 24). Keeping america empty. *In These Times*. http://inthesetimes.com/article/2608/

Kludt, T., & Stelter, B. (2018, August 9). *White anxiety finds a home at Fox News*. CNN Business. https://www.cnn.com/2018/09/28/media/fox-news-laura-ingraham-tucker-carlson-white-nationalism/index.html

Martin, M. (2018, January 7). Controversial social scientist charles murray retires. In *All Things Considered*. National Public Radio. https://www.npr.org/2018/01/07/576359217/controversial-social-scientist-charles-murray-retires

Meer, J. (2017, October 18). *Bentley Library faces lawsuit over access to anti-immigration activist's documents*. The Michigan Daily. https://www.michigandaily.com/section/news/bentley-library-contains-records-anti-immigrant-activist-university-faces-lawsuit

Newkirk, V. (2018, August 23). *Trump's white-nationalist pipeline*. The Atlantic. https://www.theatlantic.com/politics/archive/2018/08/trump-white-nationalism/568393/

Pew Research Center. (2015, September 28). Chapter 5: U.S. Foreign-Born Population Trends. *Pew Research Center's Hispanic Trends Project*. https://www.pewresearch.org/hispanic/2015/09/28/chapter-5-u-s-foreign-born-population-trends/

Schudel, M. (2019, July 21). *John Tanton, architect of anti-immigration and English-only efforts, dies at 85*. Washington Post. https://www.washingtonpost.com/local/obituaries/john-tanton-architect-of-anti-immigration-and-english-only-efforts-dies-at-85/2019/07/21/2301f728-aa3f-11e9-86dd-d7f0e60391e9_story.html

Southern Poverty Law Center. (2002, June 18). John tanton is the mastermind behind the organized anti-immigration movement. *The Intelligence Report*. https://www.splcenter.org/fighting-hate/intelligence-report/2002/john-tanton-mastermind-behind-organized-anti-immigration-movement

Tanton, J. (1989, April 21). *A Skirmish in a Wider War*[Interview]. https://www.splcenter.org/sites/default/files/a_skirmish_in_a_wider_war_-_an_oral_history_ofjohn_tanton.pdf

Tanton, J. (2014). International Migration—An obstacle to achieving world stability. *The Social Contract Journal*, *24*(4). https://www.thesocialcontract.com/artman2/publish/tsc_24_4/tsc_24_4_tanton.shtml