

Good Fences Make Good Governments

by John K. Veroneau

Laws and public institutions do not exist in a vacuum. They emerge from an overarching paradigm—an agreed-upon view of the government’s role in society. Current laws and institutions reflect a model for governing that took root nearly a century ago. The causes of today’s intense political discord in America can be traced to various economic and cultural trends, but collectively they suggest a more fundamental problem: that our laws and institutions are upheld by an outdated paradigm.

In 1887, the US Congress passed a bill to compensate Texas farmers for drought-related losses. Democratic President Grover Cleveland vetoed the bill because “though the people support the government, the government should not support the people.”¹ Cleveland’s reasoning—while hard to comprehend by today’s standards—reflected views widely shared since the country’s founding that the federal government should intervene only rarely in the private or commercial lives of citizens.

That view changed with the Great Depression. The federal government could not simply stand by as people went homeless and hungry. President Franklin D. Roosevelt undertook to replace the original model of limited government with a new model that called on the federal government to manage the economy and to help people directly with their daily problems.

The impact of this paradigm shift was immense. Since FDR’s presidency, the size and scope of the federal government have grown steadily as we have looked increasingly to the federal government to address problems that

President Cleveland would have seen as beyond government’s reach. The FDR paradigm is so deeply embedded in our political culture that it completely fills the Overton window of politically acceptable policy options. Yet, just as the original limited government proved too constrained for the 20th century, the FDR paradigm is too unbound for the 21st century and is sowing the seeds of another paradigm shift.

A PARADIGM SHIFT IS NEARING

The original paradigm was informed by the Founders’ distrust of a strong central government. They devised a federal government that played little part in regulating or assisting individuals, leaving such responsibilities to states, churches, and local charities. Likewise, the federal government took a laissez-faire approach on economic matters and a cautious approach on foreign matters. Beyond continental expansion and defending regional interests outlined in the Monroe Doctrine, the country abided by John Quincy Adams’ admonition to not go “abroad in search of monsters to destroy.”²

The Great Depression and Second World War dramatically changed the federal government’s relationships to individuals, markets, states, and the rest of the world. In particular, the government assumed responsibilities to protect individuals from a range of life’s risks. Social Security and later Medicare, for example, established a governmental role to provide income support and health care for older Americans. Massive unemployment and an increasingly

industrialized economy invited new federal roles in managing the economy and protecting workers and consumers. Similarly, the United States emerged from the Second World War as a powerful leader with a mandate to shape world affairs. Over the past 80 years, voters and politicians alike have pressed for more expansive roles for the federal government. But this expansion is proving too open-ended in several regards.

First, the initial turn to the federal government for problems related to the Great Depression has morphed into a self-defeating habit of looking to Washington for all manner of problems. An open-ended view of government has misled us to think a government built to address material problems like food and housing can handle nonmaterial problems like belonging and status. Many Americans, even those who are thriving by objective standards, have deep concerns about modern life. Cultural trends, like growing individualism and consumerism, have contributed to a decline of families, churches, and local communities. As historic sources of rootedness have waned, American society has become more atomized. And while the pace of technological and economic change has been liberating in many ways, it has also been disorienting. How best to respond to concerns about modern life, however, is a cultural project rather than a political one. Daily concerns we face in an Age of Abundance are far less amenable to government solutions than those that emerged in the Age of Scarcity.

Second, calls for economic intervention to combat the Great Depression have continued long after the US economy rebounded. Endless petitions by companies and unions to intervene on their behalf have led to a system of

political favoritism best described as crony capitalism.

Third, the open-ended nature of the FDR model has also distorted the relationship between federal and state authorities. While federal preemption is justified regarding constitutional and inherently national policy matters, the federal government has assumed many responsibilities initially and properly left to the states. Excessive federal preemption has undermined subsidiarity's prudent instruction to allow problems to be addressed at the most local level possible. The 80-year trend of nationalizing so many issues has impaired our problem-solving abilities and contributed to today's political polarization as voters have come to resent Washington's imposition of one-size-fits-all solutions.

Fourth, the FDR model's approach also encouraged a hubristic foreign policy mindset, harming US security and economic interests. Vigorously defending clearly defined US security interests is essential, but notions of instilling democracy in other countries are naïve at best. Unlike transplantable kidneys, democracies are better understood as vascular systems—too embedded in the legal and cultural traditions of a country to move from one body to another. Hubris blinded us to this reality. While we should steadfastly join other countries to maintain open seas and international borders (however randomly established), we should be more circumspect regarding our ability to shape the internal governance of other nations.

Fifth, perhaps the gravest threat posed by federal mission creep is the decline in fiscal discipline, now saddling future generations with unprecedented levels of debt. Borrowing from future generations is justifiable to address existential threats or to invest in infrastructure benefiting future generations. But massively increasing the national debt to

pay for current consumption because politicians lack courage to establish budget priorities represents both moral and economic malfeasance.

NEW PARADIGM BASED ON TEN PRINCIPLES

A new governing model is needed to correct the problems of an overextended FDR paradigm. While the federal government should remain strong, its scope should be refined in ways that would safeguard personal liberties and restore civic balance. This could be accomplished through a new Empowering Freedom paradigm, based on the following 10 principles:

1. *Limited Federal Government*

Good fences make good governments. The American Experiment was exceptional in no small part because it placed limits on government authority and rejected a view of citizens as subjects. A government allowed to serve in loco parentis is no longer limited and risks drifting toward a soft despotism that Alexis de Tocqueville warned of:

the sovereign power extends its arms over the entire society; it covers the surface of society with a network of small, . . . and uniform rules. . . it does not break wills, but it softens them, bends them and directs them; it rarely forces action, but it constantly opposes your acting; . . . it does not tyrannize, it hinders, it represses, . . . and finally it reduces [the citizenry] to being nothing more than a flock of timid and industrious animals, of which the government is the shepherd.³

Only by maintaining limits on government can society retain its vitality.

2. *Broadened Notion of Church-State Separation*

Laws necessarily involve some loss of freedom. Many of these losses, like the freedom to drive on the wrong side of the road, are prudent and necessary to maintain ordered liberty. Yet, the

coerciveness of government must be minimized.⁴

As citizens, we must resist impulses to enshrine into law our subjective notions of how the world might be improved. After eight decades of looking to Washington to solve problems, a habit has developed of seeing government as an appropriate vehicle to impose our viewpoints on others. An impatient political culture has developed whereby citizens seek to remake the world (in their image) through central fiat rather than local persuasion. A broader appreciation of the wisdom of separating church doctrine from state law may help to reverse this trend. While everyone is entitled to their own religious or secular worldviews, the power of the state should be withheld and not used to enforce merely subjective viewpoints. Enshrining beliefs not very widely shared and not essential to advancing clear public interests undermines the public virtue of tolerance that the separation of church and state is intended to protect. Just as we abandoned sumptuary laws regulating the types of fabrics people could wear in public, we need to abandon a growing body of laws aimed at telling people how they should live their lives.

3. *Clearer Distinction between Private and Public Matters*

Clear lines of responsibility between citizens and their governments are essential to maintain a healthy democracy. Hillary Clinton is not wrong in asserting that “it takes a village” for people to flourish. The error made by some is equating villages with governments. Villages consist of parents, neighbors, and a host of other nongovernmental actors. We have responsibilities to ourselves and to others that cannot be shifted to the government without diminishing our own sense of agency and time-honored institutions like families and churches.

A growing problem with the political culture that has emerged under the current paradigm is an assumption that government has a role in solving every problem. At a time of crisis like the Great Depression, a default to government action is understandable. But this default setting is no longer appropriate. Over the years, self-interested parties in and around government have relied on this default setting to routinely characterize problems in ways that align neatly with government solutions. Just as hammers see a world of only nails, people in and around government tend to define problems in ways that call for more government. Reestablishing lines between public and private problems and solutions is critical to reversing the one-way ratchet of government growth.

4. *Power Returned to the States*

Mindful that the federal government emerged from the states and not the other way around, matters that are not inherently national or constitutional in scope should be left to the states. Returning power to the states offers several benefits. Solutions would be more effective because they would be tailored to local needs, more easily modified since they would enjoy quicker feed-back loops, and more accountable to local authorities. The country also would benefit from more innovation as states serve their function, per Justice Brandeis, as policy laboratories.

More local control and accountability also would make it more likely that a policy's success would be defined in terms of real benefits, not just far-away political ones. Too often in the political realm, problems are preserved to be used later as wedge issues against political opponents rather than being solved in a real way. A good example of a wedge issue is immigration policy where Democratic and Republican politicians alike have preferred to use immigration as a problem unsolved for the

benefit of their party rather than a problem solved for the benefit of their country.

Leaving more matters to the states might also counter political backlash from voters who resent far-away elites imposing their will on problems they do not understand. Shifting power back to the states could enable our country to operate like an "archipelago of different communities operating in a sea of tolerance."⁵ Being more respectful of views that divide us may allow us to better appreciate the many views that unite us and reveal that, rather than a national divorce, we simply need some time away from each other.

5. *Simplified Government*

A thriving democracy requires laws and policies that are transparent and understandable. Yet over time, federal regulations and policies have become more opaque. Lawyers with technical expertise are needed to assure compliance with an ever-expanding number of complex directives. And those seeking to petition their government to change federal laws and policies often require the help of lobbyists who understand the procedural and bureaucratic complexities of the federal government. The growing opaqueness of the federal government is a major source of distrust of government since corruption is known to hide in the shadows of complexity. Since FDR's presidency, the breadth, redundancy and complexity of federal regulations and bureaucracies have grown immeasurably. A determined effort to narrow and simplify the federal government is overdue.

6. *Empowered People not Regulators*

Government can and should play an important role in helping people to navigate life's challenges. President Reagan famously said that the scariest words to hear at one's doorstep would be, "I'm

from the government, and I'm here to help." I have high regard for Reagan, but believe that he was being overly cynical and that even scarier words to hear would be, "There is no government, and I'm here to steal your stuff."

A reliable social safety net is vital to help individuals and to maintain public support for an open, dynamic economy, but the safety net cannot invite imprudent behavior. People should be expected to act responsibly and be held accountable if they do not. A more nimble, responsive, and empowering social safety net could be achieved by providing benefits directly to individuals and families, rather than through opaque programs operated by far-away bureaucracies. Under this approach, the federal government would be responsible for noncontingent programs related to wages and health care, and states would be responsible for contingent programs related to unemployment and housing.

7. *Impartial Government Intervention*

The government is not well placed to second-guess the market, which reflects millions of decisions made daily by millions of people. No one in the government can have knowledge superior to the wisdom of these crowds. Although people routinely make mistakes in the market, government officials acting on behalf of millions of people would make far more mistakes. For the most part, government subsidies and other favorable treatment of particular companies or sectors reflect the political power of those sectors rather than market failures that could justify government intervention. Such favoritism distorts the economy and undermines the bedrock principle of equal treatment under the law.

Rather than favoring some firms or sectors over others, any interventions by

the government should be nondiscriminatory and broadly available, such as

- Maintaining critical infrastructures (financial, legal, transportation, communications) that benefit all companies, including those not yet created.
- Assuring access to strong K–12 and postsecondary education and life-long skills-building.
- Holding firms accountable for their own business mistakes rather than bailing them out, and for any negative externalities (e.g., environmental harms) attributable to them.

8. *Fiscal Responsibility*

While disputes over the size and scope of government are inevitable, we should agree to pay for the government that emerges from the political process. The federal government sometimes must spend more than it takes in. Wars, recessions, pandemics, and other emergencies often justify budget deficits. When the economy is strong, however, the government should run budget surpluses to offset the deficits.

For more than 30 years the federal government has been running budget deficits (and thereby adding to the public debt) in both good times and bad. As a result, the US public debt is now massive and unprecedented and requires a significant amount of tax revenue to be used for interest on the debt rather than defense, infrastructure, and other national needs. Because debts must eventually be repaid, tax cuts—which for the last 30 years have not been offset by spending cuts—are really just tax deferrals since the cuts were financed by assuming more debt that future generations will have to pay. Years of deficit-spending under presidents and Congresses of both parties suggest that reform will come only from the outside—either through an economic crisis that ends the ability to borrow or through a statutory or

constitutional requirement to balance the annual budget.

9. *Restrained Foreign Affairs*

Although America's fortunes will be determined foremostly by what we do within our borders, our economic and security relations with other nations are highly consequential. Under a new paradigm, the United States would exercise more resolve in domestic matters and more restraint internationally. We should not shy away from global leadership, including taking up arms, if clear and serious US interests are at stake. But a high burden of proof should be met before deploying US economic and military power. Helping allies defend sea lanes and well-established national borders is prudent but deploying US power to impose our political values on others seems unlikely to be effective or to serve our long-term interests.

A call for restraint in foreign affairs is not a call for restraint in military spending. The federal government has no higher priority than defending against foreign threats. Assuring America's military superiority is critical to a strategy of maintaining peace through strength, but a capacity to project power is never sufficient reason to do so.

10. *Epistemic Humility*

Epistemic humility should be understood as a strength, not a weakness. Human affairs are far more complex and random than we often care to acknowledge. Developed in a time of severe crisis, an essential element of the FDR paradigm was a default setting to act rather than not act. Such a default is no longer appropriate. Calls for government action should now be subject to a high burden of proof regarding the legitimacy and the likelihood of success of such action. This would help to rebuild public trust by breaking the cycle of

over-promising and under-delivering the results of government action.

With regard to economic policy in particular, the government should seek to leverage rather than second-guess the market. The market reflects the decisions of millions of people making real-life decisions. Government officials should have the humility to resist believing that they understand the interests and preferences of millions of people better than they do themselves.

APPLYING A NEW PARADIGM TO OLD PROBLEMS

In contrast to America's original paradigm, which offered much freedom but little help from the federal government, and the FDR paradigm, which offered more help but less freedom, an Empowering Freedom paradigm presents an opportunity for more help and more freedom.

There is no going back to the country's original model of extremely limited government. By the same token, the one-way ratchet of adding more than 3,000 new federal rules and billions of dollars of new debt every year cannot continue. An Empowering Freedom paradigm would maintain a broad writ for the federal government, but would offer more disciplined and de-centralized ways of accomplishing policy goals. Following are examples of how an Empowering Freedom model might address four current policy matters: helping low-income households, expanding health insurance, protecting consumers, and revitalizing the economy.

Reducing Income Gaps by Empowering Workers

Low-income households could be helped more efficiently and directly by replacing myriad laws and programs ostensibly aimed at putting money in workers' pockets with a program that

matched the first (say, \$5,000–\$10,000) in wages of every American. While all workers would receive the match, it would be progressively taxed and phased out as incomes rise. Because meaningful work, for those of able body and mind, is an integral part of human flourishing, wage matches offer a better way than universal basic income (UBI) grants to narrow income gaps. Most people want to work. Assuring a living wage through an appropriate wage match would empower workers more effectively than trying to regulate the labor market.

Because critical but unpaid work by stay-at-home care-givers would not benefit from wage matches, their household income could be augmented through higher dependent tax credits. Others who earn no matchable wages could be covered by state programs aimed at people who are unemployed or disabled. Those who could work but simply choose not to would be ineligible for federal income support.

Making Health Care More Accessible by Empowering Patients

The market for healthcare goods is unlike most markets. When you need care, you need care and often lack information to question the advice of healthcare providers who may have legal or financial incentives to over-prescribe care. The healthcare market is further distorted because most care is financed through employer- or government-provided insurance, creating one more barrier between patients and healthcare providers.

Access to affordable health care has been also undermined by a complex and confusing system of federal programs and regulations that leave consumers with too little control over their care and its costs. This lack of control discourages patients from seeking cost-effective options. Because the healthcare sector is

controlled from the top—by regulators, providers, and insurers—there has been little innovation in models for insuring against health risks. Without more innovation in how to insure health risks, the focus of healthcare policy will remain unhelpfully on how best to pay for increasingly expensive interventions rather than how best to control costs and encourage healthy living.

Because the current provider-centric health insurance model impairs competition and drives up costs, a more consumer-centric model is needed. This could be secured by providing every American with a refundable tax credit (or voucher) that could be used to purchase healthcare insurance directly. Medicare beneficiaries could choose to remain in their current program but, for all others, the healthcare voucher would replace the current mishmash of federal programs and tax breaks.

Providing all Americans with vouchers to purchase health insurance and eliminating the many anticompetitive practices—such as allowing existing healthcare providers to block new entrants into the market—offer the best hope of giving patients more control over healthcare spending while encouraging them to spend wisely. Vouchers would promote more innovative insurance models, more competition among providers, and better incentives for patients to focus on being healthy rather than simply paying for expensive medical interventions. Insurers would be incentivized to compete for vouchers by providing novel insurance models, so long as they do not cherry-pick only healthy people, which would undermine the risk-sharing function of insurance. A more competitive insurance market may also lead to innovation in a secondary insurance market that would enable primary insurers to hedge risks further.

Making the Economy More Competitive by Empowering Consumers

Through courts and regulatory agencies, the government aims to shield consumers from economic and physical harm. A major focus of regulatory agencies is protecting consumers from making poor choices due to a lack of quality information. Before the internet enabled broad access to information on the products and services we consume, the government was more justified in restricting consumer choices to those that had been reviewed and approved. But widely available and continually updated information streams now permit an information model to replace a prohibition model for protecting consumers. The government could still ban dangerous products, but such products represent a tiny fraction of the goods demanding government approval. For most goods and services, government-knows-best paternalism is inappropriate and denigrating.

An information model would require easy access to quality data. While online reviews and newspaper columns have helped close the knowledge gap, there's no market today for firms that provide complete and rigorously unbiased data on every range of goods and service. Because providing such a comprehensive resource would entail immense start-up and fixed costs, no company is likely to offer broad consumer advisory services without a reliable source of customers.

This barrier could be overcome by providing households an annual voucher (say, \$200) to purchase a comprehensive private advisory service offering world-class online information that would enable consumers to make their own informed decisions. If the federal government licensed at least three such firms, each would compete vigorously for these vouchers, which could be

funded by eliminating the many gate-keeper functions associated with the current prohibition model.

An information model would serve the long-established public interest in protecting consumers from goods and services that pose economic or physical risk. This model, however, would do so by informing consumers instead of restricting them. Such a model would offset the problem of established companies welcoming complex and onerous regulations as a way to create entry barriers for new potential competitors.

Ending Crony Capitalism by Empowering Citizens

The Great Depression understandably gave license to the federal government to intervene in an economy that was broken. Many programs were initiated in hopes of reviving various industries. While many of these initiatives were unsuccessful, the dire circumstances of the time justified experimentation. Long after the economy recovered, however, firms and unions have continued to seek federal assistance. After 80 years of special pleading, our system is marred by crony capitalism—government programs such as sugar subsidies, steel tariffs, and tax loopholes that provide private but not public benefits. These special provisions are best understood as gifts to companies and unions in exchange for political support.

President Eisenhower expressed deep concerns about a “defense-industrial complex” that would lead politicians to favor industry interests over public interests. Decades later, Eisenhower’s well-placed concerns apply far beyond the defense sector. A political-industrial complex now maintains a broad array of economic interventions that serve the interests of politicians and patron companies but not the public. An effective way to drain the swamp of crony capitalism would be to allow

citizens to bring lawsuits against government measures that favor particular companies at the expense of others or that provide no identifiable public benefit. Just as lawsuits can already be brought against private firms engaged in anticompetitive or discriminatory behavior, citizens should be able to sue the government for engaging in similar behavior.

Reform of the political-industrial complex is unlikely to come from the inside. It is more likely to come from the outside by empowering people to take direct action to root out crony capitalism. Citizen lawsuits would operate like the symbiotic cleaner fish that surround many marine organisms to remove parasites. Laws and programs that really serve public interests would survive as they should while those serving only special interests would fall as they should.

CONCLUSION

Whether or not an Empowering Freedom paradigm would emerge and lead to these specific policy choices, some type of new paradigm is necessary to reverse the one-way ratchet of centralized regulation, political favoritism, and deficit spending. It seems just a question of time.

Because human nature is to muddle through and resist major changes before events demand them, a new paradigm is unlikely to emerge without some type of crisis. Unfortunately, a crisis-triggering event is quite possible given the unsustainable paths we seem to be on regarding public debt, political polarization, and institutional assault. If or when a crisis occurs, current institutional barriers to change will weaken and pave the way for a new governing model to emerge. At that time, reforms once thought impossible will suddenly seem sensible and inevitable. Indeed,

that is the nature of paradigm shifts. Few people in 1925 would have anticipated the enactment of Social Security a mere decade later.

A new paradigm, reflecting the needs and capabilities of the 21st century is necessary to rejuvenate our society, rebuild trust in our government, and renew pride in our country. Whatever its contours, this new paradigm will create a new equilibrium and establish for another long period of time what Americans should expect from government and from each other.

NOTES

- 1 Grover Cleveland, “Veto Message,” February 16, 1887. *The American Presidency Project*. <https://www.presidency.ucsb.edu/documents/veto-message-237>.
- 2 John Quincy Adams, “Address Delivered at the Request of the Committee of Arrangements for Celebrating the Anniversary of Independence at the City of Washington on the Fourth of July 1821.” (Washington, DC: Printed by Jonathan Elliot, 1821), 18.
- 3 Alexis de Tocqueville, *Democracy in America*, Volume II, Book 4, Chapter 6.
- 4 A call to minimize constraints by government is not a call to minimize constraints generally in our lives. On the contrary, a life well lived necessarily involves constraints that we assume as family members, colleagues, neighbors, and friends. We should welcome such voluntary constraints while minimizing involuntary ones by the government.
- 5 Kukathas, Chandran, *The Liberal Archipelago: A Theory of Diversity and Freedom* (New York: Oxford University Press, 2007), 11.

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