



Statement before the House Select Committee on the Modernization of Congress

# **Building a More Civil and Collaborative Culture in Congress:**

Some Diagnostic and Prescriptive Reflections

**Yuval Levin**

Director of Social, Cultural, and Constitutional Studies  
American Enterprise Institute

June 17, 2021

The American Enterprise Institute (AEI) is a nonpartisan, nonprofit, 501(c)(3) educational organization and does not take institutional positions on any issues. The views expressed in this testimony are those of the author.

Chair Kilmer, Vice-Chair Timmons, and members of the committee, thank you for the opportunity to testify today. It is an honor to contribute to your enormously important work, and to think with you about how to improve the culture of the Congress.

I am compelled to begin with an almost embarrassing admission: I love the U.S. Congress. As a political scientist and a scholar of American society, I love what the Congress is intended to be—the democratic engine of republican self-government, by which the people’s will is channeled and refined into legislative measures through the medium of structured bargaining and accommodation. As a former House staffer (at the member, committee, and leadership levels), I even love what the Congress actually is—a representative assembly that often reflects the best and worst of who we are in the form of members and staff struggling to understand the public’s priorities and whims, grapple with the country’s challenges, speak for places and people they adore, make their names, best the other party, and win the next election. This is an institution full of patriots of different flavors who are working for the good of our society, even when they think they are being cynical politicians. So when the Congress is maligned, I am inclined to get a little defensive on its behalf.

And yet, it is impossible to deny that the Congress is beset by serious dysfunctions now. It doesn’t lack for intensity and energy. But too little of that energy is directed through traditional legislative channels, so that the ambition and vigor of the institution are more frequently expressed through performative conflict than through authorization, appropriation, or oversight. And because performative conflict is inherently divisive, while legislative work is inherently accommodational, the culture of the Congress now often feels broken and deformed.

This leads reformers of the institution to focus on its culture, as you are doing today. It is essential to do so, but also to see that congress’s culture is shaped by broader trends in our politics and our society and to see that institutional culture cannot be fully separated from the institution’s structure and work.

In what follows, in response to your request for testimony, I suggest a few ways to think about the sources of congress’s contemporary challenges, some general principles for reform, and a few specific steps that might be taken to improve and strengthen the culture of the legislative branch.

\* \* \*

The drift of congress’s culture in the direction of performative conflict is obviously a function in large part of the growing polarization of our broader political culture. The story of that polarization and its causes is well beyond the scope of this hearing. But some of the particular manifestations of that broader story in the institution are worth a brief discussion. I would like to point to three of these that may not be obvious—one that reaches across the range of American institutions and two that have been evident in Congress in particular.

*First*, our era of growing polarization has been a period of declining public trust in institutions. Over the past half century, the American public has gone from extraordinary levels of confidence in our major institutions to striking levels of mistrust. This has been the case in the private as

well as the public realm, and with regard to political as well as cultural, economic, educational, and professional institutions. Congress is of course a prime example, with public trust of Congress and its members now hovering in the low double digits.<sup>1</sup>

But what do we actually mean when we say we don't trust institutions? Part of the answer has to do with competence and effectiveness, of course. It's hard to trust an institution that fails to do its basic job. But another key part of the answer has to do with what institutions really are and do. Institutions are the durable forms of our common life. Every significant institution carries out some important task in society—say, educating children, enforcing the law, serving the poor, providing some service, making some product, meeting some need. And it does that by establishing a structure and process—a form—for combining people's efforts toward accomplishing that task.

In the process, that institution also forms those people to carry out that task effectively, responsibly, and reliably. It shapes the people within it to be trustworthy. Roughly speaking, this is what it means to trust an institution: We trust an institution when it seems to have an ethic that makes the people within it more trustworthy.<sup>2</sup>

So we trust political institutions when they take seriously some obligation to the public interest and they form the people in them to do the same. We trust the military because it values courage, honor, and duty in carrying out the defense of the nation, and shapes people who do too. We trust a business because it promises quality and integrity in meeting a need we have, and rewards its people when they deliver those. We trust a journalistic institution because it has high standards of honesty and accuracy in reporting the news that make the work of its people reliable. We “lose faith” in an institution when we no longer believe that it plays this ethical or formative role, shaping the people within it to be trustworthy.

One way this might happen is when institutions claim to enforce an ethic of responsibility but plainly fail to do it and instead end up shielding and empowering bad behavior—like when a bank cheats its customers, or a member of the clergy abuses a child. That kind of gross abuse of power obviously undermines public trust in institutions. It's a familiar form of corruption. But it isn't new. There are plenty of examples of it in our time, but there are lots of examples in any time. So it doesn't quite explain the distinctive loss of confidence in institutions in our day.

Another related but different way in which an institution can lose our trust, though, is when it simply fails to impose an ethic on the people within it altogether, and doesn't even seem to see that kind of formation as its purpose. When the people in that institution no longer see it as a mold of their character and behavior but just as a platform for themselves to perform on and to raise their profiles and be seen. An institution like that seems not to be worthy of our trust not because it has failed to earn it but because it appears not to seek or to desire it at all. And something like that is what has been happening to a great many of our institutions in recent

---

<sup>1</sup> A useful source of data on this front is Gallup's work on public trust in institutions, which extends back several decades in most cases, and is available at <https://news.gallup.com/poll/1597/confidence-institutions.aspx>.

<sup>2</sup> This discussion is an abbreviated form of a case made in my recent book *A Time to Build: From Family and Community to Congress and the Campus, How Recommitting to Our Institutions Can Revive the American Dream* (Basic Books, 2020).

decades in particular.

When we don't think of our institutions as formative but as performative, they become harder to trust. They aren't really asking for our trust, just for our attention. And in our time, many of our most significant social, political, cultural, and intellectual institutions are in the process of going through this transformation from mold to platform.

Examples of this transformation are everywhere around us now. And in many cases our institutions are being made into platforms not just for any performance but for performative virtue and performative outrage in our vast, polarized culture war. In one institution after another we find people who ought to think of themselves as insiders shaped by the distinct purpose and integrity of the institution instead functioning as outsiders, displaying themselves and building their own personal brand.

We can see that pattern throughout American life. And no one could deny that a version of it is also evident in Congress. Some members now seem to run for office less to be involved in legislative work and more to have a prominent platform in the culture war—to become more visible on cable news or on talk radio, to build a social media following, and to use their elected office as a platform to complain about the very institution they worked so hard to enter. They conceive of themselves, or at least present themselves, as outsiders speaking *to* the institution rather than as insiders working *through* the institution. And as a result, they incline to approach their colleagues (particularly those of the opposite party) as props in a dramatic morality tale rather than as fellow legislators with whom to negotiate, bargain, and cooperate.

This transformation of our expectation of institutions runs very deep and very broad in contemporary American life. It did not begin in Congress and does not end there. But it is crucial to understand it as one important force transforming the culture of the Congress for the worse, and to see that any effort to improve that culture must work to better instill in members a sense of themselves as insiders acting in the world through Congress—endowed by their office not just with a more prominent cultural platform but with the distinct powers and responsibilities (indeed, the distinct character) of legislators.

*Second*, even as we understand the ways in which the deformation of the culture of the Congress has been one facet of a much broader evolution of American life, we should also have our eye on some trends distinct to our politics in particular. We should, for instance, note some of the less obvious ways in which polarization has changed the character of the two major party coalitions in Congress, and how that has changed the culture of the institution.

Growing political polarization in our two-party system involves not only an increasingly stark separation between the parties but also an increasingly intense consolidation of each party's coalition, so that as inter-party differences are sharpened intra-party differences are diminished, or at least downplayed. In Congress, this has meant that a more polarized era has been a more centralized era, with more power flowing to party leaders in each house.

That centralization began for reasons that precede the intense polarization of our time. In the 1970s, for instance, younger and more left-leaning Democratic back-benchers found their policy

ambitions frustrated by older, more right-leaning Democratic committee chairmen. In an effort to overcome the power of these entrenched chairmen, younger Democrats worked to channel more authority to the Speaker and Majority Leader, and to sidestep the committee system to advance key legislation. In the 1990s, upon taking the House majority for the first time in decades, many Republican members viewed the committee system as an obstacle to their desired transformation of the institution and empowered the Speaker who had brought them to power to advance his agenda directly.

But in our time, the pressure to sustain and intensify the centralization of power has had everything to do with the desire to minimize intra-party tensions and dissent in a polarized Congress. Power has flowed to party leaders to enable them to hold together each party's coalition and minimize factionalization of the sort that had characterized both parties in Congress for most of our history. Leaders are entrusted to advance the party's agenda (which is now itself now often defined either as support for or opposition to the president's agenda, depending on the president's party) and to protect members from uncomfortable votes that might expose party rifts. Intra-party factions are seen as signs of weakness and sources of danger, so that party leaders work to minimize their significance. The absence of meaningful intra-party factions in turn makes cross-party coalitions more difficult to achieve and sustain, and the cycle feeds on itself.<sup>3</sup>

And yet, especially in a period of narrow and frequently alternating party control of Congress, cross-party coalitions are necessary for the institution to do its work. The increasing absence, or weakness, of meaningful factions has therefore made it more difficult for Congress to function.

Many members, and especially those of the party in power at any given time, have responded to that by expressing frustration at the necessity of cross-party coalition-building in Congress (as in contemporary opposition to the filibuster, or frustration with the pace of negotiation on key issues) rather than by working to make such coalitions easier to form and more likely to emerge. That frustration, in turn, plays a crucial role in shaping the culture of the Congress. Many members, and especially those without much experience of a more factional and coalitional form of legislating, have come to understand the Congress as another arena in the broad, bitter, and intensely polarized culture war that now dominates our politics—an arena occupied by two parties that cannot be expected to work together, and so are instead expected to each define itself in permanent and implacable opposition to the other.

Since that opposition cannot easily be expressed in terms of enacted legislative measures, members revert to expressing it in terms of performative outrage intended for an outside audience of committed partisans. This reinforces the inclination to a more performative understanding of the institution, as discussed above. But it is a problem that deserves to be understood in its own terms, and as a distinct function of the logic of polarization in Congress.

Reformers looking for ways to change the culture of the institution will need to decide what to make of the fact that the design of the Congress requires significant cross-partisan bargaining but that today's political environment makes such bargaining very difficult to accomplish. In

---

<sup>3</sup> For a valuable analysis of the role of party factions in the historical development of Congress, see Daniel DiSalvo, *Engines of Change: Party Factions in American Politics, 1868-2010* (Oxford, 2012).

essence, reformers will need to choose between proposals that make such bargaining less necessary and proposals that make it more likely—and the choice they make will say a lot about their understanding of the underlying purpose of the institution.

*Third*, while a great deal of what has gone wrong in the culture of the Congress is a function of broader outside forces, some has also had to do with particular practical choices that members have made about how to run the institution.

One important example involves the loss of protected spaces for deliberation in Congress in the name of transparency. Every institution needs an inner life—a sanctum where its work is really done. This is especially true in a legislature, where members must deliberate and bargain to reach practical compromises. There is no such thing as bargaining in public.<sup>4</sup>

The American constitutional system owes its origins to its framers' understanding of that fact. The Constitution was conceived by a convention held behind closed doors. "Had the deliberations been open," Alexander Hamilton argued in 1792, "the clamours of faction would have prevented any satisfactory result."<sup>5</sup> The point was not to keep out the public's interests and views—the members present still spoke up for their states. The point was to provide a protected arena to work out deals. By retreating to a private space to deliberate, the convention's members were able to try out ideas, let proposals be floated, and avoid embarrassing one another in public. Decades later, James Madison told the historian Jared Sparks that he thought "no Constitution would ever have been adopted by the Convention if the debates had been public."<sup>6</sup>

But Congress has progressively lost its inner life, as all of its deliberative spaces have become performative spaces, everything has become televised and live-streamed, and there is less and less room and time for talking in private. By now, about the only protected spaces left are the leadership offices around midnight as a government shutdown approaches, so it is hardly surprising that this is where and when a great deal of important legislation gets made.

Administrative agencies offer another cloistered venue for negotiation and bargaining, and so significant legislative power has moved to those agencies, where it can be exercised effectively—but not always legitimately. Conservatives rightly complain that legislative power without legislative forms can easily become tyrannical, but we tend not to notice that a major driver of this shift in recent decades has been Congress itself, which has altered its own forms and functions in ways that have undermined its ability to act legislatively.

All of this has happened in pursuit of transparency. And transparency is a good thing, up to a point. Without it, institutions that serve a public purpose can easily become debased and unaccountable. But every good thing is a matter of degree, and political reformers have treated transparency as a benefit with no costs, when in fact it can have enormous costs that have to be

---

<sup>4</sup> For a further discussion of this point see Yuval Levin, "Transparency is Killing Congress," *The Atlantic*, February 9, 2020, available at <https://www.theatlantic.com/ideas/archive/2020/02/lights-camera-congress/606199/>.

<sup>5</sup> Hamilton made this remark in a letter to the *National Gazette* on September 11, 1792. (The letter was submitted under the pseudonym "Amicus" but has been authoritatively attributed to Hamilton.)

<sup>6</sup> Sparks recorded the remark in a journal entry describing a visit with Madison on April 19, 1830. See H.B. Adams, *Life and Writings of Jared Sparks*, II, p. 31.

accounted for. In this case, the price can be measured in a loss of bargaining spaces, and the result of ignoring it is a Congress that increasingly has the appearance of a show.

The dangers of the (now mostly metaphorical) smoke-filled room, where power is exercised out of sight and without accountability, are real and serious. And C-SPAN has been in most respects a godsend. But when an institution becomes too thoroughly transparent, it becomes indistinguishable from the open public space around it, and so it is simply another arena for public speech rather than a structure for meaningful action.

The committee system is where televised transparency has done real damage. The floors of the House and Senate have never really been great venues for deliberation. But committee work needs to involve real negotiation and bargaining. It is where the legislature's hardest work is done. And the relative absence of such work now owes something to the transformation of the environment in which committees operate. Reforms of the culture of Congress would have to take this problem seriously.

\* \* \*

Needless to say, these three examples only skim the surface of the kinds of forces that have shaped the evolution of the culture of the Congress in recent decades. But they offer a sense of the sorts of changes that an effort to diagnose the condition of that culture would need to account for. And they have something in common: In different ways they all describe a move away from a culture of deal-making and accommodation toward a culture of grandstanding and performative outrage. Obviously deals do still get made in Congress, and obviously there has always been some grandstanding among legislators. But the balance has shifted dramatically, and when we talk about needed cultural changes in the institution, we often have in mind the need to recover the capacity and inclination to resolve contentious public problems by negotiation and compromise.

Seeing that can help us begin to move from diagnosis to prescription. But a few broad principles of action could help to make that transition more effective. I would point to five key principles for reformers to keep in mind.

First, *remember that prescription is not diagnosis in reverse*. Fixing the problems that now bedevil the culture of the Congress does not mean undoing the causes of those problems. It means working from where we are now toward the sort of culture we wish to encourage and foster. This means thinking in terms of what we need to build at least as much as what we need to demolish. The history of how we got here matters because it shapes the constraints within which reformers need to work, but it does not necessarily lay out the path they need to follow.

Second, and relatedly, *avoid the lure of selective nostalgia*. The problem with the contemporary Congress is not that it isn't like it used to be, it's that it isn't what it needs to be today. There is a powerful tendency, particularly among older members and former members, to approach the task of congressional reform through wistful recollections of a bygone era of comradery and common purpose. These days, given the age and experience of older members of both houses, such recollections often involve the middle and late 1990s. This is preposterous. I was a junior House

Budget Committee staffer and later a junior House leadership staffer in that era, and can report with confidence that it was not a golden age of cooperation and comity. There have certainly been times when the culture of the Congress was more cooperative and constructive, but each of those moments had its own profound problems. The institution will always reflect the character of the broader political culture, for good and bad. It is helpful to know that the Congress can be the scene of cooperation and bargaining, but it is essential to remember that this can only really be achieved by forward-looking reform. Your committee wisely describes itself as devoted to the modernization of the Congress. Modernization involves adapting to changing circumstances. This is the right attitude to sustain.

Third, *focus on incentives*. Members of Congress are not scoundrels or fools. They are intelligent, ambitious men and women, and they behave as they do because they confront strong reasons for doing so. If you want to change the culture of the institution, and therefore to change how its members behave, you will need to find ways of changing the incentives that now encourage counterproductive behavior. The American constitutional system is built upon a keen awareness of the relationship between institutional design and incentives for behavior. Improving the culture of the Congress will require thinking about that relationship, and proposing reforms to the structure of the Congress and its work that might create not only opportunities but strong reasons for members to behave more constructively. The strongest incentives members face are electoral incentives, and those are not easy for Congress to change. But incentives created by the nature of legislative work itself can also be quite powerful, and those are within your power to reform.

Fourth, and closely related, *reforming the culture requires reforming the work of the Congress*. Reformers are sometimes tempted to take on the culture of Congress directly—by encouraging members to just spend more time together, have meals together or go on retreats, and otherwise get to know each other. This is nice, but it won't be sufficient. You should be guided by the sociological principle that “people don't come together to be together; people come together to do something together.”<sup>7</sup> If the goal is a congressional culture that enables members to work more cooperatively, the means to getting there will need to involve reforms of the sorts of work involved in being a member of Congress—that is, reforms of the budget process, the committee system, the schedule, the power of leadership, control of the floor and the like. Substantive reforms and reforms aimed at a healthier institutional culture are one and the same.

Fifth and finally, *articulate an explicit understanding of the purpose of the Congress*. Reforms of the institution, including those focused on improving its culture, must take for granted some idea of the purpose of Congress's work. But a deep disagreement about that purpose is now implicit in a lot of the thinking surrounding congressional reform, and this sometimes renders that thinking incoherent. Simply put, reformers must ask themselves whether the purpose of the Congress is (like the purpose of many European parliaments) to enable the majority party to achieve its objectives until the public throws it out, or whether its purpose is to compel accommodation among differing factions in American society so as to more durably address disputes about the direction of the country through bargaining and compromise. These goals are not mutually exclusive, but particularly in an era of closely divided parties they can point in

---

<sup>7</sup> This particularly concise formulation comes from José Ortega y Gasset, *The Revolt of the Masses* (New York: W. W. Norton, 2014), Chapter 14.



different directions. The latter purpose is plainly implicit in the constitutional design of the legislative branch. The U.S. Congress is not a European-style parliament meant to empower an assertive if temporary national majority. It is instead designed to achieve the much more challenging objective of balancing the need to represent majority views and interests with the imperative to protect minority views and interests, and it seeks to do that by requiring a great deal of buy-in and accommodation along the path to enacting legislation.

This distinction is especially important when considering the culture of the institution. A culture of implacable partisan polarization is not necessarily an obstacle to the functioning of a purely majoritarian legislature. But it is deadly to the cause of a more accommodationist and compromise-driven model of legislative work. In essence, as suggested above, reformers need to decide if the goal of reform is to make cross-partisan engagement less necessary or more likely.

Here I will put my own cards fully on the table: I do not believe the Congress should be more like a European parliament, but that it should be more like the American national legislature envisioned in the Constitution. The Congress is the only institution in our national politics intended to enable deal-making and bargaining over the direction of our government, and in our immensely diverse and dynamic society it is absolutely essential that such accommodation be at the core of our political life. To improve Congress's ability to do its work and also to improve its culture, it is necessary to reform its operations in ways that will better enable cross-partisan and cross-factional bargaining and accommodation.

\* \* \*

Given all of this, what can such reform look like? Since you have asked me to reflect mostly on the sources and character of the problems with today's congressional culture, I will not take up specific reforms in great detail here. But let me offer a few suggestive categories of reforms that might have particular bearing on the culture of the Congress:

- *Budget Reforms*: The budget process has gradually deformed into a primary source of the cultural breakdown of the Congress. Fundamental budget reform is now essential to enable the power of the purse to create incentives for bargaining and to get members more invested in their core legislative work. It is time to reconsider the structure of the process, reexamine the need for the budget committees and the annual resolution, consider combining the work of authorization and appropriation, and look for ways to break up the increasingly consolidated appropriations process into smaller parts that give members substantive, achievable work to do throughout the legislative year.
- *Committee Empowerment*: To combat the excessive centralization of power which has played a part in poisoning the culture of the Congress, it is worth exploring ways of helping committee work matter more to members, by making it more substantive and significant. Members might, for instance, consider allowing each committee to formally control some modest amount of floor time on a regular basis, as a number of state legislatures do, or otherwise to have a greater share of control over the fate of legislation.
- *Transparency Reform*: To make genuine bargaining and accommodation more likely,

members should consider creating more spaces for substantive committee work that is not televised or live-streamed. Even if formal hearings (let alone floor action) continue to be televised, it should be possible to build out other formats of committee work that can enable members to actually engage with one another and with the substantive policy challenges they confront. Members would still be fully accountable for the work that results, but such work would be improved if it could be developed in a private setting more suited to deliberation.

- *Learning from the States:* Many state legislatures have managed to sustain relatively functional cultures of bipartisan work despite deep divisions. Congress could learn from them, and the process of such learning could itself be helpful to the culture of the institution. Members should be encouraged, through a formal process, to bring to the attention of their colleagues procedures or rules in their state legislatures that Congress might do well to consider adopting.

These are, of course, broad categories of reform more than detailed proposals. But they suggest some ways in which taking the challenge of congress's culture seriously and thinking concretely about how institutional culture can be changed for the better might inform the work of modernization that is this committee's bailiwick.

Ultimately, a healthy institutional culture is a function of a sense of shared commitment and identity. To strengthen Congress's culture, you will need to help members identify themselves more with the institution and its purpose, channel their ambition through it, and understand themselves as belonging to it, rather than standing on it to make themselves more visible.

That your committee has taken on this task is itself a very important and encouraging indication. It is heartening to see the seriousness and the bipartisan spirit with which you are approaching that work. I thank you, and the members and staff of the committee, both for engaging in this work and for giving me this opportunity to contribute to your deliberations.