

Yuval Levin Counsels Civic Renewal Through Constitutional Repair



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COMMENTARY

The disunity that plagues America imposes high costs on the nation. A diverse citizenry must work together despite partisan differences to advance the common good, but disunity produces dysfunction.

Citizens who distrust and not infrequently despise one another can hardly be expected to jointly pursue long-term goals or rely on one another to achieve short-term fixes. Small wonder, then, that the United States faces mounting challenges. These include ensuring the even-handed administration and enforcement of the laws; beating back inflation and averting a looming entitlement and debt crisis; guarding the border and implementing a rational immigration policy; educating students to understand their country's virtues and weaknesses the better to uphold the nation's principles and preserve and reform its political institutions; fighting crime; assisting those who are unable to care for themselves; and countering a rising tide of authoritarianism led by Iran, Russia, and China.

The sharply conflicting partisan reactions in late May to former President Donald Trump's conviction by a New York jury on 34 felony counts illustrate the disconcerting scope of the nation's disunity. Large swaths of Democrats rejoiced at Trump's conviction for a crime that few of them could describe accurately or defend persuasively. If anything impinged on progressives' sweet sense that the nation had been saved and justice had been served, it was that Trump had not been immediately placed in chains and hauled off to prison.

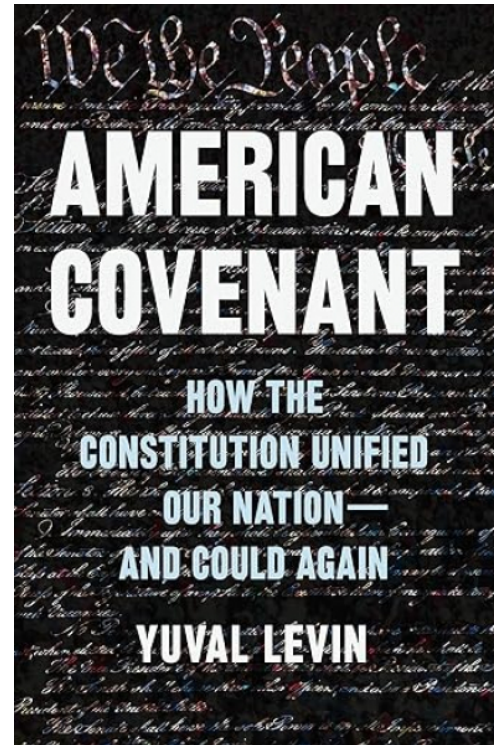
Meanwhile, during the 24 hours that followed the announcement of Trump's guilty verdict, the presumptive GOP presidential nominee raised an astonishing \$53 million, including a record \$34.8 million from small-dollar donors. Giving voice to surging grassroots support, a swelling chorus of Republican officeholders and conservative public intellectuals decried the weaponization of law by President Biden and the Democratic party to discredit the other party's presidential candidate and disable his campaign.

Facts lend credence to GOP condemnations. District Attorney Alvin Bragg, who ran for office promising to prosecute Trump, brought the case. Matthew Colangelo left his position as the third-ranking official in the Biden administration Justice Department to join Bragg's team, delivering opening arguments in Trump's trial. And the presiding trial-court judge, Juan Merchan, contrary to New York law and the imperatives of judicial impartiality, donated to an anti-Trump political organization.

The Trump verdict heightened the widespread belief – common for several years on both left and right – that the other party has taken leave of its senses and, if it wins in November, will institute dictatorship in America. The fear that those with whom you disagree about politics pose not merely an obstacle to the enactment of sound policy but present a threat to free and democratic government presumes that fellow citizens are enemies, which amplifies civil strife and portends worse.

In these volatile circumstances, few political tasks can be more urgent than rebuilding common ground and restoring political cohesion to enable citizens to tolerate one another’s competing beliefs and cooperate to advance the public interest. With his new book, Yuval Levin makes a splendid contribution to that urgent task.

In contrast to the grandstanding professors who insist that the Constitution is irreparably broken and must be replaced, and the vogueish activists and journalists who depict the nation’s fundamental political institutions as inextricably bound up with racism, Levin shows in “American Covenant: How the Constitution Unified Our Nation – and Could Again” that to extricate ourselves from the present morass, we must restore the Constitution to proper working order. The first step involves recovering an understanding of the Constitution as not only an arrangement of political offices but also as a way of life.



Levin argues that the nation’s charter of government fosters unity by promoting negotiation, encouraging accommodation, and cultivating coalition-building. That’s not all the Constitution does. Its top priority is to secure the unalienable rights – among them life, liberty, and the pursuit of happiness – proclaimed by the Declaration of Independence. But the promotion of unity was essential, argues Levin. In 2024 as in 1787, a sprawling, free, and democratic society that is home to individuals of competing commercial and political interests and differing views about faith and human flourishing must promote cooperation so that citizens who disagree on many important matters can pursue the common good.

The Constitution promotes cooperation by carefully configuring, intertwining, and limiting the three branches of government. Each exercises specific powers, summons particular virtues, and checks and balances the other branches. When functioning properly, the Constitution encourages intra- and inter-branch bargaining and compromise that balance majority rule and individual rights through well-considered legislation, steady administration, and fair adjudication. The Constitution can do this, Levin argues, because it is grounded in a sound understanding of human nature and the realities of America’s pluralistic political society.

Today, the Constitution accelerates disunity. A prime cause, argues Levin, are ideas about the function and purpose of democratic government that progressive elites began to import into politics and public discourse in the late 19th century. These ideas explicitly repudiate the Constitution's spirit of conciliation and intentionally disrupt the intricately organized relations between the legislative, executive, and judicial powers.

Progressivism aimed to overcome the constitutional separation of powers within the federal government and between the federal and state governments so that a disinterested and unconstrained technocratic elite based in Washington could manage American affairs by directly imposing on the nation its moral views and political preferences. By concentrating power in Washington and expanding the administrative state, progressive elites would replace the messy give and take contrived by the Constitution. No more would representatives of competing constituencies, compelled by their various institutional roles and facilitated by the prerogatives the Constitution attaches to their offices, hammer out agreements that perfectly pleased nobody but satisfied both sides adequately. Instead, well-credentialed experts – equating the progressive view with the complete truth – would decide what is best for the people. The results are in: a nation bitterly divided into self-satisfied experts and resentful ordinary citizens.

Levin's book is a rare achievement. Amid acrimony, it offers a sober assessment of the disunity that wracks the nation. It provides penetrating observations about the federal government's underlying purpose, structure, and form, and its deviations from the original design. It judiciously synthesizes an impressive range of scholarship on American constitutional government, the political theory of modern republics, contemporary American government, and classical ideas about the regime and citizenship. It provides numerous practical proposals for reforming Congress, the executive branch, the judiciary, and the political parties. And it deftly weaves together Madisonian and Aristotelian political science.

Contrary to typical efforts to squeeze the Constitution into one conceptual box or another, Levin emphasizes that the liberal or rights-protecting democracy that the Constitution established is also a republic. By this, he means more than Madison's famous definition in "Federalist 10": unlike direct democracy, in a republic the people delegate their power to a relatively small number of representatives while the country embraces a large population and an extensive area. For Levin, the republican principle also encompasses the nongovernmental beliefs, practices, and associations that enable free and democratic citizens to flourish.

This suggests that the quest for unity in America involves much more than government reform. In "Federalist 51," Madison argued that notwithstanding the institutional arrangements by which the Constitution channels officeholders' political energy into productive action, "a dependence on the people is, no doubt, the primary control on the government." In a rights-protecting democracy, a dependence on the people will also be the

primary means of fostering political unity and social cohesion. What, though, will impel the nation's diverse citizenry to choose cooperation and enable the elites who represent them to repair the Constitution and renew civic life?

Levin recognizes the problem. "But when our institutions are dysfunctional or deformed, our habits and behavior become broken as well, and we grow cynical and wary of each other, which further harms our institutions," he observes in conclusion. "How to break the vicious cycle and initiate a virtuous one is in the end a practical question."

Aristotle, to whom Levin turns to understand the significance of civic friendship, supplies the answer. "But the greatest of all the things that have been mentioned with a view to making regimes lasting – though it is now slighted by all – is education relative to the regime," Aristotle writes in *The Politics* (Book V, Chap. 9). "For there is no benefit in the most beneficial laws, even when these have been approved by all those engaging in politics, if they are not going to be habituated and educated in the regime."

The education relative to liberal democracy – an education that habituates and educates students to exercise their rights responsibly and discharge their duties as citizens conscientiously, is liberal education. Contrary to its contemporary debasement, liberal education stresses study of the nation's founding principles and constitutional traditions. It cultivates the virtues of civility and toleration. It organizes and transmits essential knowledge about Western civilization and other civilizations. It energizes the imagination and fosters independent thought.

The restoration of the Constitution's unity-producing work depends on the reform of liberal education.

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