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# One Idea for Ameliorating Polarization: Reviving Conversations About an American Spirit

Nancy H. Rogers\*

## I. INTRODUCTION

Historian David McCullough tells those discouraged about the nation's current problems that Americans have an "inexhaustible source of strength": "our story, our history, who we are, how we got to where we are, ... all we have been through, what we have achieved" and our "national ambitions."<sup>1</sup> McCullough calls this the "American spirit" and urges Americans to articulate a current version.<sup>2</sup> Some might express pessimism about this project – after all, one poll indicates that most Americans think we are losing an American spirit.<sup>3</sup> Other commentators agree with McCullough, though, that Americans should endeavor to identify an American spirit that will be widely and deeply embraced.<sup>4</sup> In their view, current versions of an American spirit might focus Americans on solving some of their problems despite seemingly intractable differences (called here "polarization").<sup>5</sup> This Article suggests some considerations to weigh when identifying an American spirit and a process for going about it.

An American spirit, as used in this Article, represents agreement among a large segment of the nation, across the major political parties, about what people living

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1. DAVID MCCULLOUGH, *THE AMERICAN SPIRIT: WHO WE ARE AND WHAT WE STAND FOR* 38-39, 93 (2017). Like McCullough, this article uses "Americans" to refer to people in the United States, a common usage, though it might arguably be used for all of those living in North, South and Central America.

2. MCCULLOUGH, *supra* note 1, at 38-39. Others call it a "common identity" or for smaller scale disputes "common interests." MARY B. ANDERSON & MARSHALL WALLACE, *OPTING OUT OF WAR: STRATEGIES TO PREVENT VIOLENT CONFLICT* 18-31 (2013) (common identity); WILLIAM URY, *GETTING TO PEACE: TRANSFORMING CONFLICT AT HOME, AT WORK, AND IN THE WORLD* 16 (1999) (perspective of common ground).

3. *The American Identity: Points of Pride, Conflicting Views, and a Distinct Culture*, THE ASSOCIATED PRESS-NORC CENTER FOR PUBLIC AFFAIRS RESEARCH (2017), <http://apnorc.org/projects/Pages/points-of-pride-conflicting-views-and-a-distinct-culture.aspx> (in survey of 1,004 adults in Feb., 2017, 71% said that we are losing the American spirit).

4. See, e.g., Yuval Levin, *America, We've Been Through a Lot Together*, WASH. POST, July 4, 2017; Nancy Gibbs, *Will the Nation Succeed Where the President Failed?*, TIME, Aug. 28, 2017, at 26, 27; William Choslovsky, Opinion, *Commentary: We The People Have a Democracy to Celebrate*, CHI. TRIB., July 4, 2017; Dan Alexander, *The Polarization of America*, THE SUN (May 10, 2017, 6:00 AM), <http://www.suncommunitynews.com/opinions/guest-columnists/the-polarization-of-america/>.

5. See, e.g., Levin, *supra* note 4; Gibbs, *supra* note 4, at 27 (noting "the power and the price of being a country defined not by a faith or a race or an ethnic heritage but by an idea"); Choslovsky, *supra* note 4.

in this country share.<sup>6</sup> The American spirit would be articulated at a high level of generality – it would not be agreement on controversial policies. Thus, some might have said that the American spirit for Revolutionary War days was in the preamble to the Declaration of Independence (“We hold these truths to be self-evident...”) about governance by consent of the governed, equality, and preservation of individual rights.<sup>7</sup> The American spirit is not a position on public support for charter schools or government-supported health care; that is policy.

The American spirit examined here changes. One illustration is that many individuals excluded by the nation’s founders now have the protections that the founders extolled for a smaller segment.<sup>8</sup>

People already reference additional strands of the spirit. Most Americans say that they value something they call the “American dream” of potential upward mobility, for example.<sup>9</sup>

The American spirit need not be simply a statement of what has already been achieved, any more than it must be single-stranded and frozen in time. In fact, those who have bought into the “American dream” may say in the same breath that Americans need to make that aspiration a reality. Another American spirit strand might be respect for the rule of law, again with ambitions to strengthen both the law and that commitment.

This Article offers some points to consider for those hopeful enough about the potential of an American spirit to ameliorate polarization that they are willing to participate in conversations toward that end. It does not make a lawyerly case that conversations or an American spirit will succeed in reducing polarization.

The Article first explains the potential dynamics – how developing such an American spirit might operate to ameliorate polarization (Part II). Then in Part III it suggests some considerations for shaping an American spirit that responds to the current bitter polarization and might resonate deeply and broadly. It next applies the lessons of Part III and discusses ways to begin the conversations to formulate an American spirit and then tell others about it (Part IV).

Even talking about an American spirit in an effort to ameliorate polarization might spawn controversy – we might be “divided about how to be unified.”<sup>10</sup> “I would rather....” might begin the comment of someone who suggests instead defeating political opponents, changing voting rules, and more. Part V explains that the conversations envisioned by this Article can occur simultaneously with advocacy for particular political views as well as with other potential strategies to reduce polarization, and it includes other caveats.

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6. This Article does not suggest trying to find an identity that would be embraced by everyone. Support by most might contribute to overcoming gridlock if the support comes from the primary political and other major groups.

7. “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed....” THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

8. This represents a change in law as well as in the agreement of people, perhaps each feeding the other.

9. *The American Identity*, *supra* note 3 (in survey of 1,004 adults in Feb., 2017).

10. Levin, *supra* note 4.

## II. HOW AN AMERICAN SPIRIT MIGHT OPERATE TO AMELIORATE POLARIZATION

If consciousness of a broadly-embraced and carefully chosen American spirit contributes to the reduction of polarization, it might do so because it helps:

- A. Spark the desire for active collaboration;
- B. Keep Americans' concerns in perspective (though not squelching the desire to advocate for particular positions);
- C. Enhance the ability of people in one political group to listen to those in another; and
- D. Reduce the fears arising from a sense of isolation, fears that might otherwise cause people to put at risk even the democratic rights they value most in order to gain control.

In selecting illustrations of these dynamics, scale matters. Because scale matters,<sup>11</sup> the research and experience that bear most persuasively on these dynamics come from national or at least community-level conflict, but one can also learn from the dynamics of small-scale disputes. This Section draws illustrations from both contexts, with an emphasis on large-scale conflicts.

Another consideration in assessing the pertinence of illustrations is whether or not they occurred while the nation faced an outside threat. "We seem always to come together during wartimes and natural disasters," one might say. In fact, a frequent classroom example of this outside threat dynamic might be Prussian statesman Otto von Bismarck's use of war and threats of war in the 1860s and 1870s to unify Germany.<sup>12</sup> Given the special dynamics during times of external threat, examples drawn from these times may not be as helpful for the current project for two reasons. First, external threat examples may produce unwarranted optimism about achieving similar gains now. The U.S., at the time of writing, is involved in war in several other nations, but Americans who are unconnected to the military may not now feel the same level of threat as they did in other war situations. Second, patriotic sentiments stirred at times of external threat may not persist in peaceful periods, a dynamic that Alexis de Tocqueville observed.<sup>13</sup>

The illustrations used in this Article come from post-violence (South Africa), near war's end (President Abraham Lincoln's second inaugural address), times of fear regarding internal violence (Tuzla, Bosnia), and in anticipation of rebellion and then English retaliation (U.S. Declaration of Independence), with only the latter occurring in the midst of concern about an external threat. Still, the reader should

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11. See Amy J. Cohen, *Dispute Systems Design, Neoliberalism, and the Problem of Scale*, 14 HARV. NEGOT. L. REV. 51 (2009) (regarding ethics); See also Sanda Kaufman, Chris Honeyman, & Andrea Kupfer Schneider, *Should They Listen to Us? Seeking a Negotiation/Conflict Resolution Contribution to Practice in Intractable Conflicts*, 2017 J. DISP. RESOL. 73, 81-82 (regarding dynamics).

12. A.J.P. TAYLOR, *BISMARCK: THE MAN AND THE STATESMAN* 88-98 (1955).

13. ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 225 (Harvey C. Mansfield & Delba Winthrop, eds. 2000).

be forewarned that each situation is unique and thus represents more an illustration than a lesson.

*A. Sparking the Desire for Active Collaboration: A Broadly Embraced American Spirit Might Spur People to Work Together.*



Nelson Mandela

Credit: <https://www.flickr.com/photos/45582474@N02/9215883633/in/photolist-f3nP8p-i7R7bU-7w2epo-rACrfe-8g4uGX-i8AsGh-id9Eph-88riu8-pzmkC-ieWEWD-6631Fh-7w2e6W-pksM57-6Fxsy-ldfCpa-i9Y1mE-a9hLoD-e7ZJ6N-Vznot9-RMfVBF-88uic3-4WkVMt-4wt3GK-iaojjq-iao4Yx-juo73D-7w2dBN-oUNV6T-ow5NyN-fwue1j-ikGiam-i7R7Ej-rhNWL3-8f6mSX-55FLLC-55Brgt-55FN1S-55Bskr-JvNBi-58CexY-iaogvb-5SLWv7-iaofFq-fbUmPv-GPeif-dZMmc4-inW6fc-84Wc8D-pDd6SR-i9YAWF>

The South African experience during the mid-1990s illustrates how a national spirit can encourage people to work together across differences – in fact, even across more bitter differences than those in the U.S. today. South Africa was then emerging from brutal government-imposed white supremacy and violent insurgency by the oppressed racial majorities.<sup>14</sup> To move toward universal suffrage, the nation needed people to

work together on a new constitution. President Nelson Mandela spoke often about a unique, common, and deeply-engrained trait of South Africans – *Ubuntu*. President Mandela, joined by other leaders such as Truth and Reconciliation Commission Chairman Bishop Desmond Tutu, called upon history and current examples to justify *Ubuntu*, which they explained as appreciating the humanity of each individual – not demonizing other groups of people – and conducting their affairs so that others benefitted in addition to themselves.<sup>15</sup> This proposed South African spirit seemed to resonate and it pointed toward forgiveness and collaboration about the future – traits that the internal violence had placed at grave risk.<sup>16</sup> South Africans

14. On the situation and negotiations, see generally RICHARD J. GOLDSTONE, FOR HUMANITY: REFLECTIONS OF A WAR CRIMES INVESTIGATOR (2000); ROBERT HARVEY, THE FALL OF APARTHEID: THE INSIDE STORY FROM SMUTS TO MBEKI (2001); ROBERT MNOOKIN, BARGAINING WITH THE DEVIL: WHEN TO NEGOTIATE, WHEN TO FIGHT (2010).

15. Bishop Desmond Tutu said in 2008, “One of the sayings in our country is Ubuntu – the essence of being human. Ubuntu speaks particularly about the fact that you can’t exist as a human being in isolation. It speaks about our interconnectedness. You can’t be human all by yourself, and when you have this quality – Ubuntu – you are known for your generosity.” *UBUNTU: Brief Meaning of African Word “UBUNTU,”* UBUNTU WOMEN INSTITUTE USA INC. (Jan. 24, 2012), <http://uwi-usa.blogspot.be/2012/01/ubuntu-brief-meaning-of-african-word.html> (last visited Oct. 27, 2017); Nelson Mandela said in 2006, “A traveler through a country would stop at a village and he didn’t have to ask for food or for water. Once he stops, the people give him food and attend him. That is one aspect of Ubuntu, but it will have various aspects. Ubuntu does not mean that people should not enrich themselves. The question therefore is: Are you going to do so in order to enable the community around you to be able to improve?”, CANONICAL LTD. (2006), [https://en.wikipedia.org/wiki/File:Experience\\_ubuntu.ogg](https://en.wikipedia.org/wiki/File:Experience_ubuntu.ogg).

16. See Hal Abramson, *Nelson Mandela as Negotiator: What Can We Learn from Him?*, 31 OHIO ST. J. ON DISP. RESOL. 19, 52 (2016) (quoting a speech by President Barack Obama at the memorial service for President Mandela that *Ubuntu*, that we are all tied together, was President Mandela’s greatest gift

ultimately adopted a new constitution and enshrined the human dignity and healing aspects of *Ubuntu* in the opening paragraph of their new constitution.<sup>17</sup> People have said that this national spirit helped South Africans work through problems despite polarization, though one cannot be certain about cause and effect.<sup>18</sup>

Leadership scholars have observed an analogous dynamic that sparks the desire for active collaboration – but within organizations. They describe a motivational or “transformational” leadership approach that uses “shared identities” to “[inspire] individuals to transcend their immediate self-interest in the service of the greater good of the organization or society.”<sup>19</sup> Social psychologists observe a similar phenomenon within groups.<sup>20</sup>

Mediation scholars note this dynamic in connection with bringing common interests to the fore during mediation of smaller disputes.<sup>21</sup> Law professors Joseph Stulberg and Lela Love explain, “If the mediator begins the discussion by extracting the common interests and generating agreement on the large targets for the mediation, the conversation has a goal – securing or advancing the common interests – that can draw parties towards collaboration.”<sup>22</sup> By analogy, an American spirit rooted in common interests might encourage collaboration.

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to the world); Janis Sarra & Kim Berman, *Ubuntu as a Tool for Resilience: Arts, Microbusiness, and Social Justice in South Africa*, 34 CONFLICT RESOL. Q. 455, 460-66 (2017).

17. S. AFR. CONST., 1996, para. 1.

18. See Abramson, *supra* note 16, at 52 (quoting a speech by President Barack Obama at the memorial service for President Mandela that *Ubuntu*, that we are all tied together, was President Mandela’s greatest gift to the world); Sarr & Berman, *supra* note 16, at 460-66.

19. DEBORAH L. RHODE & AMANDA K. PACKEL, LEADERSHIP: LAW, POLICY, AND MANAGEMENT 10, 596 (2011).

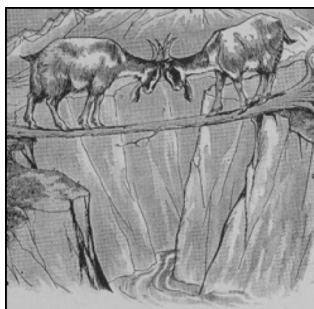
20. MUZAFER SHERIF ET AL., INTERGROUP CONFLICT AND COOPERATION: THE ROBBERS CAVE EXPERIMENT 94 (University of Oklahoma Institute of Group Relations 1961); JONATHAN HAIDT, THE RIGHTeous MIND: WHY GOOD PEOPLE ARE DIVIDED BY POLITICS AND RELIGION 161-62 (2013).

21. Lela P. Love & Joseph B. Stulberg, *Targets and Techniques to Generate Movement*, in CARRIE J. MENKEL-MEADOW, LELA PORTER LOVE, ANDREA KUPFER SCHNEIDER & JEAN R. STERNLIGHT, DISPUTE RESOLUTION: BEYOND THE ADVERSARIAL MODEL 289 (2d ed. 2010); Nancy H. Rogers & Richard A. Salem, *A Student’s Guide to Mediation and the Law*, in STEPHEN B. GOLDBERG, FRANK E.A. SANDER, NANCY H. ROGERS, & SARAH R. COLE, DISPUTE RESOLUTION: NEGOTIATION, MEDIATION, AND OTHER PROCESSES 126 (6th ed. 2012); CHRISTOPHER W. MOORE, THE MEDIATION PROCESS 111-12 (4th ed. 2014) (calling these one aspect of “connectors”); JENNIFER E. BEER WITH EILEEN STIEF, THE MEDIATOR’S HANDBOOK 94 (1997); JOSEPH B. STULBERG & LELA P. LOVE, THE MIDDLE VOICE: MEDIATING CONFLICT SUCCESSFULLY 78 (2d ed. 2013).

22. STULBERG & LOVE, THE MIDDLE VOICE, *supra* note 21, at 78.

*B. Helping People in Conflict Keep Their Concerns in Perspective: An American Spirit That Focuses on What Is Shared Encourages Individuals to Advance Common Interests and Subordinate Partisan Interests That They Consider Lower in Priority.*

International development scholars Mary B. Anderson and Marshall Wallace observe that a community spirit (which they call a “common identity”) can help people keep their individual or small group concerns in perspective. They observed this in their study of thirteen communities that remained at peace in the midst of civil war or other widespread violence in thirteen different nations.<sup>23</sup> Each of the communities that resisted internal violence had explicitly discussed and chosen a peace-oriented common identity and gauged how violence would put that at risk.<sup>24</sup> Though they were divided in the same ways as the nation as a whole (the Muslim community was comprised of Hutus and Tutsis in Rwanda; the city of Tuzla was comprised of Bosnians, Serbs, and Croats in Bosnia, for example), these communities chose



The Two Goats, Aesop's Fable, The Project Gutenberg\*\*

Credit: [http://www.gutenberg.org/files/19994/19994-h/19994-h.htm?utm\\_source=twitterfeed&utm\\_medium=twitter](http://www.gutenberg.org/files/19994/19994-h/19994-h.htm?utm_source=twitterfeed&utm_medium=twitter)

The Two Goats, Aesop's Fable, The Project Gutenberg<sup>29</sup>

something other than these divisions as their common identity, and they did not devolve into internal violence.<sup>25</sup> A Fiji community chose commitment to the rule of law for its common identity as armed rebellion based on political differences occurred elsewhere in that nation.<sup>26</sup> In a Burkina Faso community, it was “diversity,” “forgiveness,” and “dialogue” as inter-ethnic violence wracked the rest of the nation.<sup>27</sup> Though facing potential divisions more bitter than those in the United States currently, the residents of these communities valued their common identities and used them as a rationale to work together to identify the risks and costs of violence and to come to consensus on the best of their options to preserve the peace.<sup>28</sup>

23. ANDERSON & WALLACE, *supra* note 2, at 3.

24. *Id.* at 29-31, 90-91.

25. *Id.* at 90-91.

26. *Id.* at 30, 82-83.

27. *Id.* at 30.

28. *Id.* at 90-91.

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This experience in using a common identity to encourage prioritization may fit what mediators understand intuitively. When people with differences value their common interests, they may subordinate less important interests in order to preserve what they value more, and they may devote themselves to advancing those common interests.<sup>30</sup> Imagine two Americans meeting abroad and discovering that they are the only Americans living in that city; surely they would be likely to subordinate worries about their differences to enjoy what they shared. Mediators appeal to this human tendency when they encourage parties to identify common interests and then rank them along with their separate interests.<sup>31</sup> As with the Aesop's Fable's head-butting goats poised on a shaky branch over a deep ravine, angry people may lose sight of more important common interests unless they have a treasured common interest at the forefront of their minds. An American spirit might play that role.

*C. Enhancing the Ability of People in One Political Group to Listen to Those in Another: An American Spirit Might Encourage Understanding Across Political Lines.*

Listening to and considering differing viewpoints may lower the temperature of disagreement. Yale Law Dean Heather Gerken points out that hearing others' arguments helps one to look with some humility at the weaknesses of one's own arguments. "We should fight, and fight hard, for what we believe," Gerken acknowledges about the current political divides. "But even as we do battle, it's crucial to recognize the best in the other side and the worst in your own."<sup>32</sup> Social psychologist Jonathan Haidt puts it another way: "[I]f you do truly see it the other person's way – deeply and intuitively – you might even find your own mind opening in response. Empathy is an antidote to righteousness, [a sense of certainty in the superiority of your position], although it's very difficult to empathize across a moral divide."<sup>33</sup>

Resolving disagreements across bitter divisions is tough work though. Professor William Ury says, "You need to suspend your reaction when you feel like striking back, to listen when you feel like talking back, to ask questions when you feel like telling your opponent the answers, to bridge your differences when you feel like pushing for your way, and to educate when you feel like escalating."<sup>34</sup>

An American spirit, if deeply valued, might provide the incentive to take on this tough work of listening and consideration across divides. A person who feels a common bond with individuals in another group may listen more often to members of that group, less often demonize those in another group as not having an opinion worthy of consideration, and act civilly toward them more often, according

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30. JAMES J. ALFINI, SHARON B. PRESS, JEAN R. STERNLIGHT, & JOSEPH B. STULBERG, *MEDIATION THEORY AND PRACTICE* 126 (2d ed. 2006).

31. See, e.g., GOLDBERG ET AL., *DISPUTE RESOLUTION: NEGOTIATION, MEDIATION, AND OTHER PROCESSES*, *supra* note 21, at 155 (quoting Joseph Stulberg); STEPHEN B. GOLDBERG, JEANNE M. BRETT, BEATRICE BLOHORN-BRENNEAU, WITH NANCY H. ROGERS, *HOW MEDIATION WORKS: THEORY, RESEARCH, AND PRACTICE* 30 (2017); DWIGHT GOLANN & JAY FOLBERG, *MEDIATION: THE ROLES OF ADVOCATE AND NEUTRAL* 136-37 (3rd ed. 2016).

32. Heather Gerken, *Dean of Yale Law School: Campus Free Speech Is Not Up for Debate*, TIME (July 13, 2107), <http://time.com/4856225/law-school-free-speech/>.

33. HAIDT, *supra* note 20, at 58.

34. URY, *GETTING PAST NO: NEGOTIATING IN DIFFICULT SITUATIONS* 160 (2d ed. 2007).



to scholars from a number of disciplines.<sup>35</sup> People may still press their own views with vehemence, but hatred less often gets in the way of listening. In a similar vein, a political scientist observed that “activities in which members from both groups work together toward a common goal” tended to enhance constructive relationships among members of differing groups in the midst of inter-ethnic violence.<sup>36</sup>

This concept from national divisions will resonate with mediators and others familiar with smaller scale conflicts. Public policy mediation scholars Susan Carpenter and W.J.D. Kennedy note that disputing people who discover that they hold a similar value, might say, in effect, “Look, we have something in common after all!”<sup>37</sup>

What these scholars observe also fits the opinion of *National Affairs* editor Yuval Levin, who explained a potential current role for an American spirit:

A patriotism of common national memory could be the answer to the riddle of a politics divided over how to be unified. It is not a way to make our differences go away, but rather to allow us better to live with them and so with each other. *It could help counteract our tendency to think of our political opponents as speaking from outside the American tradition, and so as threats to be warded off rather than fellow citizens to be engaged.*<sup>38</sup>

#### *D. Reducing a Sense of Isolation and Fear About the Future: An American Spirit That Helps People Feel Secure Also Might Make Them More Rational About Their Choices.*

People who feel secure in sharing an important common value, such as an American spirit, may feel less alienated and fearful. They may be less apt to gravitate toward a leader who stokes their fears and prejudices or to be animated by a leader’s divisive rhetoric to demonize those in other political groups.<sup>39</sup> So engrained is this concept that the Star Wars movie author has wise Yoda observe,

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35. Yehuda Amir, *Contact Hypothesis in Ethnic Relations*, in THE HANDBOOK OF INTERETHNIC COEXISTENCE 162 (Eugene Weiner ed., 1998); NANCY H. ROGERS, ROBERT C. BORDONE, FRANK E.A. SANDER & CRAIG A. MCEWEN, DESIGNING SYSTEMS AND PROCESSES FOR MANAGING DISPUTES 229-30 (2013); URY, *supra* note 2, at 133-35.

36. Yehuda Amir, *supra* note 35, at 162, 170-172, citing MUZAFER SHERIF, GROUP CONFLICT AND COOPERATION: THEIR SOCIAL PSYCHOLOGY 146-47 (1966).

37. SUSAN L. CARPENTER & W.J.D. KENNEDY, MANAGING PUBLIC DISPUTES: A PRACTICAL GUIDE FOR PROFESSIONALS IN GOVERNMENT, BUSINESS, AND CITIZENS’ GROUPS 204 (1988).

38. Levin, *supra* note 4 (emphasis added).

39. See, e.g., Barbara Nevicka et al., *Uncertainty Enhances the Preference for Narcissistic Leaders*, EUR. J. SOC. PSYCHOL., Abstract (May 11, 2013), <http://onlinelibrary.wiley.com/doi/10.1002/ejsp.1943/full> (“In all of the studies, individuals were shown to be aware of the negative features of narcissistic leaders, such as arrogance and exploitativeness, but chose them as leaders in times of uncertainty, regardless.”); Margarita Mayo, *If Humble People Make the Best Leaders, Why Do We Fall for Charismatic Narcissists?*, HARV. BUS. REV. (Apr. 7, 2017), <https://hbr.org/2017/04/if-humble-people-make-the-best-leaders-why-do-we-fall-for-charismatic-narcissists> (in a business context, “High levels of anxiety make us hungry for charisma....’Charismatic leaders can be prone to extreme narcissism that leads them to promote highly self-serving and grandiose aims.’ [T]hrough their sheer magnetism, narcissistic leaders transform their environments into a competitive game in which their followers also become more self-centered....”); MICHAEL MACCOBY, NARCISSISTIC LEADERS: WHO SUCCEEDS AND WHO FAILS 230-31, 239 (2007) (“narcissistic leaders tend to come to the fore during times of upheaval....”); Hemant Kakkar & Niro Sivanathan, *When the Appeal*

“Fear is the path to the dark side. Fear leads to anger. Anger leads to hate. Hate leads to suffering.”<sup>40</sup>

An American spirit’s role in making people feel hope and a sense of belonging to something they care about has special pertinence now, as Americans seem complacent about what the nation offers them<sup>41</sup> and more pessimistic about the future than in past decades.<sup>42</sup> For example, polling research indicates that 70% are dissatisfied with “the way things are going in the U.S.”<sup>43</sup> Polls also register an increase in those who are not “satisfied with the freedom in their lives.”<sup>44</sup> Those who buy into an American spirit may feel a part of something that they can feel optimistic about and thus act more rationally in their choices.

### *E. Putting Together the Potential Positive Dynamics*

These positive dynamics – spurring collaboration, offering perspective, encouraging listening, and giving a sense of belonging and optimism – have the potential to ameliorate polarization. But to achieve that potential now, with such bitter divides, requires more than just tepid support by a few for an American spirit. The next Section suggests considerations to take into account during articulation of an American spirit that might broaden and deepen support, as well as focus it on what might bridge divides and reduce alienation.

## III. WHAT ASPECTS OF AN AMERICAN SPIRIT MATTER?

What guidance does experience offer for those seeking to identify an American spirit that would achieve the dynamics just discussed in the midst of the current deep and broad chasms? This Section points out advantages to selecting an American spirit that is:

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*of a Dominant Leader is Greater than a Prestige Leader*, 114 PROC. NAT’L ACAD. SCI. U.S. 6734 (May 16, 2017), <http://www.pnas.org/content/114/26/6734>

(“We find robust support for our hypothesis that under a situational threat of economic uncertainty (as exemplified by the poverty rate, the housing vacancy rate, and the unemployment rate) people escalate their support for dominant leaders. Further, we find that this phenomenon is mediated by participants’ psychological sense of a lack of personal control. Together, these results provide large-scale, globally representative evidence for the structural and psychological antecedents that increase the preference for dominant leaders over their prestigious counterparts.”)

40. STAR WARS I – THE PHANTOM MENACE (Lucasfilm 1999).

41. MCCULLOUGH, *supra* note 1, at xv, 29, 38, (noting that Americans take for granted now much that is “novel and daring” about the United States, and yet they want and need to “belong to something larger than” themselves, something he calls the “American Spirit.”)

42. John Gramlich, *America’s Political Divisions in 5 Charts*, PEW RESEARCH CENTER, (Nov. 7, 2016), <http://www.pewresearch.org/fact-tank/2016/11/07/americas-political-divisions-in-5-charts/> (68% of Trump supporters and 30% of Clinton supporters during the 2016 campaign say that the future of the next generation of Americans will be worse compared with life today.”)

43. *Satisfaction with the United States*, GALLUP NEWS, (updated Oct. 11, 2017), <http://www.gallup.com/poll/1669/general-mood-country.aspx>.

44. Jon Clifton, *Land of the Free?*, THE GALLUP NEWS (June 27, 2017), <http://news.gallup.com/opinion/gallup/212627/land-free.aspx> (based on polling of 1,000 people in 150 nations, 2006 to 2016: “In 2006, 91% of Americans were satisfied with the freedom in their lives. Today, it’s 75%. The 16-percentage-point decline is dramatic -- but looking at how far the U.S. has fallen in comparison with the rest of the world, the decline is even worse. . . . This puts the U.S. in the bottom half of all countries measured [among 139 countries].”)

- A. Directed toward reducing polarization;
- B. Especially American – it grows from our history, experiences, geography, traditions, or constitution;
- C. Natural and authentic;
- D. Deeply valued across divisions and by the vast majority of Americans; and
- E. Bent toward a sense of optimism and belonging to the nation as a whole.<sup>45</sup>

The first four points are adapted from a study by Mary B. Anderson and Marshall Wallace,<sup>46</sup> and social scientists and historians have observed the fifth, as discussed below.<sup>47</sup> These considerations point the way to an American spirit powerful enough to reduce polarization.

It seems vitally important now to articulate an American spirit that is as potent as possible. That spirit will need to be embraced across divides whose bitterness exceeds any time in at least the last few decades, according to survey results.<sup>48</sup> For example, most Democrats and Republicans now view members of the other party negatively, for the first time that the majority expressed that view during the survey's 25-year history,<sup>49</sup> and more than before think that members of the other party are extremists.<sup>50</sup> People identifying as political moderates are at an all-time low in a survey started in 1992.<sup>51</sup> Americans have reached a 25-year high, at least, in making their differences personal: about a quarter of consistent liberals and conservatives would not want a family member to marry someone in the other political party, and roughly half even wish to have neighbors who share their viewpoints.<sup>52</sup>

45. ANDERSON & WALLACE, *supra* note 2, at 25-31, 91 (first four); Part III, *infra*.

46. *Id.*

47. Part III, *infra*.

48. SOLUTIONS TO POLITICAL POLARIZATION IN AMERICA 14 (Nathaniel Persily, ed. 2015); HAIDT, *supra* note 20, at 319-21.

49. Samantha Smith, *5 Facts About America's Political Independents*, PEW RESEARCH CENTER (July 5, 2016), <http://www.pewresearch.org/fact-tank/2016/07/05/5-facts-about-americas-political-independents/> (based on surveys conducted in 2014 showing that “[f]or the first time in surveys dating back more than two decades, majorities of Republicans (58%) and Democrats (55%) say they have a *very* unfavorable view of the opposing party. In 1994, fewer than half as many Republicans (21%) and Democrats (17%) expressed highly negative views of the other party.”).

50. Zachary Krislov & Jocelyn Kiley, *Partisans See Opposing Party as More Ideological than Their Own*, PEW RESEARCH CENTER, (Aug. 23, 2016), <http://www.pewresearch.org/fact-tank/2016/08/23/partisans-see-opposing-party-as-more-ideological-than-their-own/> (based on 2016 survey indicating that “[m]ajorities in both parties view the other party as closer to the ideological extreme than the center.”).

51. *US Conservatives Outnumber Liberals by Narrowing Margin*, GALLUP NEWS (Jan. 3, 2017), [http://www.gallup.com/poll/201152/conservative-liberal-gap-continues-narrow-tuesday.aspx?g\\_source=moderates&g\\_medium=search&g\\_campaign=titles](http://www.gallup.com/poll/201152/conservative-liberal-gap-continues-narrow-tuesday.aspx?g_source=moderates&g_medium=search&g_campaign=titles) (last visited Aug. 14, 2017) (34% in 2015-2016 compared to 43% in 1992).

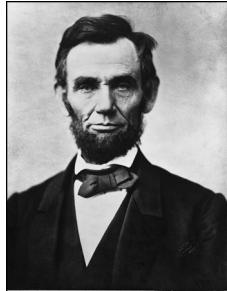
52. *Political Polarization in the American Public: How Increasing Ideological Uniformity and Partisan Antipathy Affect Politics, Compromise and Everyday Life*, PEW RESEARCH CENTER (Jun. 12, 2014), <http://www.people-press.org/2014/06/12/political-polarization-in-the-american-public/> (based on survey of 10,000 adults in the U.S., “[t]hree-out-of-ten (30%) consistent conservatives say they would be unhappy if an immediate family member married a Democrat and about a quarter (23%) of cross-the-

As this polling seems to indicate, Americans' political identities may be turning into personal identities.<sup>53</sup>

### A. Directed Toward Reducing Polarization

To say that Americans are generally an honest group of people who care about their families – just one possible statement of what Americans share – does not propel people to bridge the nation's current divides. To find examples of articulations that instead directly address polarization, one can look both historically and abroad.

For example, President Abraham Lincoln took on the nation's most pressing divisions when he set out an American spirit in the last sentence of his second inaugural speech, which he delivered near the end of the Civil War:



Abraham Lincoln, 1864

Credit: <https://www.flickr.com/photos/chainedreactions/2393882882/in/photolist-4DxgYN-q7NjCJ-NqByp-aGwZ9H-VYoaCX-2PSW3B-dgfnTx-azgQKb-8FHjVR-9hajjF-v2MnA-aEKnuo-oBK4nL-8FLw2u-HHZrp-njAkqQ-9sf2jI-ded6Tf-bvdUur-69Skj1-VS2JwU-kvbPop-e2VncX-2jT6X5-4YPTK9-NzxBq-7XDjje-fvY1Ty-9YT8RU-9AdTrv-mDHnkx-mpKr9X-6cNAXN-avBvC2-VvVbUg-9xhBYU-9Zfpqg-e2VFYt-bwojX5-i6RoRb-9xezPi-pYgAQS-fDeiKw-7V3DxX-afyuWQ-afvKgv-mpJLca-e2ViNp-9xeCXM-5MLsp>

With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan, to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations.<sup>54</sup>

With this famous sentence, President Lincoln aimed toward the unification of the North and South, amid calls for revenge and continued resistance. He implied an American spirit of common suffering and faith-inspired caring for one other, though without abandoning the “right,” perhaps an acknowledgement of the continuing battles to end slavery and rebellion. Thus, in the face of what might have been the greatest division in the history of the nation, President Lincoln crafted an American spirit that urged positive action regarding the challenges of the moment.

Another illustration, though of a city spirit, comes from Tuzla, a Bosnian city that hoped in the early 1990s to avoid the inter-group

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board liberals say the same about the prospect of a Republican in-law. Nearly two-thirds (63%) of consistent conservatives and about half (49%) of consistent liberals say most of their close friends share their political views. Among those with mixed ideological values, just 25% say the same. People on the right and left also are more likely to say it is important to them to live in a place where most people share their political views, though again, that desire is more widespread on the right (50%) than on the left (35%).”

53. Thanks to Grande Lum for this insight. In a development not addressed directly by the proposals in this Article, hate crimes are up, representing more signs of growth in bitter division or alienation. Richard Winton, *L.A. Sees Surge in Hate Crimes During the First Half of 2017, Data Show*, L.A. TIMES (Aug. 25, 2017), <http://www.latimes.com/local/lanow/la-me-ln-hate-crimes-20170825-story.html> (“Of the six largest cities in the nation — New York, L.A., Chicago, Houston, Philadelphia and Phoenix — all except Houston saw their number of hate crimes climb in the first half of 2017....”).

54. Abraham Lincoln, Second Inaugural Address (Mar. 4, 1865), in 2 A COMPILATION OF THE MESSAGES AND PAPERS OF THE PRESIDENTS, 1789–1897, at 276-77.

violence that rocked much of Bosnia. Tuzla was comprised of the same groups that were fighting with each other in the rest of the country – Croats, Serbs, and Muslims.<sup>55</sup> Despite this, spokespersons for Tuzla said that “being from Tuzla means that ‘you accept everybody.’”<sup>56</sup> As with President Lincoln’s address, the Tuzla spirit addressed the most pressing need of the time – to identify a counterpoint to ethnic and religious hatred and violence. It unified residents of Tuzla, and it also sent a message to fighters who later arrived to attack one segment of that community, essentially: “Don’t bother trying because we will not divide.”<sup>57</sup>

In each illustration, people articulated the spirit to help their fellow residents make progress together despite the divisions they faced.<sup>58</sup> They worded these national or community spirits to bridge the most explosive divisions.

*B. Especially American – Grows from U.S. History, Experiences, Geography, Traditions, or Constitution*

It seems that an American spirit will gain power if it is special to this nation. If based in history or special traditions, for example, the current generation may feel that it has fallen to them to preserve that common value for future generations.

President Lincoln grounded his “with malice toward none; with charity for all” sentence in the common experiences of people who survived -- both in the North and South -- death, injuries, and devastated families, as well as in the faith values of forgiveness and caring that were widely embraced in all parts of the nation. He called on a tragic shared experience that, unfortunately, felt very American, and on religious tenets that most of the nation had prized prior to the Civil War and that could contribute to a peaceful future for a nation exhausted by war.

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55. ANDERSON & WALLACE, *supra* note 2, at 117-22.

56. *Id.* at 123.

57. *Id.*, at 27, 29 (“Further, by announcing an alternative identity as dominant, they signaled to the fighters their nonalignment with the dividing agenda of the war.”).

58. For an argument that a proposed national spirit that does not fit the current problems, see Brad MacDonald, *Manchester Attack: “Keep Calm and Carry on” is not Working*, THE TRUMPET (May 23, 2017), <https://www.thetrumpet.com/15848-manchester-attack-keep-calm-and-carry-on-is-not-working> (arguing that Prime Minister Theresa May’s reference to “Keep Calm and Carry On,” a phrase used during World War II to imply carry on the fighting against the enemy was misused to imply not to get upset as the appropriate response to a terrorist attack), and for one that seems to fit current problems, see *Theresa May on ‘The Spirit of Manchester and the Spirit of Britain’*, N.Y. TIMES (May 23, 2017), <https://www.nytimes.com/2017/05/23/world/europe/theresa-may-manchester-arena.html?mcubz=1> (“The images we hold in our minds should not be those of senseless slaughter but of the ordinary men and women who put concerns about their own safety to one side and rushed to help; of the men and women of the emergency services who worked tirelessly to bring comfort, to help and to save lives; of the messages of solidarity and hope of all those who opened their homes to the victims. For they are the images that embody the spirit of Manchester and the spirit of Britain, a spirit that, through years of conflict and terrorism, has never been broken and will never be broken.”).

In a similar vein, the Tuzla common identity connected to that city's history. Some people in Tuzla said that this "spirit of solidarity" had existed for centuries and was a known hallmark of their city.<sup>59</sup> Local persons cited a time, 500 years



Tuzla, Bosnia

Credit: <https://www.flickr.com/photos/tamasvarga67/5529140125/in/photolist-ckzdS-2uVKHE-e6bo4b-9qAmuk-4CtsRV-4CtTpg-ckzdV-4CxK8j-5DfUag-iVGK-SYd3Qx-iVFU-TBSDwW-7E5A3Q-iVFX-9fGhTq-a6jrn8-2uRs3T-agiH2F-8H56er-ckzdU-4Cxdt1-agiK8g-2uRcBr-cm9Rj-9qAkbt-4CxJ7Q-4CtscH-ckAX2-4Ctsf8-e65Kdr-4bUX6z-9qAhJa-e6bnTW-agiHfa-9qDsjS-9R1z3Z-ckzdX-7Djwoo-4CttQD-e6bod7-e65JFe-agmuTo-agmrU7-MlGL5-9fDfz-9fG435-9fG6yf-9fDcEz-9fDeur>

before, when a team consisting of "a Muslim, a Croat, and a Serb" conducted negotiations with Turkish rulers.<sup>60</sup> They also recounted their cooperative resistance to Nazi aggression in World War II. According to another story consistent with this spirit, their longstanding labor organizations encouraged solidarity across groups. Interestingly, these ethnic-religious groups also got along

well historically in neighboring Sarajevo, which did not adopt broadly a common identity and degenerated into violence in the 1990s. Anderson and Wallace suggest that the explicit discussion and the stories that made the common identity fit Tuzla may explain the difference.<sup>61</sup>

What mattered in both illustrations was not that the spirits expressed were unique, but rather that they conveyed a message of something quite special for the people involved, something that they would not want to be the first generation to destroy, something that they wanted to pass on to their children. In each of the examples, the people felt jointly entrusted to maintain a spirit that they treasured in the context of history or religion.<sup>62</sup>

### C. Natural and Authentic for Both Internal and External Audiences

Anderson and Wallace noted in their studies of thirteen communities which had retained peace in the midst of violence that "[t]hey chose identities that were known and familiar..."<sup>63</sup> For example, the people in Tuzla – one of these thirteen communities – did not have to "redefine themselves" to assume these identities; the identities felt natural.<sup>64</sup> This was in part because the community spirit also reflects the consideration just discussed: "[t]he identities they chose were familiar and made

59. ANDERSON & WALLACE, *supra* note 2, at 123-24.

60. *Id.* at 124.

61. *Id.* at 124, 126-28.

62. MCCULLOUGH, *supra* note 1, at xiii ("History, I like to think, is a larger way of looking at life. It is a source of strength, of inspiration. It is about who we are and what we stand for and is essential to our understanding of what our own role should be in our time.")

63. ANDERSON & WALLACE, *supra* note 2, at 26.

64. *Id.* at 26.

sense historically, geographically, and experientially.”<sup>65</sup> These considerations overlap.

In the case of Tuzla, the residents could achieve peace more easily if the fighters camped outside the city also accepted their identity as authentic. Anderson and Wallace concluded, “Because their non-war identities were known and normal, they had an authenticity and familiarity that was [also] recognized, if not welcomed by the armed groups who would have wanted their allegiance.”<sup>66</sup>

Celebrations of the spirit may contribute to a sense of it being natural and authentic. Those in Tuzla, for example, celebrated each other’s religious holidays, declaring some religious holidays to be civil holidays as well. They emphasized inter-ethnic solidarity in songs, sporting events, police hiring, festivals, mourning war dead, and re-building each other’s places of worship.<sup>67</sup>

Social psychologist Jonathan Haidt has warned against taking the opposite approach to ameliorating polarization – trying to persuade people to accept an identity that differs from the way that a particular political group defines itself. “Once people join a political team,” he writes, “they get ensnared in its moral matrix. They see confirmation of their grand narrative everywhere, and it’s difficult – perhaps impossible – to convince them that they are wrong if you argue with them outside their [accepted moral] matrix.”<sup>68</sup>

An American spirit may be natural and authentic though it appeals to the best of people’s values or goals. President Lincoln, for example, asked for the caring and forgiveness reflected in their religious faiths when people’s emotions led them toward revenge. Because he had urged the “high road,” President Lincoln predicted a few days afterward that his speech would not be “immediately popular. Men are not flattered by being shown that there has been a difference of purpose between the Almighty and them.”<sup>69</sup> That closing sentence was, though, admired soon afterward.<sup>70</sup>

As President Lincoln realized, an American spirit can also feel natural and authentic even if focused on the future. In fact, public policy mediator Susan Carpenter points out that “groups who have had an antagonistic history can often agree on where they want to be in 20 years and from there can go on to do creative problem solving in the present.”<sup>71</sup>

In other words, one cannot expect that people will change fundamentally to embrace an American spirit though they can be inspired by it to follow the best of their impulses and to pursue goals for the future.

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65. *Id.* at 27.

66. *Id.* at 365.

67. *Id.* at 124-26.

68. HAITT, *supra* note 20, at 365.

69. DORIS KEARNS GOODWIN, A TEAM OF RIVALRY: THE POLITICAL GENIUS OF ABRAHAM LINCOLN 700 (2005).

70. *Id.* at 700 -01.

71. Email to author from Susan Carpenter, public policy mediator and scholar, Aug. 27, 2017 (on file with author).

*D. Deeply Valued and Resonates Across Divisions and Among the Vast Majority of Americans*

To achieve the potential to ameliorate polarization in the ways discussed in Part II, an American spirit should resonate deeply and broadly. Broadly does not mean universally; but enough to get beyond gridlock, certainly across Republicans and Democrats and other major divisions. This consideration for identifying an American spirit augments those already discussed – that American spirit be pragmatically directed to getting beyond gridlock despite the current divisions, rooted in what is especially American, and natural and authentic.

President Lincoln reached for that depth of commitment when he called on Americans' faith and asked them to finish what his hearers knew many had already made deep sacrifices to gain and what would be necessary to secure peace at long last. President Lincoln did not merely announce an American spirit but also drew on what the audience held dear.

Social psychologist Jonathan Haidt proposes a creative approach to the formidable task of identifying and describing an American spirit that resonates deeply and broadly today. He suggests examining what he calls "virtues" that provide the foundations for the policies advocated by various political movements – a process that resembles what negotiators and mediators term searching for the "underlying interests" rather than the "positions" espoused by disputing parties.<sup>72</sup> In Professor Haidt's view, Democrats most frequently espouse three virtues (caring,<sup>73</sup> fairness,<sup>74</sup> liberty<sup>75</sup>), while Republicans most frequently espouse four virtues (loyalty,<sup>76</sup> authority,<sup>77</sup> sanctity<sup>78</sup> and liberty), depending somewhat on whether they are libertarian, conservative, etc. Both parties, though, support all six virtues to some degree. Based on Haidt's analysis, one can see the advantage of structuring an American spirit based on at least one virtue most valued by each party. This approach will be intuitive to dispute resolvers, who identify and then suggest trying to incorporate each party's high priority interests to reach an agreement that resonates.<sup>79</sup> Applying the Haidt analysis to Lincoln's inaugural address excerpt (as though it occurred in the current political climate), President Lincoln spoke both to caring and sanctity, values that today would seem to help its appeal currently to both political parties and would include at least one highly-valued value for each party.

A second Haidt test of whether people will embrace a particular American spirit is whether it avoids positions that might raise hackles.<sup>80</sup> These triggers of negative feelings are typically policy differences on which party members are entrenched

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72. See JAY FOLBERG, DWIGHT GOLANN, THOMAS J. STIPANOWICH, & LISA A. KLOPPENBERG, *RESOLVING DISPUTES: THEORY, PRACTICE, AND LAW* 307 (2d ed. 2010); URY, *supra* note 2, at 76-78.

73. HAITT, *supra* note 20, at 178 (describing "caring" as "sensitive to signs of suffering and need").

74. *Id.* at 178, 215 (describing "fairness" as "reciprocal altruism" that sanctions "cheaters").

75. *Id.* at 211-12 (describing "liberty" as often including the rights of "vulnerable groups" for liberals and rights "to be left alone" for conservatives).

76. *Id.* at 178-79, 181 (describing "loyalty" as rewarding "team players" and sanctioning those who "betray" the group, and displayed for patriotism, military, police, teachers).

77. *Id.* at 179 (describes "authority" as "sensitive to signs of rank or status").

78. *Id.* at 179 (describes "sanctity" as give extreme value to objects and positions, including those significant to group bonding and including examples such as Christian ideas on sexuality).

79. Carrie Menkel-Meadow, *Toward Another View of Legal Negotiation: The Structure of Problem Solving*, 31 *UCLA L. REV.* 754, 804 (1984).

80. HAITT, *supra* note 20, at 212-13.



and disagree. He cites two examples of current trigger issues: immigration and abortion.<sup>81</sup>

In other words, the American spirit would be designed to highlight the importance of what Americans share, to secure their deep support across key divides. It would remind Americans that they agree at base (“Look, we have something in common after all!”)<sup>82</sup> even as they struggle with their disagreements on the policy level.

#### *E. Provides a Sense of Optimism and Belonging*

The President Lincoln and Tuzla examples also illustrate how an American spirit might reduce fear and alienation, if well-constructed, and thus contribute to greater rationality and less susceptibility to divisive rhetoric, as discussed in Part IID. President Lincoln’s statement anticipates the time when the suffering caused by the Civil War can be relegated to the past and exhorts Americans to hope for a period of peace in which they set aside bitterness and actively care for each other. The Tuzlan identity points to a path of peace and mutual regard in the midst of a nation embroiled in inter-group violence. In both instances, the articulated ambitions for peace and mutual support might have offered a sense of hope and belonging.

The group articulating the current American spirit might first consider what causes substantial groups of people to feel fear and alienation. Do some feel that their livelihoods will disappear even as the nation as a whole thrives economically, for example? If so, an American spirit seems unlikely to reassure individuals on that point. Still, it may reduce their sense of alienation, depending on how deeply the fearful group values what most Americans hold to be special, thus facilitating negotiations about potential policy directions related to that concern. President Lincoln’s statement, after all, did not eliminate the losses suffered, particularly by relatives of those killed during the Civil War, nor their hatred, nor step back from standing firm for what was right, but it represented a tug away from the level of bitterness and division that might have imperiled unification. It illustrates why there might be merit to considering how a candidate for an American spirit impacts the causes of fear and alienation.

#### *F. Combining the Considerations to Give Power to an American Spirit*

President Lincoln’s famous sentence may have contributed to lowering the rancor during the post-Civil War period even though it simultaneously urged steadfastness in achieving what was right during the remaining months of fighting. One historian suggests that President Lincoln’s second inaugural speech “addressed the spirit” for the period that was to follow the war.<sup>83</sup> Author and abolitionist Frederick Douglass called the speech a “sacred effort.”<sup>84</sup> Historian Charles Francis Adams, Jr., descended from two Presidents, said it was “for all time the historical keynote

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81. *Id.* at 173, 176-77.

82. See CARPENTER & KENNEDY, *supra* note 37, at 204.

83. KENEALLY, *supra* note 85, at 166.

84. GOODWIN, *supra* note 69, at 700.

of this war.”<sup>85</sup> The London *Spectator* praised the speech as “by far the noblest which any American President has yet uttered to an American Congress.”<sup>86</sup> Though there was some dissent, the reach and unifying influence of President Lincoln through this final sentence and other speeches may have been substantial.<sup>87</sup>

The citizens of Tuzla did not fight each other while other Bosnian cities suffered the ethnic violence and destruction well known in Sarajevo.<sup>88</sup> William Ury also noted from his visit to Bosnia that Tuzla retained more ethnic tolerance than “many of its neighbors.”<sup>89</sup> He quotes Tuzla’s mayor as saying, “In Tuzla, we have always given priority to respect for human dignity over belonging to a nation or an ethnic community.”<sup>90</sup> Social scientists comparing Tuzla with Sarajevo credited Tuzla’s recent articulation of a long-standing common identity as one significant force in preserving the peace. Both cities had experienced a history of inter-ethnic cooperation, but only Tuzla had articulated that history and shared it.<sup>91</sup>

These two examples illustrate the benefits of drafters taking the five considerations into account when they identify an American spirit, especially one designed to ameliorate polarization at a time of bitter division. Of course, even after taking into account these considerations in articulating an American spirit, the drafters will want to test out their articulation. Still, the considerations provide a starting place.

#### IV. REVIVING THE CONVERSATIONS ABOUT A CURRENT AMERICAN SPIRIT

Groups of persons, perhaps convened by dispute resolvers, might initiate conversations to articulate an American spirit. The conveners could invite persons who care about reducing polarization and who represent various mainstream political views. Once this initial group has a few draft formulations, it might circulate drafts for comment by national organizations that represent various viewpoints, such as “national associations that represent large and small business, national entities that represent local, state, and national governments, non-profit organizations, interdenominational faith groups, [and] student organizations.”<sup>92</sup> This initial group could continue to organize and incorporate responses in various waves, perhaps ultimately convening representatives of these organizations,<sup>93</sup> seeking public input (even through polling), and then communicating the resulting articulation of strands of the American spirit.

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85. *Id.* at 701.

86. *Id.*

87. KENEALLY, *supra* note 85, at 166 (“the resonating paragraph that gave the speech its claim to remembrance, and addressed the spirit in which Reconstruction was to be undertaken”); DAVID LOWENTHAL, *THE MIND AND ART OF ABRAHAM LINCOLN, PHILOSOPHER, STATESMAN: TEXTS AND INTERPRETATIONS OF TWENTY GREAT SPEECHES 2* (2012); Levin, *supra* note 4 (“Lincoln had discovered for us the truest touchstone of republican patriotism: the unifying power of our common national memory.”).

88. ANDERSON & WALLACE, *supra* note 2, at 122-26.

89. URY, *supra* note 2 at 77, 122.

90. *Id.* at 122.

91. ANDERSON & WALLACE, *supra* note 2, at 117-26.

92. Email to author from Susan Carpenter, public policy mediator and scholar, Aug. 27, 2017 (on file with author).

93. *Id.*

In essence, the suggested conversations revive the process used by the First Continental Congress in drafting the famous Preamble to the Declaration of Independence, though a private version of it and a version modernized in terms of scale and public policy facilitation techniques.<sup>94</sup> Part A suggests a few ways for such a group to find ideas for a current American spirit. Part B provides examples of potential communications strategies.

*A. How to Find Ideas for the Current American Spirit or Various Strands of It*

Those working to identify an American spirit aimed at ameliorating polarization could begin in a variety of ways, three of which are discussed in this Section. First, a number of people call for the identification of an American spirit for this purpose,<sup>95</sup> so mining the commentary may produce options that can either work or serve as a start. Second, the initial group of drafters could begin with polling data – where is there broad agreement? Third, drafters might review some of the proposals to ameliorate polarization directly to determine if any would meet the other considerations for a successful American spirit.

*1. An Unusual and Ongoing Experiment in Self-Governance by Creative and Persistent People: An Example of Beginning by Drawing from Commentary*

A recent *Chicago Tribune* column offers an option for an American spirit. Commentator William Choslovsky tells of an insight about the American spirit brought to mind by a merchant when Choslovsky was purchasing souvenirs in the Middle East:

The old, haggard man said, “Why do you Americans complain about your government? It is actually your government. You own it. You can change it. We can’t do that here.”

Our democracy is hardly perfect, but it was never intended to be. What makes it unique – and enduring – is that it was set up with the ability to adapt, to change. No coups or revolutions required.<sup>96</sup>

This candidate for an American spirit references government with the consent of the governed and a premise that Americans are constantly innovating. Obviously, it resonated as authentic and important with Choslovsky, and he suggests by

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94. The Continental Congress also began with discussions, a committee, a drafter, and then revisions. *Editorial Note and Jefferson’s “Original Rough Draft” of the Declaration of Independence* in I THE PAPERS OF THOMAS JEFFERSON, VOLUME 1: 1760-1776 413-416, 423-28 (1950). On public policy facilitation, see generally CARPENTER & KENNEDY, *supra* note 37; THE CONSENSUS BUILDING HANDBOOK: A COMPREHENSIVE GUIDE TO REACHING AGREEMENT (Lawrence Susskind et al. eds., 1999).

95. See, e.g., Levin, *supra* note 4; Gibbs, *supra* note 4, at 26-27 (noting “the power and the price of being a country defined not by a faith or a race or an ethnic heritage but by an idea”); Choslovsky, *supra* note 4.

96. Choslovsky, *supra* note 4.

this illustration that those outside the U.S. may also view it as an authentic American identity.

Could the “ongoing experiment in self-governance” be tied to history to make it especially American? Watch historian David McCullough do just that:

Keep in mind that when we were founded by those Americans of the eighteenth century, none had had any prior experience in revolutions or nation making. They were, as we would say, winging it. They were idealistic and they were young. We see their faces in the old paintings done later in their lives or looking at us from the paper money in our wallets, and we see the awkward teeth and powdered hair, and we think of them as elder statesmen. But George Washington, when he took command of the Continental Army at Cambridge in 1775, was forty-three, and he was the oldest of them. Jefferson was thirty-three when he wrote the Declaration of Independence. John Adams was forty.... They were young people, feeling their way, improvising, trying to do what would work.”

[W]e need to understand that they, the founders, knew that what they had created was no more perfect than they were. And that this has been to our advantage. It has been good that it wasn’t all just handed to us in perfect condition, all ready to run smoothly in perpetuity—that it needed to be constantly attended to and improved and made to work better.<sup>97</sup>

French political theorist Alexis de Tocqueville also observed Americans’ constant agitation for change.<sup>98</sup> “To meddle in the government of society and to speak about it is the greatest business...that an American knows,” de Tocqueville wrote in 1835.<sup>99</sup>

McCullough adds a point about how experimentation continues to be authentically American, even a source of pride:

We Americans have a gift for improvisation. We improvise in jazz; we improvise in many of our architectural breakthroughs. Improvisation is one of our traits, as a people, because it was essential, it was necessary, because again and again and again we were attempting what hadn’t been done before.<sup>100</sup>

Does the spirit of experimentation in self-governance resonate deeply and broadly across divisions? One would need to try it out, but there are encouraging signs. It appeals to the loyalty and support for institutions (the constitution as envisioned by the founders) – two of the “virtues” social psychologist Jonathan Haidt ties to Republicans. Though perhaps not directly appealing to the fairness, justice, or liberty “virtues” that Haidt ties most strongly to Democrats, it reflects Democrats’ support of progressive approaches.<sup>101</sup>

97. MCCULLOUGH, *supra* note 1, at 108-09.

98. ALEXIS DE TOCQUEVILLE, *supra* note 13, at 232.

99. *Id.* at 231-35, 492.

100. MCCULLOUGH, *supra* note 1, at 108.

101. See Samantha Smith, *How the Public Views the Secret to America’s Success*, PEW RESEARCH CENTER (July 1, 2016), <http://www.pewresearch.org/fact-tank/2016/07/01/americas-success/>.

Would it trigger negative views by either party? The wording would have to take into account, for example, this finding in polling: “By a 76% to 20% margin, liberal Democrats attributed the nation’s success to its ability to change. By a similar margin (72% to 24%), conservative Republicans linked the success of the United States to its adherence to well-established principles.”<sup>102</sup> Perhaps one could avoid that negative trigger by mentioning prominently the Founders’ commitment to experimentation.

#### *Spirit of experimentation*

- ✓ Targets polarization
- ✓ Especially American
- ✓ Natural and authentic
- ✓ Valued across divisions
- ✓ Tends toward optimism and belonging

Would a spirit of experimentation in self-governance help with today’s polarization? One would think it might make us more forgiving of each other and more tentative ourselves. And it seems to call for our involvement and ask us to join something bigger than ourselves. One challenge would be to find ways to make this resonate deeply, such that it motivates people to contribute and that preserving it would be a high priority.

A spirit of experimentation in self-governance may not prevail as the best candidate, and yet it provides an example of a plausible candidate for an American spirit directed at ameliorating polarization, as we apply the considerations discussed in Part III. Further, it represents an example of a strategy – beginning with commentary – that can be used to spark ideas for other formulations of an American spirit.<sup>103</sup>

## *2. Commitment to the Rule of Law: An Example of Drawing from Polling Data on Fair Elections, Checks and Balances, Basic Freedoms, Patriotism*

Rather than examining proposals that others have made, one might create American spirit options by mining polling data. This approach to identifying options has the advantage of satisfying one consideration – one could gauge whether it resonates broadly across divisions and sometimes how deeply it resonates. That could be followed by a discussion of other Part III considerations as well – does it feel natural and authentic, especially American, and pointed toward ameliorating polarization and building optimism and a sense of belonging?

102. *Id.*

103. For other suggestions of American spirits, see James F. Burns, Opinion, *I am your American flag*, MIAMI HERALD, (July 3, 2016, 6:09 PM), <http://www.miamiherald.com/opinion/op-ed/article87520742.html> (“the indomitable demand and yearning for freedom, excellence, and opportunity”); Editorial, *Omaha’s Tri-Faith Initiative Shows our Spirit of Tolerance and Liberty*, OMAHA WORLD-HERALD (July 13, 2017), [http://www.omaha.com/opinion/editorial-omaha-s-tri-faith-initiative-shows-our-spirit-of/article\\_6b24c1c7-6949-563d-8d73-1a7b9736c63e.html](http://www.omaha.com/opinion/editorial-omaha-s-tri-faith-initiative-shows-our-spirit-of/article_6b24c1c7-6949-563d-8d73-1a7b9736c63e.html) (regarding “tolerance and liberty”); BRIAN TRACY & EDWIN J. FEULNER, THE AMERICAN SPIRIT: CELEBRATING THE VIRTUES AND VALUES THAT MAKE US GREAT vii-viii (2012) (patriotism, freedom, individuality, responsibility, optimism, foresight, good citizenship, honesty, tolerance, etc.).

*Spirit of commitment to rule of law*

- Targets polarization
- ✓ Especially American
- ✓ Natural and authentic
- ✓ Valued across divisions
- ✓ Tends toward optimism and belonging

To begin with an example, polling data indicate that over 90% of American view “open and fair elections” as “very important.”<sup>104</sup> More than 80% say the same for “a system of checks and balances” in government.<sup>105</sup>

Most value constitutional protections and a fair judiciary.<sup>106</sup> More than 85% of Americans view themselves as patriotic.<sup>107</sup>

What American spirit fits these polling results and also takes into account other Part III consid-

erations (aimed at problems, authentic, pointed toward optimism and a sense of belonging)? Unfortunately, the parties have split between access and fraud protections when operationalizing their nearly universal support of fair elections. Might these survey results lead to a statement that Americans support those government officials who are fairly elected and the laws enacted through appropriate branches of government and not declared to be invalid by courts? This does not have an authentic ring in this era of low trust in the government.<sup>108</sup> Perhaps one could word an American spirit in a more general way: that Americans respect the rule of law.

What seems to be missing from the “rule of law” candidate for an American spirit is a strong connection to actions that would ameliorate polarization. Perhaps a “rule of law” spirit would help to preserve peace during demonstrations, a valuable contribution but perhaps not be sufficient to move a divided nation beyond gridlock. But other formulations that begin with a review of survey data may produce better results. Starting with survey data remains a plausible approach to generating options for an American spirit. The point here is that resort to polling data may stimulate well-supported proposals for an American spirit.

104. *Large Majorities See Checks and Balances, Right to Protest as Essential for Democracy*, PEW RESEARCH CENTER (Mar. 2, 2017), <http://assets.pewresearch.org/wp-content/uploads/sites/5/2017/03/02134825/03-02-2017-Democratic-values-release2.pdf> (survey conducted Feb. 7-12, 2017 among 1,503 U.S. adults) (“Nearly all Republicans and Republican-leaning independents (92%) and Democrats and Democratic leaners (90%) view open and fair elections as very important to maintaining a strong democracy.”).

105. *Id.* (survey conducted Feb. 7-12, 2017 among 1,503 U.S. adults) (“[L] large majorities in both parties (83% of Republicans, 85% of Democrats) view a system of checks and balances as very important for a strong democracy.”).

106. *The American Identity*, *supra* note 3 (in survey of 1,004 adults in Feb., 2017).

107. Smith, *How the Public Views the Secret to America’s Success*, *supra* note 101 (“Pew Research Center’s political values survey has consistently found that overwhelming majorities agree with the statement, ‘I am very patriotic.’ In 2012, 89% agreed with this statement; the share agreeing had never fallen below 85% in the survey’s 25-year history.”).

108. *Public Trust in Government Remains Near Historic Lows as Partisan Attitudes Shift*, PEW RESEARCH CENTER (May 3, 2017), <http://www.people-press.org/2017/05/03/public-trust-in-government-remains-near-historic-lows-as-partisan-attitudes-shift/> (“The national survey by Pew Research Center, conducted April 5-11 among 1,501 adults, finds that the overall level of trust in government remains near historic lows; just 20% say they trust the government to do what’s right always or most of the time.”).

### 3. *Fostering Positive Social Networks Across Political Divides – “no group is an island”*: An Example of Drawing on Potential Solutions to Polarization

Yet another way to identify plausible options for an American spirit is to stir the desires to institute practices likely to reduce polarization, particularly proposed practices that already have achieved some attention and support. This approach has the advantage of satisfying the first consideration listed in Part III – its aim is to reduce polarization. One would still need to ask whether it feels natural and authentic and especially American, resonates broadly and deeply, and tends toward a sense of belonging and optimism.

One suggestion for ameliorating polarization that has generated some interest emerged from discussions of the popular book, *Bowling Alone*, by Professor Robert Putnam and also later works that book inspired.<sup>109</sup> Putnam and colleagues suggested that “bridging” (linking across groups) “social capital” (positive social networks) has a reconciling power in a democracy, especially in a diverse one.<sup>110</sup> Such networks tend to increase trust across divides, he said. Unfortunately, Putnam and colleagues reported social capital and trust among Americans to be on the downswing in the U.S. over the last 50 years, due in part to two-career households, longer commutes to work, and television and online communication.<sup>111</sup>

If inspired, most persons could contribute to this “no group is an island”<sup>112</sup> initiative. They could organize conversations throughout the community as in “The Big Table” initiatives.<sup>113</sup> They could create innovative and fun ways to work together in ways that naturally cross political lines, such as the “Ice Bucket Challenge” that involved a dump of iced water on the head and opportunity to nominate another for the same ordeal – all to serve

*Spirit of fostering positive social networks (“no group is an island”)*

- ✓ Targets polarization
- ✓ Especially American
- Natural and authentic
- ✓ Valued across divisions
- ✓ Tends toward optimism and belonging

109. ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000); ROBERT D. PUTNAM & LEWIS M. FELDMAN, *BETTER TOGETHER: RESTORING THE AMERICAN COMMUNITY* (2004); Thomas H. Sander & Robert D. Putnam, *Still Bowling Alone?: The Post 9-11 Split*, 21 J. DEMOCRACY 9 (2010); ROBERT D. PUTNAM & DAVID E. CAMPBELL, *AMERICAN GRACE: HOW RELIGION DIVIDES AND UNITES US* (2010).

110. PUTNAM & FELDMAN, *supra* note 109, at 279.

111. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY*, *supra* note 109, at 283-84 (regarding households, commutes, and television); Sander & Putnam, *supra* note 109, at 9, 14-15 (online communications); Chris Cillizza, *Watch Americans’ Trust in each other Erode over the last four Decades*, WASH. POST (May 31, 2014), <https://www.washingtonpost.com/news/the-fix/wp/2014/05/31/watch-americans-trust-in-each-other-erode-over-the-last-three-decades/>.

112. With apologies to the poet, JOHN DONNE, *NO MAN IS AN ISLAND* (1624) (“No man is an island, Entire of itself, Every man is a piece of the continent, A part of the main. . . .”).

113. Lilly Weinberg, *Seats at the Table: How Community Conversations Built Around a Shared Meal Can Create Solutions to Common Problems*, KNIGHT FOUNDATION (Feb. 5, 2017), <https://knightfoundation.org/articles/seats-at-the-table-how-community-conversations-built-around-a-shared-meal-can-create-solutions-to-common-problems>.

a good cause, raising funds for awareness and treatment of ALS (Lou Gehrig's disease).

An American spirit such as this one could be linked, for authenticity, to history – Alexis de Tocqueville's observations in 1835-1840 about Americans' remarkable civic involvement, for example.<sup>114</sup> This option for an American spirit fits Jonathan Haidt's central Democrat "virtue" of caring and possibly the central Republican one of loyalty. Professor Haidt says, "Whether you're left, right, or center, who could fail to see the value of being able to trust and rely upon others?"<sup>115</sup>

The *depth* of support across political divisions for an American spirit based on a joint desire to enhance positive social interactions across groups remains to be seen though. The depth of support represents a key consideration given that the social capital aspirations would succeed only with dogged and long-term attention to detail throughout the nation. Also, this formulation of an American spirit would require Americans to change personal habits, if the causes of the reduction in social capital involve whether or not they have two-career marriages, how they commute, and the time they spend with electronics. It would not feel natural, in other words. If the initiative does not produce changes that most people perceive, it might not contribute to their optimism or sense of belonging. Yet this option for an American spirit is worth consideration, as are other proposals for ameliorating polarization, if they can be tweaked to take into account the considerations discussed in Part III.

#### 4. *More on Generating Options for an American Spirit*

Beginning with proposals from the commentary, starting with polling results, and thinking about proposals to reduce polarization are just three potential ways to start the conversation about an American spirit. Alternatively, one could begin the conversation by asking historians to propose options based on American spirits announced in the past to deal with division or by asking political scientists working in the international arena whether any national spirits announced in other nations bear importing. Of course, Americans will feel that strands of an American spirit are authentic only if they are *identified* rather than *invented*. Keeping this in mind, leaders or groups such as those discussed in the introduction to Part IV could analyze a broader group of options first through the lens of the considerations discussed in Part III – tied to history, authentic, natural, etc. – and then test them for resonance among people with differing political views.

In other words, if dispute resolvers become involved in facilitating conversations about an American spirit, they could ask their groups to generate options. They could begin by investigating ideas that emerge from commentary, polling, research on polarization, history, and international experience. Then they could test the American spirit candidates according to the five considerations in Part III, and next try them out to get reactions from stakeholder groups and ultimately the public.

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114. ALEXIS DE TOCQUEVILLE, *supra* note 13 at 180-86.

115. HAIDT, *supra* note 20, at 339.



B. Communication Strategies

An American spirit contributes only if it is on the forefront of the minds of Americans, as discussed above.<sup>116</sup> Influential leaders could speak about the American spirit, and may even be essential to spreading it, but other avenues might help.

One potential strategy – stakeholder involvement from the beginning – comes from the examples of the thirteen peaceful communities and the First Continental Congress. This strategy will sound familiar to dispute system designers as well: if the people are the source of identifying and applying the American spirit, they are more likely to support it and it will be on their minds.<sup>117</sup> Today the broad-based exchanges of drafts, discussed at the beginning of Part IV, might well create a national buzz and sense of participation.

Resonance may grow if that national buzz sometimes takes the form of stories that reflect strains of the American spirit. Typical communication advice is for a message to be “succinct, unexpected, credible, emotional, and [one] that tells a story.”<sup>118</sup> A story can engage people’s minds in considering a proposed American spirit. The social media equivalent of the story seems to be the broadly shared video clip,<sup>119</sup> opening even more opportunities to help people understand and embrace a given national identity. The shared video clip might be supplemented by movies, awards, and more to help Americans celebrate the spirit, as did residents of Tuzla, discussed in Part III(c).

In sum, communication is an essential and complicated part of the strategy for using an American spirit (once identified) to ameliorate polarization, but experience in other places and times provides initial guidance.

V. WHAT THIS ARTICLE IS NOT SAYING

This Section is for those who are saying to themselves, “This is not the best or a proven strategy to ameliorate polarization and could never work with all American residents.” Essentially, it answers, “This article is for those who are willing to try an American spirit project. Pursuing it might not succeed but it would not preclude pursuing other options for ameliorating polarization nor for engaging in other advocacy.”

First, this Article does not argue that articulating a current American spirit is certain to ameliorate polarization. The evidence is just too messy for a solid case to be made about the potential offered by an American spirit, despite hopeful voices, including my own. Historical examples of articulated versions of an American spirit can be distinguished from the present because they occurred at a time with

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116. One of the observations about the remarkable thirteen international communities that resisted violence even as it surrounded them, was the explicit nature of the communities’ choices. They talked about and together chose their common identity. They discussed in the context of what could be lost in the event of violence and what their options were to avoid succumbing to the surrounding civil war. ANDERSON & WALLACE, *supra* note 2, at 18-31.

117. ROGERS ET AL., DESIGNING SYSTEMS AND PROCESSES FOR MANAGING DISPUTES, *supra* note 35, at 266-69.

118. RHODE & PACKEL, *supra* note 19, at 595.

119. *Divided Communities and Social Media: Strategies for Community Leaders*, DIVIDED COMMUNITY PROJECT AT THE OHIO STATE UNIVERSITY MORITZ COLLEGE OF LAW (2017), <http://moritzlaw.osu.edu/dividedcommunityproject/wp-content/uploads/sites/101/2017/04/Divided-Communities-and-Social-Media.pdf>.

different types of armed conflict ongoing, different types of news outlets, different divisions, different leaders, and definitely with fewer online trolls, to name just a few potential differences. Potential themes for an American spirit imported from other nations might meet different cultural or political receptivity in the U.S. For example, Americans surely would not relate from personal experience to South African President Nelson Mandela's story to illustrate the South African spirit of *Ubuntu* or the interconnectedness of all people: "A traveler through a country would stop at a village and he didn't have to ask for food or for water. Once he stops, the people give him food and attend him."<sup>120</sup> Scholars also point out the inadequacy of using social science research on smaller scale disputes to predict precisely what would occur on a national scale.<sup>121</sup>

Second, though an American spirit might contribute to ameliorating polarization, it might not contribute as much toward that end as other approaches. But trying to articulate an American spirit does not preclude simultaneous pursuit of other potential strategies to ameliorate polarization: Congressional redistricting and election reform, advocacy for particular political candidates, and more.<sup>122</sup>

Third, discussing what people share as a nation does not preclude continuing strong advocacy on points of disagreement. The United States has always had groups with opposing opinions.<sup>123</sup> The goal of the urged conversations is to reach a point at which people can negotiate across divides with more frequency to solve problems -- to ameliorate polarization.

Fourth, to overcome gridlock, the American spirit would need to resonate with most people in both primary political parties and across other major groups. But all Americans would not need to embrace it. People who say that some groups will never come on board may be right, but the American spirit articulated might nonetheless provide a constructive approach among enough people across divisions to overcome gridlock.

In other words, the conversations about a current American spirit, or strands of it, would be just one potential approach to ameliorating polarization, and these conversations could proceed across the primary political parties without the support of every American and in tandem with what others are doing either to ameliorate polarization or to advocate particular policies.

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120. CANONICAL LTD., *supra* note 15.

121. See, Cohen, *supra* note 11; Kaufman et al., *supra* note 11, at 81-82.

122. See, e.g., NOLAN McCARTY, KEITH T. POOLE & HOWARD ROSENTHAL, POLARIZED AMERICA: THE DANCE OF IDEOLOGY AND UNEQUAL RICHES, Table of Contents (2d ed. 2016) (campaign finance, income); SOLUTIONS TO POLITICAL POLARIZATION IN AMERICA vii-viii, 1-13 (Nathaniel Persily, ed. 2015) (gerrymandering, voting primary rules, media); Nolan McCarty & Boris Shor, *Partisan Polarization in the United States: Diagnoses and Avenues for Reform*, (Nov. 11, 2015), <https://ssrn.com/abstract=2714013>; DONALD C. BAUMER & HOWARD J. GOLD, PARTIES, POLARIZATION AND DEMOCRACY IN THE UNITED STATES (2010).

123. Even the Federalist Papers and President George Washington acknowledged the problems posed by "factions." See, e.g., THE FEDERALIST NO. 10 (James Madison); John Avlon, *George Washington's Farewell Warning*, POLITICO MAG., (Jan. 10, 2017), <https://www.politico.com/magazine/story/2017/01/washingtons-farewell-address-warned-us-about-hyper-partisanship-214616> ("Partisanship would lead to the 'ruins of public liberty,' our first president said. He was more right than he knew.").

## VI. CONCLUSION

Most Americans welcome the voice that lifts them out of themselves. They want to be better people. They want to help make this a better country. When the American spirit awakens, it transforms worlds.<sup>124</sup>

This Article offers some advice on fashioning such an American spirit for those (like me) with the optimism reflected in this statement by John Gardner, a former U.S. Secretary of Health, Education and Welfare. To make the American spirit powerful in terms of ameliorating polarization, those holding these conversations might fruitfully focus others on identifying and communicating various stands of an American spirit that: point toward reducing polarization, are especially American – authentically and naturally so – and resonate deeply and broadly, creating more optimism and sense of being a fellow American.

Though Secretary Gardner made the statement quoted just above more than a decade ago, the yearning of Americans to find a way of working together to solve the nation’s problems continues.<sup>125</sup> Americans wring their hands that their elected representatives do not work effectively together to solve the nation’s problems.<sup>126</sup> The vast majority of Americans lack confidence in Congress,<sup>127</sup> and most wish it would compromise more – get past gridlock.<sup>128</sup> There is irony here, of course. As discussed in Part III, increasing numbers of Americans do not want to spend time themselves with “those extremists” (often meaning the other political party’s members) who disagree with them, but wish that their representatives in Congress would do otherwise. Still, Americans’ desire to ameliorate polarization represents a tailwind to an American spirit conversations project.

If Americans can identify and embrace an American spirit that resonates today, it may spark something constructive – a collaborative approach on some matters, people listening to other viewpoints, weighing the overall national values as they plan their own advocacy, resisting efforts to divide them, and feeling more often that they want to join in achieving the aims implicit in the American spirit. This is the hope – though not the certainty – that might lead some to revive the conversations about an American spirit.

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124. David S. Broder, *John Gardner’s Challenge*, WASH. POST, (July 3, 2002), <https://www.washingtonpost.com/archive/opinions/2002/07/03/john-gardners-challenge/3a2a07c1-2118-4cae-91d4-e49898a943cd/> (quoting John Gardner); BILL SHORE, *THE LIGHT OF CONSCIENCE: HOW A SIMPLE ACT CAN CHANGE YOUR LIFE* 79 (2005).

125. Most say “Americans of different political views can come together and work out their differences.” Karlyn Bowman & Eleanor O’Neil, *AEI Political Report – The American Spirit: A Snapshot in Time*, AMERICAN ENTERPRISE INSTITUTE (June 28, 2017), <http://www.aei.org/publication/aei-political-report-the-american-spirit-a-snapshot-in-time/> (referencing a CBS News poll).

126. *Americans Continue to Want Political Leaders to Compromise*, GALLUP (Sept. 21, 2016), <http://www.gallup.com/poll/195707/americans-continue-political-leaders-compromise.aspx> (last visited Aug. 10, 2017) (53% favor more compromise by Washington political leaders and 21% favor more sticking to principles).

127. *Congressional Job Approval*, REAL CLEAR POLITICS ([https://www.realclearpolitics.com/epolls/other/congressional\\_job\\_approval-903.html](https://www.realclearpolitics.com/epolls/other/congressional_job_approval-903.html) (seven recent polls in mid-2017 averaging 15.7% approval and 73.7% disapproval of Congress) (last visited Aug. 10, 2017); *Poll Chart: Congressional Job Approval*, HUFFINGTON POST (Updated June 2017), <https://elections.huffingtonpost.com/pollster/congress-job-approval> (combining 40 pollsters, 15.5 % approval/65 % disapproval of Congressional job).

128. *Americans Continue to Want Political Leaders to Compromise*, *supra* note 126 (53% favor more compromise by Washington political leaders and 21% favor more sticking to principles).