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*Democracy Dies in Darkness*

**ECONOMIC POLICY**

# The 13 reasons Washington is failing



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The government is shut down. Confidence in Congress is at all-time lows. The American people haven't believed the country to be on the right track in almost a decade. Congress might do something truly crazy and default on the national debt.

At this point, it's almost cliché to say Washington isn't working. But the truth is harsher: Washington is actively failing. It's failing to craft policies that make the country better. And it's failing to avoid disasters that make the country worse.

It's nice to imagine these failures are temporary or aberrational. It's comforting to believe that they're the result of bad people, or dumb people, or incompetent people. But the truth is more unnerving: The American political system is being torn apart by deep structural changes that don't look likely to reverse themselves anytime soon. A deal to reopen the government won't fix what ails American politics.

And so we need to look deeper than just this battle. The sooner we recognize that something is wrong with Washington, the sooner we can begin the hard work of fixing it. Here, then, are 13 of Washington's problems — ordered, subjectively, from small to big — and there are, of course, many more.

## **1) Earmarks are gone.**

In 2011, Republicans decided to eliminate earmarks. They did this over the objection of some of their more senior members, like Mitch McConnell, who argued, correctly, that eliminating earmarks simply meant the executive branch gets to decide how to spend the money.

The argument against earmarks was that they were corrupting. They gave lobbyists something to beg for and members of Congress something to give away. But they also gave congressional leadership something to trade with. It used to be that Boehner could ask a member to take a tough vote and, in return, help him or her get a bridge built back home. That bargaining chip is gone.

"You can't sit down with members and say, 'We need your vote, tell me what I can do to make this an easier vote for you, are there things that are unrelated to this that are helpful in your district?' " said one business trade group lobbyist who asked to remain anonymous. "That's a killer, in my opinion. All the criticisms of Tom Delay and the old style, that *worked*."

## **2) Too much sunshine can burn**

American politics is vastly more transparent than it was a few decades ago. That sounds great, right?

In many cases, it is. But there's a reason corporations don't webcast their negotiations when they're considering a merger and families don't hit "record" when they're having a fight. Sometimes, it's easier to resolve disputes in private.

As Alex Seitz-Wald argues, "even transparency deserves a critical look. Hill rags and Internet gossip sheets now cover incremental legislative updates, with a focus on process, which is ugly and easily distorted for partisan gain. Leaked comments and proposed deals often stymie negotiators."

It used to be that politicians could try and work out deals in private and then sell them in public. Now the deals essentially get worked out in public — which means it's far easier for a delicate discussion to be crushed as fuzzy reports leak and enraged interest groups blitz the proceedings.

## **3) Big business has lost a lot of its power over the Republican Party**

Here's an amazing fact: The Chamber of Commerce, which spent hundreds of millions of dollars supporting the Republican Party in the last two elections, completely supports the Democratic Party's position right now. They're for a "clean CR" to reopen the government. They want the debt limit raised. They're even considering spending money to protect business-friendly Republicans from tea party challengers.

But they're not being listened to. Nor is the Business Roundtable. "There is an element of the more independent, tea party coalition Republicans that, frankly, don't listen to very many people," John Engler, president of the Business Roundtable, told Talking Points Memo. "They are on a mission, often defined on the basis of their view of the world, and they aren't paying very much attention to what this means beyond maybe their own districts.

There are plenty of times when the business community's agenda diverges from the public interest. But the business community needs a functioning government and a growing economy just as much as everyone else does. The problem is they helped elect a group of Republicans that isn't particularly interested in such mundane matters of effective governance.

"The Tea Party comes in and it isn't a case of being responsible," says Greater Washington Board of Trade Director Jim Dinegar. "They don't want to spend a dime, they want to reduce, reduce, reduce. It's a very effective and destructive third party that doesn't play well with others."

#### **4) Gerrymandering is protecting politicians from voters**

Political scientists, election wonks and journalists disagree over how much gerrymandering actually matters. Sam Wang argues that it's the major reason that Republicans managed to keep the House despite getting 1.5 million fewer votes than Democratic House candidates. John Sides and Eric McGhee believe the effect is much smaller.

It's worth noting that Republicans agree with Wang on this one. "When you hear members talk candidly about their biggest victory, it wasn't winning the House in 2010," says Robert Costa. "It was winning the state legislatures in 2010 because they were able to redraw their districts so they had many more conservative voters. The members get heat from the press but they don't get heat from back home."

That's perhaps the real power of gerrymandering: Whether it affects the partisan balance or not, it clearly packs candidates into less representative districts — which makes it easier for them to ignore popular will (this is a case Elizabeth Drew makes in the New York Review of Books).

The common response to this is that the Senate isn't gerrymandered but it, too, has polarized. There are two reasons that that's not a reason to stop worrying about gerrymandering. The first is that a major reason the Senate is more polarized is that it's full of former members of the House of Representatives. They come to the Senate and bring the tactics of the more-polarized House along with them.

The second reason is that the non-gerrymandered Senate remains less polarized than the House — at the moment, for instance, they're easily passing legislation to reopen the government.

#### **5) Ted Cruz (and others like him) has gained a lot of power over the Republican Party**

Here's Grover Norquist on Ted Cruz: "He pushed House Republicans into traffic and wandered away."

And here's how one Republican senator described a meeting where Senate Republicans got a chance to confront Ted Cruz: "It just started a lynch mob."

In general, structural explanations tend to be better guides to American politics than individual explanations. But people, and their choices, matter too. Ted Cruz takes the loathing of his fellow Republicans as a mark of pride. But they're furious at him for a good reason: He's put the Republican Party and the country in a terrible position without any plausible endgame.

While it's true that Ted Cruz is the almost inevitable expression of long-term trends in American politics, it's also true that he could choose to be a more responsible leader than he's been. Instead, he found a crack in the foundation of American politics and began cramming dynamite into it.

## **6) John Boehner is not a very good speaker**

Yes, Speaker John Boehner has a very hard job. He is leading a party riven by conflict. He is mistrusted by the Tea Party. He's found that he has to lead from behind lest he watch his initiatives fail on the floor of the House.

But Boehner routinely makes his job harder than it needs to be. He didn't have to go around irresponsibly promising his members a "whale of a fight" on the debt ceiling. He could bring legislation to the floor with Democratic votes and, if that endangers his speakership, he could try to cut a deal to keep control with Democratic votes. He could also simply try and govern in a more responsible way and, if that means losing his position, so be it.

If Boehner wanted to, he could cut deals to pass comprehensive immigration reform, a grand bargain on the budget and the permanent end of the debt ceiling. All that might mean that is he's not speaker in 2015 and is, instead, a rich lobbyist, or a well-paid university professor, or a member of multiple corporate boards, or maybe even just a member of the House of Representatives. It's not such a horrible fate.

## **7) The House is obsessed with a rule that's not actually a rule**

First things first: The Hastert rule, which states that the Speaker of the House will only bring a bill to the floor if a majority of his own party supports it, is not a rule. It's not written down in a rulebook somewhere. It's not in the Constitution. It's just a name people gave to something Speaker Dennis Hastert did sometimes.

Don't believe me? Just ask Hastert himself. "The Hastert rule never really existed," he told Eleanor Clift. "It's a non-entity as far as I'm concerned."

Boehner's broken the Hastert rule a number of times in this Congress. He broke it during the fiscal cliff. He broke it on Sandy aid and the Violence Against Women Act. He's apparently told some Republicans he's open to breaking it on the debt ceiling.

But when Boehner isn't breaking the Hastert rule, he's pretending he can't break the Hastert rule in order to get more leverage in negotiations. And sometimes when Boehner wants to break the Hastert rule, conservative groups begin threatening him with his own promises to not break it, which makes it harder for him to break it. The result is the most conservative 26 percent of the House of Representatives often has a veto on what comes to the floor.

## **8) The Senate is obsessed with a rule that shouldn't be a rule**

When the Senate was created, there was no such thing as the filibuster. In fact, when the filibuster was created no one even knew they'd created the filibuster: They'd deleted a rule they thought was redundant — "the motion to move to the previous question" — and it was only a few decades later that they realized they'd deleted the only way the Senate had of shutting people up.

But that was okay. Because for most of American history senators used the filibuster extremely judiciously. That's all changed in recent years. The Senate had to spend more time breaking filibusters in 2009 and 2010 than in the 1950s, 1960s, and 1970s combined. The Senate has gone from a majority-rules institution to one where only a supermajority can govern — and supermajorities are exceedingly rare in American politics.

“Over the last 50 years, we have added a new veto point in American politics,” says Gregory Koger, author of *Filibustering: A Political History of Obstruction in the House and Senate*. “It used to be the House, the Senate and the president, and now it’s the House, the president, the Senate majority and the Senate minority. Now you need to get past four veto points to pass legislation. That’s a huge change of constitutional priorities. But it’s been done, almost unintentionally, through procedural strategies of party leaders.”

The filibuster isn't a particularly large part of the current shutdown crisis. But it's part of why polarized parties are able to grind the American political system to a halt. It used to be that large swaths of the minority party could find common ground with large swaths of the majority party, and so they didn't always want to see the majority party fail. Now that that common ground is gone, the fact that the minority party can continually make the majority party fail is dangerous for governance and confusing for voters.

## **9) Polarized media makes it easier for politicians and voters to fool themselves**

The problem with living in an age when you can choose your own media isn't just that it's easier to surround yourself with people who agree with you. It's that it's easier to surround yourself with people who, purposefully or not, mislead you.

Today, a lot of Republicans woke up and read RedState.org, where they learned that "Republicans are winning the shutdown fight, and Democrats know it." The first half of that is probably wrong, and the second half is definitely wrong. But if it's what you already wanted to believe, it sure sounds good.

A few weeks ago, they were reading people explain why Ted Cruz and Jim DeMint might be right that the Democrats would really trade away parts of Obamacare to keep the government open. Want to know how bad it gets? Some elected Republicans believe that breaching the debt ceiling would actually help the economy.

"Many of these members now live in the conservative world of talk radio and tea party conventions and Fox News invitations," says the National Review's Robert Costa. "And so the conservative strategy of the moment, no matter how unrealistic it might be, catches fire. The members begin to believe they can achieve things in divided government that most objective observers would believe is impossible. Leaders are dealing with these expectations that wouldn't exist in a normal environment."

This is true at the highest levels of the conservative elite, by the way. In an interview with New York magazine, Justice Antonin Scalia explained that he prefers more conservative newspapers because "why should I get upset every morning?"

## **10) The Republican Party has become particularly extreme**

It's worth being very clear about this: Though both parties have moved toward their respective poles, Republicans have moved much further right than Democrats have moved left. That's clear in the DW-Nominate data. It's clear from a comparison of the two parties' policy positions, where Democrats are proposing entitlement cuts even as Republicans pledge to never raise taxes under any circumstances. It's clear from a comparison of the two party's political strategies, where the GOP's repeated shutdown and debt-ceiling threats have no analogue in recent Democratic congresses (Speaker Nancy Pelosi didn't threaten default unless President Bush agreed to end the Iraq War).

As congressional scholars Thomas Mann and Norm Ornstein put it, "The GOP has become an insurgent outlier in American politics. It is ideologically extreme; scornful of compromise; and dismissive of the legitimacy of its political opposition. When one party moves this far from the mainstream, it makes it nearly impossible for the political system to deal constructively with the country's challenges."

### **11) There is no "Republican Party"**

The last time the Republican Party forced a government shutdown was 1996 and Speaker Newt Gingrich was clearly in charge of congressional Republicans. He had led the Republicans to their gains in the 1994 midterm election. He was the lead architect of the post-election strategy. He negotiated with President Bill Clinton. And when it came time to cut the deal, he could deliver the votes.

Today's Republican Party is far more splintered. Like the 1994 midterm elections, the 2010 midterm elections saw Republicans beating Democrats, but before that happened, it saw Tea Party Republicans beating incumbent Republicans — a psychological trauma that cows most Republican politicians even today.

Speaker John Boehner isn't in charge of today's Republican Party. Mainstream elected Republicans live in fear that a Tea Party primary challenger will end their career, as happened to Senator Bob Bennett and Congressman Mike Castle and Senator Dick Lugar. Senate Minority Leader Mitch McConnell is facing a tea party challenger. Boehner was forced to shut down the government by Ted Cruz.

It now seems totally reasonable for Business Week to run a cover like this one:

"The Man Who Does" is Jim DeMint, the senator most closely identified with the Tea Party's strategy of mounting primary challenges against Republican incumbents, and now the head of the Heritage Foundation. DeMint doesn't run Congress. But he's part of the reason Boehner and McConnell don't, either. And this ongoing civil war inside the Republican Party is making the Republican Party both more extreme and less predictable.

### **12) The parties have never been further apart**

This is the big one.

For much of the 20th century, America's two major political parties were ideologically diverse. The Republican Party included both Barry Goldwater and George Romney. The Democratic Party included both Strom Thurmond and Eugene McCarthy. The spread of political opinions in each party made it cross-aisle deals easier and organized, extended party warfare harder. Bipartisan votes were common. Filibusters were rare.

But in recent decades the parties have polarized. According to the respected DW-Nominate system, which measures party polarization, the two parties have never been further apart in Congress.

There's nothing inherently wrong with that. It makes sense for Republicans to agree more with each other than they do with Democrats, and vice-versa. But our political system wasn't built for polarized parties. (In fact, it wasn't built for parties at all — the Founding Fathers hated political parties, even though they went on to start a few of them.) The result is deep governmental dysfunction as a system that requires bipartisan cooperation collides with political parties that can't cooperate.

### **13) Our system of government is cracking under the stress**

Look around. Almost no other countries have our system of government. That's because our system of government is pretty unstable. "Aside from the United States, only Chile has managed a century and a half of relatively undisturbed constitutional continuity under presidential governments," the late, great sociologist Juan Linz wrote. "But Chilean democracy broke down in the 1970s."

Systems like our own have a broad tendency toward instability and partisan conflict because a democratically elected executive can come from one party and a democratically elected legislature from another. Both sides end up having control over some levers of power, a claim to be carrying out the will of the public, and incentives that point in opposite directions. That's very different than the kind of system you see in, say, the United Kingdom, where only one party controls the government at any given time.

"We can say with at least some certainty that if highly divided countries adopt executive-centered presidential systems, then they are probably making a mistake," Robert Elgie of Dublin City University concludes.

The secret to the American political system's stability was that our political parties were unusually mixed and so they didn't have the typical incentives toward flat-out conflict. In other words, we weren't a highly divided country. But that's no longer true. And so our system is beginning to exhibit the predictable, and terrifying, tensions of all presidential systems.