An Informed Citizenry

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Proposals to reform the campaign finance system of the United States have a “curious feature,” law professor David Strauss suggests: “the cure often precedes the diagnosis; and the diagnosis, once provided, is often a little vague.” Opponents and proponents come at the issue from different directions and do not agree about relevant facts.

These days, confirmation bias pervades debates about all of our controversial public policy options. Political polarization, mistrust of the media, and the presentation of alternative facts are making matters worse.

In One Nation Undecided, Peter Schuck, an emeritus professor of law at Yale University, and a self-proclaimed “militant moderate,” focuses on five “hard cases” – poverty, immigration, campaign finance, affirmative action, and religious exemptions to secular public policies – with the conviction that a “reasoned, empirically informed, normatively open-minded analysis” is possible and the hope that it might help get us out of our ideological silos, narrow the range of our disagreements, and increase the likelihood of compromise.

Like all of us, Schuck, the author of Why Government Fails So Often, is not immune from confirmation bias. That said, his richly detailed, tough-minded book will inform and challenge readers, whether they are on the political left, right, or center.

Consider, for example, Schuck’s treatment of poverty. Defining and measuring poverty, he demonstrates, are difficult tasks. The official poverty rate (13.5% in 2015), Shuck points out, excludes non cash government benefits (food stamps, temporary assistance for needy families, and housing); Medicare and Medicaid; the Earned Income Tax Credit; the economic impact of cohabiting couples; and the “work based safety net” (unemployment insurance and the child tax credit). The official rate does not capture consumption gains for the poor, who are better fed, live in larger, better equipped homes and apartments, and (apart from obesity) are healthier than their counterparts were thirty years ago. At the same time, however, Schuck reveals that children born into poverty are less likely than those in other Western democracies to escape it.

Schuck provides an insightful assessment of nine (often overlapping) factors that contribute to poverty: bad luck; family and community breakdown; disappearing jobs; educational deficits;
isolation; discrimination; bad choices; incarceration; and the culture of poverty. A large number of “weak ties,” he suggests, may be more beneficial to those seeking to escape poverty than small, denser social networks because acquaintances can pass on information from other networks of which they are members.

More controversially, and, in my judgment, less persuasively, Schuck endorses studies that are skeptical about the enduring positive impact of Head Start on children from economically disadvantaged families and increases in the minimum wage on the working poor; he views charter schools and parental choice movements as “the most promising approaches” to elementary and secondary education.

Poor people who work, Schuck maintains, are more likely to finish school and to delay having children. This sequence – “if young, poor-income people could somehow be induced to follow it – would enable many or most of them to avoid or escape poverty.”

Although he is clearly intrigued by cashing out many government benefits programs and providing instead a universal guaranteed minimum income (which was endorsed by conservative economists Friedrich von Hayek and Milton Friedman), Schuck understands that in the current political climate such proposals are non-starters. A more viable approach, he suggests, might involve increases in Earned Income Tax Credits, Temporary Assistance for Needy Families, Supplemental Security Income, and Child Tax Credits; indexing cash and near cash benefits; and adding financial incentives for improved behavior involving better health, children’s school attendance, etc.

The same thick description and provocative analysis is in evidence in Schuck’s treatment of immigration, affirmative action, campaign finance and religious “accommodations.” The economic impact of immigration, legal and illegal, he points out, is hard to measure with precision. That said, Schuck proposes an increase in the quotas for permanent visas for skilled workers and suggests that some visas be auctioned off.

On campaign finance, he notes that money is one of many sources of influence, that lobbying may have a greater impact than campaign contributions, and that short of bribery, we deem access (and, by implication, influence), “legitimate, salutary, and even essential.” To strengthen political parties, Schuck recommends that the ban on coordination between the parties and “independent” groups be lifted, giving the former control over spending.

Skeptical about the advantages of affirmative action in higher education, Schuck is scornful of the “diversity rationale.” Doesn’t “the perspective of a white Muslim or a fundamentalist Christian,” he asks, “have at least as much diversity value as that of a middle-class black or Hispanic?” Isn’t it time to end “the plus factor” for African American high school students from middle and upper class families? Doesn’t affirmative action result mostly in a redistribution of minority students among selective and less selective schools, rather than increase the overall numbers?

Finally, Schuck supports the de minimis principle for religious exemptions: “in an increasingly crowded, diverse, sharp-elbowed society like twenty-first century America, each individual
should be expected to absorb some degree of intrusion, imposition and even offense,” without legal recourse. Such an approach, he speculates, would not eliminate conflict but might help manage it better.